

FAIR PRACTICES COMMISSION

CHARTER DOCUMENT

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**THE BOARD OF DIRECTORS OF THE
WORKPLACE SAFETY AND INSURANCE BOARD
(The “BOD”)**

AND

**THE FAIR PRACTICES COMMISSION
(The “FPC”)
CHARTER DOCUMENT**

Background

The Board of Directors, by resolution dated December 5, 2002 (Minute # 5, Page 6474), created the Fair Practices Commission to function as an organizational Ombudsman’s office to address issues of service delivery raised by workers, employers and external service providers.

In accordance with Minute # 5 the BOD now wishes to establish the key features of the FPC and to set out the authority required for the FPC to meet its mandate and perform its responsibilities.

Therefore, the BOD resolves as follows:

A. FAIR PRACTICES COMMISSION

1. Establishment and Status of FPC

- a) The BOD confirms the establishment of the FPC to function as an organizational Ombudsman’s office addressing issues of service delivery raised by workers, employers and external service providers.
- b) The FPC is to operate impartially and at arm’s-length from the management and line operations of the WSIB.
- c) The FPC shall be headed by the Fair Practices Commissioner. The Commissioner shall report directly to the BOD through the Chair.
- d) The conduct of the FPC shall reflect the WSIB’s principles of high quality services to the public, fairness, equity, openness and transparency.

2. Appointment and Qualifications of the Fair Practices Commissioner

- a) The Commissioner is required to be a person of recognized knowledge, judgment, objectivity and integrity with demonstrated skills in problem solving and dispute resolution.
- b) The appointment and termination of the Commissioner is the joint responsibility of the WSIB Chair and BOD. The Commissioner may only be removed from office for “just cause” or on mutual consent of the Commissioner and the BOD.

Just cause does not arise in the case of disagreement over a recommendation or report made by the Commissioner with respect to a complaint or other type of investigation falling within his or her mandate.

- c) The Commissioner is an employee of the WSIB and his or her terms and conditions of employment are consistent in the WSIB's usual human resources practices.

B. FEATURES OF THE FAIR PRACTICES COMMISSION

1. Role and Mandate

- a) The FPC has the mandate to:
 - Receive, investigate and resolve complaints about alleged acts, omissions and unfair practices by the WSIB.
 - Identify complaint trends, policy matters and systemic issues and make recommendations for improvements to the BOD.
- b) The Fair Practices Commissioner may, on his or her own initiative, investigate, identify and make recommendations on systemic issues within the WSIB.
- c) If, upon completion of an investigation, the Commissioner determines that an unfair practice has occurred the Commissioner may seek to resolve the issue at the most appropriate level of the WSIB administration. If an appropriate remedy is not implemented, the Commissioner will raise the matter to senior levels of the WSIB, including the President. Unresolved issues will be reported to the Board of Directors.
- d) If the implementation of an FPC recommendation concerning a systemic issue will have a significant financial impact, the Commissioner should raise the matter with the BOD for their review. The BOD may request submissions from the Commissioner and from WSIB management on the issue.
- e) The Commissioner has the discretion not to accept a complaint based on considerations such as the merits or the timeliness of a complaint, and on a determination of whether a complaint falls within the mandate of the FPC. Generally, the FPC will accept current complaints; that is, complaints with current implications in terms of fair practices.

- f) The Commissioner will issue quarterly reports to the BOD on the FPC's activities, findings, statistics and systemic issues. The Commissioner will provide the information to the President and Chiefs as required.
- g) The Commissioner will issue a public annual report.

2 Authority

a) **Complaints:**

Complaints may be made to the FPC verbally or in writing by:

- a worker
- a deceased worker's dependant
- an employer
- an external service provider
- the representative of a worker, employer or service provider, with consent of the complainant.
- employees of WSIB who are injured workers.

In seeking to resolve complaints, the FPC has the authority to:

- Gather relevant information from WSIB staff and obtain access to all relevant WSIB documents.
- Conduct an investigation to determine whether or not a claim of unfairness is supported.
- Develop, evaluate and discuss options available to affected individuals.
- Facilitate, negotiate and mediate solutions.
- Report the findings of investigations to all parties concerned.
- Make recommendations for the resolution of a complaint or systemic problem to the person or body who has the authority to act.
- Identify complaint patterns and trends.
- Track statistical information relating to the number and nature of complaints received, the nature of resolutions reached and the time taken to resolve the complaints.
- Raise systemic issues with the BOD for their review.

b) **Practices and Procedures:**

The Commission is authorized to:

- i) establish its own written practices and procedures for investigating and resolving complaints that:
 - ensure a fair, effective and timely process to respond to complaints;
 - are in keeping with the principles of natural justice and procedural fairness, and

- are consistent with the provisions of the *Workplace Safety and Insurance Act* and other applicable legislation including the *Freedom of Information and Protection of Privacy Act (FIPPA)*.
- ii) employ procedures designed to resolve a complaint or problem at the most appropriate level of the WSIB. Generally, the Commission will first seek a remedy from the appropriate line staff or manager, then the Director, then the Vice President or Chief Operations Officer. If no resolution is provided at these levels, the Commission has the authority to raise the issue with the President if necessary to obtain a resolution.
 - iii) communicate the practices and procedures broadly to the external communities and to WSIB staff, so they have a clear understanding of the services they can expect to receive from the FPC.

3. **Limits on Authority**

The FPC does not have the authority to:

- make or change decisions or determine rights under the *Workplace Safety and Insurance Act*;
- make, change or set aside a law or policy;
- investigate any matter involving a right of appeal under the *Workplace Safety and Insurance Act*;
- address any issues having to do with human resources, including issues arising under a Collective Agreement (this does not limit the FPC’s authority to investigate complaints by WSIB employees made in their capacity as injured workers);
- investigate complaints dealing with the actions of any organization other than WSIB, including the Workplace Safety and Insurance Appeals Tribunal (WSIAT), Office of the Worker Adviser (OWA) and Office of the Employer Adviser (OEA).

C. **INDEPENDENCE, IMPARTIALITY AND CONFIDENTIALITY**

1. **Independence**

The FPC is free from interference in the legitimate performance of its duties as identified under the “Role and Mandate” above.

The Commissioner and staff of the FPC are not part of the line management or operations of the WSIB. The Commissioner reports directly to the BOD through the Chair.

2. **Impartiality**

The FPC will conduct investigations and make recommendations in an impartial manner, free from bias and real or apparent conflicts of interest. The FPC will treat all parties to a complaint with respect and open-mindedness.

3. Confidentiality

The FPC will ensure that all privacy matters applicable under the *Workplace Safety and Insurance Act* and *Freedom of Information and Protection of Privacy Act (FIPPA)* are fully safeguarded. The FPC will operate consistently with any guidelines established by the WSIB Privacy Office and will consult on privacy issues with that office, and with WSIB General Counsel, as necessary.

The FPC will maintain systems and records separate from the WSIB.

D. OPERATIONAL ISSUES

1. Budget

The BOD approves the budget of the FPC, with input from the WSIB Chair and the Fair Practices Commissioner.

The Commissioner will manage the FPC's operating budget and will hire and manage the staff of the FPC. To facilitate the office's management and its arm's-length relation to operating areas and management of the WSIB, the Commissioner is authorized to execute agreements with third parties on behalf of the WSIB/FPC and pay expenses in connection with the ongoing operations of the FPC, provided that the expenditures are within the approved budget of the FPC and generally follow the principles of WSIB administrative policies.

2. Office

The FPC offices will be located separate from the WSIB head office to ensure the arm's-length relationship between WSIB operations and the FPC.

The start-up staff of the FPC will include:

- Commissioner
- 3 Fair Practices Specialists
- 2 Intake staff, 1 of whom is bilingual
- 1 Administrative Assistant

In addition, the FPC may maintain a roster of part-time Specialists, available on an as-needed basis, to assist with fluctuating workloads and vacations of full-time staff.

One specialist will be located in Thunder Bay to ensure accessibility to FPC's services in the northern part of the province.

3. Communications

The Commissioner is responsible for promoting the services of the FPC and educating WSIB staff and the external communities about the FPC. To this end, the Commissioner will:

- Develop and maintain FPC's own web site, with links to the WSIB web site.
- Develop and distribute pamphlets, posters and other appropriate materials.
- Conduct information sessions throughout the province for WSIB staff and potential users of the FPC.
- Work with the WSIB Communications Division in developing appropriate information about the FPC for WSIB staff.

4. Code of Fairness

- The FPC will assist WSIB in developing a Code of Administrative Fairness.

E. REVIEW OF FPC

The BOD will retain an independent qualified professional to conduct an independent review of the operation of the FPC by year-end 2005. The review will address whether the FPC is effectively and efficiently carrying out its role and meeting its mandate as set out in this Charter.