



# FOR A FAIR SYSTEM

## MAKING POSITIVE CHANGES FOR WORKERS

A submission to the Workers' Compensation System Review

**JULY 2019**



**FPSE**

Federation of  
Post-Secondary Educators  
of BC



## INTRODUCTION

FPSE appreciates the opportunity to participate in the public consultation regarding the review of B.C.'s workers' compensation system. Further, FPSE strongly supports the intent of the review in both better supporting injured workers and increasing the confidence of workers and employers in the system. **A fair system that treats all workers with respect and dignity not only aids injured workers in their recovery, but also emphasizes this province's commitment to safety for all workers.** In this way, a strong workers' compensation system can serve a role in preventing injuries and promoting workplace safety for everyone in the province.

## BC FEDERATION OF LABOUR RECOMMENDATIONS

FPSE is a proud affiliate of the BC Federation of Labour (BCFED) which represents 500,000 workers across the province. The BCFED has extensively studied the issue of worker compensation and has provided detailed recommendations for improvements to workers' compensation over decades of worker advocacy. The 2009 report *Adding Insult to Injury*<sup>1</sup> remains a thorough analysis of the harm and damage done to workers and provincial protections caused by sweeping changes to the *Workers' Compensation Act* in 2002.

FPSE supports these recommendations, and those made in the BCFED's submission for this review of the workers' compensation system. Specifically, FPSE supports the BCFED recommendation that the *Workers' Compensation Act* once again authorize discretion for decision-makers to consider the merits and justice of claims.

- The BCFED considers the restructuring of the Act and the constant flow of policies as having the sole purpose of diminishing workers and their representatives. The BCFED considers amendments to the Act critical to redressing the wrongs and the imbalance against workers that have existed since 2002.
- The BCFED strongly recommends removing WCA Section 99(2) and Section 250(2) that rendered the WCB's policies binding on decision makers and reinstate the consideration of the merits and justice of each claim.

FPSE supports the recommendations of the BCFED for a stronger workers' compensation system, itemized here by topics identified in the terms of reference for this review.

<sup>1</sup> Guenther, S., Patterson, J., O'Leary, S. (2009) Changes to the BC Workers' Compensation System 2002-2008. The Impact on Injured Workers - Adding Insult to Injury. Retrieved from: <http://bcfed.ca/news/briefs/insult-injury>

## POLICY AND PRACTICES USED IN THE WORKERS' COMPENSATION SYSTEM RELATING TO SUPPORTING INJURED WORKERS RETURN TO WORK

FPSE supports the recommendations of the BCFED to better support injured workers in their return to work:

- The WCB must change their approach to treatment plans from a rigid one-size-fits-all to an approach that recognizes and responds to the unique needs of each injured worker.
- A worker centred approach means that injured workers and their personal physicians must be consulted and involved in the development of treatment plans and throughout the different stages of the plan. The WCB should be actively monitoring the service providers and checking in with the injured worker to ensure quality of the treatment.

## EVALUATION OF CURRENT WORKSAFEBBC POLICY AND PRACTICES THROUGH A GENDER-BASED ANALYSIS PLUS (GBA+) LENS

FPSE joins the BCFED in supporting the evaluation of the workers compensation system through a Gender-based Analysis Plus (GBA+) lens.

As stated by the BCFED, “**current WCB legislation, policies and practices in both compensation and prevention disadvantage workers in equity-seeking groups, including women, workers of colour, immigrant workers, workers who identify as LGBTQ2S, Indigenous, and workers with disabilities.**”

## MODERNIZING WORKSAFEBBC'S CULTURE TO REFLECT A WORKER-CENTRIC SERVICE DELIVERY MODEL

### Changing the WCB Governance

FPSE supports the assertion and recommendation of the BCFED that (1) modernizing the WCB's culture to put the focus on workers must begin with a change in governance and (2) the WCB BOD structure must be immediately amended in legislation to ensure that the stakeholders are equally and predominately represented on the BOD.

FPSE supports the BCFED recommendation of the following structure for the WCB Board of Directors, in keeping with the other jurisdictions in Canada;

- 1 chairperson – appointed in consultation with both stakeholder groups
- 3 worker representatives – appointed from recommendations provided by labour
- 3 employer representatives- appointed from recommendations provided by employers
- 3 public interest representatives - including 1 injured worker, and 1 actuarial – appointed in consultation with the stakeholders

## Changing the name

As pointed out by the BCFED, **the rebranding of WCB to “WorkSafeBC” in 2002 “represents the erosion of benefits for injured workers and the name, puts an onus on workers to ‘work safe’ rather than on employers to provide safe work.”** This is an unacceptable reversal of responsibility that undermines achieving a truly worker-centered system. FPSE supports the BCFED recommendation of changing the name of the organization back to the legal name Workers’ Compensation Board or WCB.

## Integration of the compensation system and prevention services

FPSE supports the BCFED position in favour of robust integration of the compensation system and prevention services, and their recommendations for creating a worker-centered approach to prevention:

- The WCB must develop strong prescriptive regulations that are easily understood by all parties;
- WCB discontinue the trend of creating policies on health and safety hazards that should be in regulation;
- Allocate more resources to prevention services, thereby ensuring there are well trained officers on the ground enforcing regulatory requirements, writing orders and being supported in recommending penalties for non-compliance. Timely and full service to injured workers and their advocates

FPSE supports the BCFED recommendations to increase the effectiveness of the WCB's claims management system:

- Education of all WCB staff, including upper management, regarding the social/humanitarian purpose of the workers’ compensation system and appropriate, respectful treatment of injured workers and their advocates.
- Enough staff to meet deadlines in a timely manner and who are encouraged to use their skills and knowledge in applying a holistic and consultative approach with injured workers, their advocates and their union; and
- Ensuring there is effective communication and information sharing with the injured worker and their advocate throughout the claim process.

## OTHER URGENT COMPENSATION ISSUES NOT ADDRESSED IN THE FINAL REPORT ON MANAGING THE UNAPPROPRIATED BALANCE IN THE ACCIDENT FUND

As summarized by the BCFED, the drastic reduction of benefits for workers resulting in a multi-billion-dollar surplus is outrageous, as are calls from employers to have the surplus “returned” to them. This is inappropriate for two reasons: the majority of the surplus is the result of investments, and employers in B.C. already contribute the least to the fund through the lowest base assessment rate in the country. The surplus is therefore not a surplus in terms of employer contributions outpacing worker benefits, but of reducing benefits to the extent that contributions can be kept to an already national low. Use of the “surplus” for anything other than the designated purpose of compensating workers is directly counter to a worker-centered approach. **Only when it can be objectively proven that B.C. has attained the goal set out in Minister Bains’ mandate letter where “every worker goes home safely, and that workers and families are protected in cases of death or injury” should funds over and above the amount required for WCB operations be considered a surplus.**

The FPSE strongly supports the BCFED recommendations for legislative amendments increasing investments in injured workers:

- Base all benefits on 100 percent of net earnings;
- Adjust benefits according to CPI every six months;
- Payment of interest on amounts owed to the worker;
- Pension reform;
- Establish a Fair Practices Office to restore worker confidence in the fairness of the compensation system;
- Establish an Independent Medical Panel that administers the IME process; and
- Create a worker health and safety center modelled on the Occupational Health Clinics for Workers in Ontario whose mandate is to offer a worker-centred and community-based approach to medical evaluation and treatment for injured workers. A model very different than the for-profit, private services that are currently used by the WCB.

## CONCLUSION

FPSE appreciates the opportunity to provide recommendations to inform the workers' compensation system review, and strongly supports the system becoming worker-centered in policy and practice. Conducting a fulsome review of the compensation system as a whole recognizes the interconnected and complex issues the system must address in order to meet the obligations set out when the system was founded over 100 years ago. **Increased workplace safety and the elimination of workplace deaths in the province is achievable, and a strong, worker-centered compensation system is foundational to this overall revised approach.**

More broadly, a fair compensation system speaks to a fair social contract for our province. This system, created over a century ago, recognized the fundamental power imbalance that will always exist between employers and workers. While technology and terms have changed over the decades, this basic fact remains: employers are only able to achieve their profits because of the labour done by the workers under their employ. Efforts to diminish payments for injured workers and create processes that reverse the onus of responsibility for workplace safety (to the worker) speak to an employer culture that has lost respect for the people to whom they owe their success. Employers receive an astonishingly high return on investment

from their contributions into WCB, especially given their low contribution rates, and further, benefit immeasurably by collectively funded public infrastructure. Opposition to paying monies to workers rightfully owed to them not only adds to the pain of suffering of those who are injured but adds stress and strain to B.C.'s already over-burdened public health and assistance programs.

A century ago, a workers' compensation system was created to protect employers and workers alike. Over the years, the system has failed to live up to its obligations to workers. This review offers the opportunity to correct this imbalance and deliver on the promise that every worker should expect: that they will go home safely at the end of each day.



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