

THE ADMINISTRATION OF WORKMEN'S COMPENSATION IN ONTARIO

(Report of Task Force Workmen's Compensation Board: 1973)

This study of the Workmen's Compensation Board (WCB) was undertaken by a Task Force appointed by the Minister of Labour in January 1973. In setting up the Task Force, the Minister followed the recommendations of the Standing Committee on Resources Development which, in November 1972, recommended an inquiry into the administration of the WCB. The Task Force was chaired by A.R. Aird, who was a senior partner with P. S. Ross & Partners (a management consultant firm).

The objective of the Task Force was to study and report on the administrative practices of the Workmen's Compensation Board (WCB). This included, but was not limited to an examination of:

- the management and administrative structure and practices of the WCB, including its methods of adjudication;
- whether rehabilitation services, including the WCB's hospital and its job finding program, could effectively be provided under contract to outside organizations;
- the relationship of the Board to the Ministry of Labour and to the Government;
- the safety functions of the Board and the Ministry of Labour;
- the composition, size and responsibilities of the Board;
- the role of the Workmen's Adviser's;
- retirement benefits and attendance credits for employees and Board members.

The Task Force's fact finding and analytical activities involved:

- a series of in-depth studies of activities, resource utilization, and the organization and management system;
- interviews with WCB staff, civil servants, elected officials, employers and organized labour;
- receipt of written submissions from special interest groups and citizens, followed up where applicable by public reviews;
- visits and contacts with certain other jurisdictions in Canada and the United States;
- review of existing literature in the field.

At page xii of the introduction to the Task Force's report a brief description of the WCB in 1973 is provided as follows:

The WCB has a current annual assessment income of nearly \$170 million from approximately 140,000 employers. Close to 400,000 claims are processed annually. It operates a 500 bed Hospital and Rehabilitation Centre at Downsview, a vocational rehabilitation service and has overall responsibility for a multi-million dollar, employer-sponsored safety education program. Investments of funds to meet future financial commitments amount to more than \$400 million. Employees number approximately 1700. In addition, it has major real estate holdings and investment in equipment, including a fleet of 250 automobiles.

The report provides approximately 13 pages of recommendations. These are set out at pages xiv to xxvi (attached).

The overall tone of the Task Force's report is quite progressive. For example, the recommendations set out at 1.1 and 1.2 (attachment page x) were based upon the Task Force's conclusion that:

Currently, the WCB is in the unenviable position of embodying most, if not all, the characteristics for which government is often criticized – the faceless bureaucracy, lack of service orientation to the public it serves, lack of vigour in promoting change and time-serving staff.¹

The recommendations for change to the decision making process (attachment, section 2.1, at page xvii) are also quite interesting. These are described in detail at page 40 of the Task Force's report. Essentially, the Task Force was recommending a division between the investigative and adjudicative roles. The personalized counselling service would provide one Board contact for each worker. This Counsellor would answer all the worker's enquiries and gather all the necessary information. The decision, however, should be made by a Claims Administrator.

The Task Force also dealt with the Appeal Process.² An interesting recommendation is the need for clear communication in the appeal process (attachment section 2.2, page xvii). In its discussion of the appeal process the Task Force notes:

¹ "The Administration of Workmen's Compensation in Ontario", Report of Task Force Workmen's Compensation Board, page 5

² speaking of the appeal process, it stated "The present system appears to be geared to 'trial by ordeal'. Perseverance in facing the bureaucracy is unquestionably a desirable attribute for the appellant to possess." *Ibid*, page 31

We are aware of a number of instances in which the rights of appeal have not been completely understood by appellants. This is not necessarily the result of any negligence on the part of the WCB, but is perhaps symptomatic of the poor quality of the WCB's external information program. Form letters, which do not always reach the potential appellant, containing standard phrases are insufficient to meet all information needs in this area.

No time limitations should be placed on the launching of appeals. The Board should be given specific authority to relieve against procedural defects; that is, no loss of rights should occur as a result of unfamiliarity with the process.³

The Task Force also recommended that the Workmen's Advisers⁴, who were Board employees, be replaced by Appeal Counsellors who should be Ministry of Labour employees.

Another noteworthy recommendation is "the provision of comprehensive appeal statistics" (attachment, page xviii). In discussing the need for statistics the Task Force states:

The Appeals Process, if it is to be effective, is dependent on the rendering of proper decisions. The level of decision making stems from two sources – first, the capability of the human resources involved in the appeals system; second the provision of adequate support information – adequate criteria and a data bank of precedents.

The inadequacy of appeal statistics means that little formal knowledge is available with respect to the nature and type of appeal, the location of the of the appellants and an analysis of appeals disposition. We believe that statistical profiles of past appeals are of fundamental importance to future system effectiveness.⁵

Although there are many interesting recommendations, the Task Force's suggestions (attachment, pages xxv to xxvi) should also be noted. In this last section the Task Force goes beyond its mandate to recommend, among other things, the elimination of benefits ceilings and introduction of cost of living increases. The Task Force also states:

³ *ibid*, page 34

⁴ There were only two Workmen Advisers, they were only permitted to submit written briefs to the Appeals Tribunal (unless the worker was a non-resident), they did not travel outside of Toronto and, as they were Board employees "in the eyes of the public they are simply not seen as being objective and independent advisers." *ibid*, page 32

⁵ *ibid*, page 35

As a general observation, it is important that the concept of occupational accident insurance, be universally regarded in the same light as other income maintenance programs – unemployment insurance and social welfare payments. Currently the occupational accident compensation claimant faces more barriers to obtaining his or her rights than do persons claiming the other forms of income maintenance. Workmen's Compensation is not a charity.⁶

The more things change....

⁶ *ibid*, page xxvi

SUMMARY

The recommendations contained in this report are designed to enhance the performance of the WCB - in terms of its operations, its relationships and its ability to adapt to social policy change. They are designed to meet the urgent needs of the present while laying the groundwork for longer term change. We believe that our proposals are both necessary and realistic, and can be implemented over the short to medium term future.

This is not to suggest we have opted for reaction over reform; on the contrary we propose nothing less than a major reorganization of the WCB. We can state with conviction that implementation of our proposals will be reflected in improved service to the public, in greater operating productivity and in the WCB joining the mainstream of social policy development.

To recommend changes which are insensitive to reality (the WCB, despite its size, is only a small part of the large social policy environment) would be a disservice. A well-planned and flexible evolutionary approach to change is our core objective - involving effective service delivery at reasonable cost and a successful integration with future policy trends.

THE MANAGEMENT FRAMEWORK

The current organization is control oriented. Imposing rigid behaviour patterns on its members and incorporating an inappropriate management style for the seventies, it lacks sensitivity - and therefore effectiveness - with respect to external needs and internal operations.

We suggest a strong service orientation should be a predominant characteristic of the organization in the future - moving beyond the notion of efficiency. The WCB's relationships with the public are crucial to achieving organizational objectives; it should also be flexible and adaptive to change. Operationally, this requires that the management system should be keyed to the nature of the diverse activities carried out within the organization, including a greater dispersion of authority and geographic decentralization of public-oriented activities.

We recommend that:

- 1.1 The organization of the WCB be restructured to facilitate achievement of program objectives, to promote operational effectiveness and public responsiveness involving:**
- . an increase in the size of the Board from three to five members acting as corporate directors and with limited tenure;
 - . the designation of the Chairman as chief executive officer;
 - . appointment of the Vice-Chairman as head of the Appeals Process with the other three Board members working full time in this activity;
 - . appointment of a General Manager, responsible for all operations of the WCB except Appeals, reporting to the Chairman;
 - . six defined functions reporting to the General Manager: Claims Services, Rehabilitation Services, Public Affairs, Human Resources, Financial and Legal, and Administrative Resources;
 - . an eight person top management team in place of the existing twelve persons;
 - . a name change to Ontario Compensation Commission;
 - . the establishment of a Joint Consultative Committee comprising WCB management, the general public, government, employers and organized labour;
 - . increased linkages with Government, for example, at the Ministerial level and with Management Board.
- 1.2 The effectiveness of the decision-making process be enhanced through:**
- . decentralizing decisions within the framework of Board policies and procedures;
 - . the use of committees and task forces to coordinate planning and operational tasks;
 - . eliminating and rationalizing management positions and levels.

- 1.3 The regulations under the Act be broadened to include statements of goals, administrative policies and procedures.
- 1.4 The needs of the public be recognized through the introduction of personalized services involving:
- the appointment of counsellors to assist claimants, appellants and persons requiring rehabilitation;
 - the establishment of information centres in Metropolitan Toronto and throughout the province;
 - opening hours based on usage patterns;
 - the use of multilingual personnel as required;
 - an improvement in the quality of correspondence;
 - a change in head office reception staff and facilities.
- 1.5 WCB chest examining stations be transferred to the Ministry of Health.

ADJUDICATION

Adjudication is the principal program of the WCB. It comprises two very different activities: Claims Administration, which is high volume, high profile and a major user of WCB resources; and the Appeals Process, less prominent but requiring a high degree of operational sensitivity and scrupulous fairness in application.

Claims Administration exhibits a number of deficiencies - processing delays, a less than adequate service orientation to the public, selectivity in reprocessing claims and work patterns not conducive to high staff motivation - all calling for significant remedial action. Appeal procedures are formidable and selective, unduly rigid and lacking in a high service profile.

A major overhaul of Claims Administration is proposed including decentralization of operations, automatic review of rejected claims and increased internal controls. The proposed Appeals Process, while remaining attuned to the spirit of enquiry, reflects greater procedural flexibility, improved communications with appellants and a specified role for the courts.

We recommend that:

2.1 The Claims Administration activity be reorganized and operationally improved involving:

- . a personalized counselling service available throughout the Province as required and with hours of operation and language capabilities to reflect local needs;
- . case oriented Claims Administrators and, prior to notification to the claimant, an automatic two stage review of rejected claims - all falling within the jurisdiction of Claims Services and eliminating the current first stage of the Appeals Process - the Review Committee;
- . the introduction of formal claimant applications for compensation and the increased publicizing and enforcement of late reporting penalties;
- . the reorientation of work patterns to increase staff job satisfaction and knowledge;
- . the placement of district offices and Medical Services within the jurisdiction of Claims Services;
- . increased automation of claims processing, more effective records management procedures, establishment of modern telecommunications links between district offices and head office and the development of comprehensive claims statistics;
- . the urgent introduction of internal controls into the system of claims disbursements.

2.2 The Appeals Process be restructured involving:

- . the elimination of the Review Committee and the Appeals Tribunal and introducing more flexibility through the full time employment of Board members and Hearings Officers, with hearings throughout the Province as required and in an atmosphere conducive to satisfactory resolution of the case;
- . clear communication to potential appellants on rights of appeal and the availability of Appeals Counsellors, replacing Workmen's Advisers, on the staff of the Ministry of Labour;

- . all evidence being made available to the appellant and his representative;
- . a specific role for the courts in matters of law and jurisdiction;
- . the payment of travel and living expenses not confined to successful appellants;
- . documentation of the Appeals Process in Regulations under the Act;
- . provision of comprehensive appeal statistics.

FINANCIAL MANAGEMENT

An efficient money management program is vital to the WCB's ability to meet current and long term financial commitments. Current activities involve employer assessments, investment management, the provision of adequate reserves and auditing. Our conclusion is that the WCB is not taking full advantage of its powers under the Act or applying appropriate technology or expertise to many areas of this activity.

We are concerned that the diverse yet related activities of this program receive both appropriate technical and management attention. To this end we propose additional coordination beyond normal functional management and Management Committee direction.

We recommend that:

- 3.1 The employer assessment system be changed involving:
- . increased automation of the processing and files;
 - . a raise in minimum assessments from \$10 to \$25;
 - . improved collection methods by (1) greater application of legal recourse against delinquent employers and (2) ensuring that the total cost of collection does not exceed the amounts collected;
 - . elimination of appeals against penalty assessments made under section 86(7);
 - . in the case of payroll audits, the use of improved sampling techniques, the employment of more intensive investigations and the application of enforcement provisions of the Act;

- . the introduction of improved procedures for identifying new employers in conjunction with the appropriate ministries.
- 3.2 Explicit investment policies and methodologies be developed with respect to the nature, type and volume of investments and that professional financial management counsel be retained to provide investment assistance.
- 3.3 The accounting and reporting of funds and reserves be revised involving:
- . the inclusion of an actuary's certificate in the annual report;
 - . the filing of annual reports with the Superintendent of Insurance;
 - . the clarification of the method for determining the Contingency Balance;
 - . the development of a policy for the funding and accounting for retroactive benefit increases;
 - . the inclusion of clear definitions and explanations of funds and reserves in the annual report.
- 3.4 The financial auditing of WCB operations be strengthened involving:
- . a merger and upgrading of the Payroll Audit and Internal Audit functions;
 - . the annual audit by a private firm be continued under the overall direction of the Provincial Auditor.
- 3.5 The establishment of a Finance Committee reporting to the Board comprising two Board members, the General Manager, the Secretary/Treasurer and others from Government and the private sector to coordinate the financial management program of the WCB.

REHABILITATION

Rehabilitation services comprise medical and vocational activities. Medical Rehabilitation is carried out at the Downsview Hospital and Rehabilitation Centre; Vocational Rehabilitation is carried out

mainly in Toronto with some geographic decentralization. The Downsview Medical Centre offers excellent treatment facilities which are well managed, but not fully utilized. While the time is not now appropriate for these facilities to become part of the general health care program of the Province, their extended use for non-occupational injury cases could occur without detriment to the existing class of users.

In the case of Vocational Rehabilitation, the WCB operates in a field served by other provincial and federal agencies. We believe that Vocational Rehabilitation resources could be put to best use through a changed role which would more heavily utilize the services of these other agencies, the WCB retaining a core counselling group.

We recommend that:

- 4.1 The Hospital and Rehabilitation Centre remain within the jurisdiction of the WCB at this time but that:
 - . capacity be more effectively utilized through the treatment of non-occupational injury cases;
 - . consideration be given to extending the hours of operation;
 - . facilities for women patients be provided equal to those of men.
- 4.2 Where appropriate, extended use be made of other medical rehabilitation facilities in the Province.
- 4.3 The Vocational Rehabilitation activity be restricted to:
 - . the provision of a decentralized counselling role with referral to existing federal, provincial and other agencies as required;
 - . a small staff of Rehabilitation Specialists to advise Rehabilitation Counsellors and handle difficult cases and to work closely with Medical rehabilitation specialists.

SAFETY EDUCATION

The nine safety associations, with their strong voluntary orientation, operate loosely within the framework of the WCB. Occupational accident prevention programs are carried out at total arms length from enforcement, which is the responsibility of other branches

of Government. The intended level of coordination and control of accident prevention activities envisaged in a 1964 amendment to the Workmen's Compensation Act has not occurred.

We foresee trends developing in the safety education field which will bring occupational and other safety programs closer together. In the short to medium term effective coordination and direction of the overall occupational safety education program within a revised WCB management framework is a prime objective.

We recommend that:

- 5.1 The safety associations remain within the jurisdiction of the WCB at this time but that management and organization changes be made involving:
- . the abolition of the Safety Department;
 - . the establishment of a Council of Safety Associations, chaired by a senior WCB manager and comprising representatives from each association, other WCB management and senior officials of the Ministry of Labour;
 - . emphasis by the Council of Safety Associations on developing coordinated policies and practices relative to occupational safety in Ontario.
- 5.2 Statistical services to the safety associations and to others concerned in this field be up-graded without delay and that the Statistics Canada classification system be implemented at the earliest possible date.

HUMAN RESOURCES

The WCB is a service oriented, labour intensive organization; it is essential that the personnel profile reflect the existence of strong interpersonal skills and management capabilities.

We are concerned that the lack of opportunity for career mobility, the absence of hiring based on wide advertising, the generous fringe benefit program, promotion by seniority and a less than adequately resourced personnel function has caused the development of attributes which are inimical to the achievement of objectives.

We recommend that:

1 Certain human resource policies and practices be amended involving:

- . the appointment and classification of all staff, except Board members, as civil servants;
- . internal and external recruitment of staff at all levels;
- . the appointment of more women to management and supervisory positions;
- . a strengthened and expanded role for the personnel function;
- . the introduction of procedural improvements related to job descriptions, manpower planning systems and personnel statistics;
- . an expanded training program for management and staff;
- . the elimination of incentive payments to solicitors.

6.2 The fringe benefit program conform to the Government program with no loss of existing benefits relating to past service.

ADMINISTRATIVE SERVICES

Administrative services include Purchasing, Systems and Data Processing, Statistical and office services. These support activities are major users of WCB resources.

Both Purchasing and Systems and Data Processing exhibit a number of operational deficiencies requiring correction. In particular, a major overhaul of the Systems activity is crucial to the many procedural reforms which we envisage for the WCB in the future. In addition, we advocate the introduction of a formal program planning and control activity to provide advice and support to management.

We recommend that:

7.1 Formal purchasing policies and procedures together with improved management and operating controls be introduced involving:

- . the establishment of a central purchasing authority and elimination of the current fragmentation of purchasing operations;

- . the much greater use of competitive bidding procedures;
- . improved operating statistics;
- . the introduction of levels of "authorization to purchase";
- . the implementation of a "buy Canada" policy and participation in the Government's centralized purchasing program as appropriate;
- . the admission of the Purchasing Manager to the Ontario Government Council of Purchasing Agents.

7.2 A new information systems and data processing strategy be developed involving:

- . the preparation of a detailed long range development plan, determining priorities as required and utilizing advanced planning methodologies;
- . the upgrading of human resource capabilities specifically at the senior level and the structuring of user-involved project teams;
- . the improvement of systems documentation and user education;
- . a major effort to improve the level and quality of management information;
- . the integration of the Work Study Group into Systems and Data Processing and the elimination of work measurement activities.

7.3 A Program Analysis and Review group be established, replacing the Statistics Group, to provide organization-wide program planning and control advice and support.

7.4 Responsibility for common office services be organizationally integrated using the Government telephone system and private sector copying services.

FACILITIES

The WCB owns and leases various facilities - land, buildings and automobiles. A major change is now in process following the decision

to move to a new head office location at 2 Bloor Street East, Toronto. With time running short before the targeted occupancy date of January 1974, a great deal of planning remains to be carried out. Building identification, public reception areas and parking and cafeteria facilities are matters requiring urgent attention.

The large automobile fleet is not economically operated and major cost savings are possible. A most generous policy is exhibited towards employees required to travel in the course of their business.

We recommend that:

- 8.1 The planning for the impending move of head office to 2 Bloor Street East be expanded involving:
 - . the immediate input into the facilities planning process of key WCB staff and outside planning experts;
 - . the acceleration of office furniture purchases;
 - . consideration of parking and cafeteria arrangements;
 - . identification of the WCB and provision for improved reception facilities;
 - . an early agreement on the disposition of the future surplus office facilities at 74 Victoria Street;
 - . a study of the investment in undeveloped land at Downsview;
 - . the measurement of the potential impact of operational decentralization.
- 8.2 The automobile fleet be managed and operated in accordance with Government policies and practices.
- 8.3 Consideration be given to sub-contracting maintenance services and establishing a more effective maintenance planning and control system.

PUBLIC INFORMATION

The current public information program of the WCB is only marginally visible. Much time is spent on reacting to criticism and the content of the program is meagre, lacking both coverage and depth. Safety

advertising is too broad, is carried out without the participation of the safety associations and is consuming resources which could be spent more usefully elsewhere.

We recommend that:

- 9.1 The use of the public information function to handle service complaints be discontinued and that a comprehensive public information program be developed involving:
- . the production and continuing distribution of relevant material to insured employees, employers and doctors in the Province;
 - . more active use of both official languages and ethnic press articles and press releases;
 - . modernization of terms, for example, elimination of the term "workman" and recognition of women in the work force;
 - . the use of languages other than English, whenever appropriate;
 - . the use of outside public relations consultants to provide expert assistance.
- 9.2 The current safety education advertising program be discontinued and that a more comprehensive approach be developed in this area in conjunction with the safety associations and within the context of total public information program.
- 9.3 Payments to advertising agencies be made on a time/fee basis rather than on a "percentage of billings" basis.

RELATED ISSUES

Throughout the study certain issues were brought to our attention which, while not within our terms of reference, are of sufficient importance in our opinion to warrant serious consideration by the Government.

As a general observation, it is important that the concept of occupational accident insurance, be *universally* regarded in the same light as other income maintenance programs - unemployment insurance and social welfare payments. Currently the occupational accident

compensation claimant faces more barriers to obtaining his or her *rights* than do persons claiming the other forms of income maintenance. Workmen's Compensation is not a charity.

We suggest also that serious consideration be given to:

- the elimination of benefit ceilings, the matching of benefits to earnings and the taxing of benefits;
- protecting long term recipients against the effects of inflation, possibly through the medium of provincial revenues;
- consolidating all occupational safety inspections under the Ministry of Labour;
- restricting the use of term "light work" and extending full benefits for a longer period subsequent to the application of this rating to a claimant;
- publishing full regulations relating to benefit criteria and procedures;
- awarding recognition to the Red Cross in the matter of first aid.

THE FUTURE

The study has revealed that the single-minded pursuit of efficiency is simply not enough in today's world. Sensitivity and responsiveness to emerging issues together with a service orientation must also be present. The human dimension must be recognized. In any event, large public agencies (any more than large private corporations) can no longer expect to operate independently, with only little, if any, accountability for their actions.

Accident insurance is a matter which will receive increasing attention from government. Several provinces already have made various initial moves to revise the role of their Workmen's Compensation Boards. We suggest that our proposals are both relevant and essential to future policy formulation and that implementation should proceed without delay.

Implementation itself will be a major undertaking. Many of the proposed reforms are susceptible to short term implementation; others, more complex, will take up to two to three years to become fully operational. Undoubtedly there will be changes required in staffing key positions. All will demand careful planning and intelligent management.