

ALIGNMENT, OPPORTUNITY AND A CALL TO ACTION

Our Response to the Review of the
Nova Scotia Workers' Compensation System

WCB Nova Scotia

September 9, 2024

WORK SAFE. FOR LIFE.
WORKERS' COMPENSATION BOARD OF NOVA SCOTIA

September 9, 2024

Nova Scotia Department of Labour Skills and Immigration
Delivered electronically

Re: Review of the Workers' Compensation System

This letter serves as the response of the Workers' Compensation Board of Nova Scotia to the report of the Review of the Nova Scotia Workers' Compensation System.

We are grateful for the work of The Nova Scotia Workers' Compensation System Review Committee. The report validates much of the improvement work WCB already has underway. It also expands our understanding of the issues and experiences of workers and employers in the province, further informing how we can focus our efforts in the future.

Our objectives are fully aligned. LSI, WCB, Workers and their representatives, Employers and their representatives - we all want the same thing: To keep Nova Scotians working, at physically and psychologically safe workplaces.

WCB is dedicated to that singular purpose through continuing our successful prevention efforts, and helping people who do suffer injury at work get the help they need to continue their work.

While we appreciate the report's statement "during our work, we heard that the vast majority of claims are handled well," WCB Nova Scotia acknowledges that there are serious issues to be resolved. These include lower worker benefits than other provinces, higher employer rates, inconsistent and slow service, insufficient communication with employers and workers, and an unnecessarily complex system that is difficult to navigate.

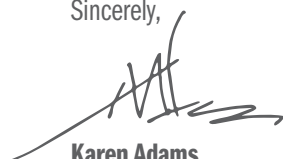
On the whole, we agree with the principles of the report, and directionally with the recommendations. We respectfully suggest alternative perspectives in some areas, which are not material to the major opportunities presented in the more significant recommendations. These are shared with a view to efficiency, and with the intent to support moving the improvements to the system that are so deeply needed forward in the most expedient way possible.

This response is structured as follows: each of the items under the "What We Found" section is addressed, including WCB's response, action already taken if applicable, intentional plans in future outlined in our *Protect More Strategic Plan 2024-2030*, and new areas that the report has helped us to understand require attention.

Also attached are two appendices relating to the Approved Rate Range, and the Estimated Impact of Legislative Changes.

Once again, we appreciate Government's leadership in this review, and the work of the Committee. We look forward to working together as the direction envisioned in the report is realized for the future of our province.

Sincerely,



Karen Adams
Chief Executive Officer

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ALIGNMENT, OPPORTUNITY AND A CALL TO ACTION

On August 30, 2024, the Government of Nova Scotia released the report of the Review of the Nova Scotia Workers' Compensation System.

The findings of the system review reflect the feedback and experiences of Nova Scotia workers and employers. WCB Nova Scotia is grateful for the work of The Nova Scotia Workers' Compensation System Review Committee, and for the participation of each and every worker and employer who took part in the review.

The report identifies new opportunities to serve Nova Scotians better. As the largest part of that system, WCB Nova Scotia has an important role to play.

We also acknowledge the need for service improvements. In many ways, the findings in the report are directionally consistent with changes that are either already in place, or that are called for in our *Protect More Strategic Plan 2024-2030*.

The Report speaks to progress in injury prevention, and it outlines exciting opportunities that could be significant improvements for the system as a whole. It also speaks to the importance of return to work, and it makes clear the need to improve our service to the workers and employers of our province.

WCB Nova Scotia welcomes this review report, we remain open to change, and we are fully aligned. At WCB, we are committed to addressing the issues in the system, listening to Nova Scotians, and improving the way we serve them. We all want the same thing: Nova Scotians working in physically and psychologically safe and healthy workplaces.

The following pages detail the findings of the report, and WCB's response.

SYSTEM SUSTAINABILITY

PERSPECTIVE

WCB Nova Scotia agrees that financial sustainability is an essential first step to improving worker benefits and reducing employer rates employers.

The financial position of WCB is a critical consideration in decisions around system improvements, such as increases to benefits and/or reductions of employer assessment rates.

After many years of focussing on system sustainability, WCB developed and implemented the Approved Rate Range (ARR) in 2023 to guide future decision making around system improvements.

ACTION

The Approved Rate Range framework developed by the Board provides guidance on when system changes may be considered. To ensure system sustainability, the Board and the Review Committee agree that system changes are aligned with the ARR framework.

Attached are two important documents to guide System Sustainability:

1. The Approved Rate Range (ARR) Framework
2. A cost/benefit scenario planning table which estimates the potential impact of each system improvement mentioned in the review report

Apart from the ongoing investment required to modernize and simplify our systems to enable improved service, we aim to reduce administrative costs over time, prevent workplace injury in the first place, and focus on return to work. All these factors are at the heart of WCB's *Protect More Strategic Plan 2024-2030*.

PREVENTION

PERSPECTIVE

Since assuming the prevention mandate after the Dorsey Report in 2002, WCB Nova Scotia has successfully led efforts to cut the workplace injury rate in Nova Scotia in half.

The data clearly reveals a strong trend of injury reduction over that period of time, such that Nova Scotians are now far less likely than workers in other provinces to suffer injury at work. The fishing sector and the home care/long term care sectors are good examples: The data over the past two decades shows a clear trend of dramatically reduced injury rates and fatalities.

WCB is replicating this success across other industries through the effective and coordinated one-stop-shop of prevention and return to work services. The cooperation of employers is key to WCB's integrated prevention and return to work initiatives – with this fact in mind, WCB recently redeployed and restructured our team to serve employers differently, focussing on these two inherently integrated and intertwined areas under one team.

WCB has worked collaboratively with LSI Safety Branch on a number of key initiatives including the creation of “Joint Workplace Initiatives” in which we combine the Safety Branch's OHS technical depth with the prevention, coaching skills, and relationships of WCB's Prevention Team.

More recently, we have established a comprehensive psychological injury prevention suite of resources, working directly with employers to proactively provide them with the tools required to promote psychologically healthy workplaces, and with workers to help them understand their role in safety, and their rights in the workplace.

We also have a roadmap for psychological health and workplace injury prevention tools which we plan to roll out over the coming months and years.

ACTION

By all accounts, the area of prevention is a success story in Nova Scotia.

We are proud of leading successful prevention efforts over the past 20 years, and view it is one of the areas that is working well compared to other provinces. The nature of prevention work means that it is never done.

We will continue to work with the Safety Branch of LSI, safety associations, employers, workers, and all stakeholders across the province.

We respectfully disagree with the need to conduct a third-party review of the current structure of prevention in Nova Scotia.

We believe the roles of injury prevention and return-to-work initiatives are best combined under one WCB roof.

We share the view that there is value in WCB and the Safety Branch of LSI working together to develop a transparent and easy to understand prevention strategy, to complement WCB's *Protect More Strategic Plan 2024-2030*.

AWARENESS AND UNDERSTANDING OF THE SYSTEM

PERSPECTIVE

We agree that the system is currently complex and challenging to navigate for both workers and employers.

ACTION

We agree with the concept of the “one stop shop” and will work with our partners to rationalize resources, reduce complexity, improve accessibility, all in an effort to make it easier for workers and employers to access exceptional service in the way they deserve.

An important step in this direction is a new, easy-to-navigate, comprehensive website as well as a digitized client journey, both of which are integral parts of WCB’s *Protect More 2024-2030 Strategic Plan*.

CLAIMS ADMINISTRATION

PERSPECTIVE

WCB Nova Scotia agrees with the report’s outline of the issues requiring attention in the process of reviewing and adjudicating a claim made by an injured worker.

We agree that significant improvements are required around case worker administrative burden, the use of technology to enable our employees, the need for clear and concise and standardized communications at every stage of the claims process (decision letters), and a tendency in Nova Scotia to over-medicalize claims.

ACTION

While the *Protect More Strategic Plan 2024-2030* already addresses these issues, and service level agreements (SLAs) and key performance indicators (KPIs) are now in place to hold WCB accountable, we acknowledge that our targets can be more ambitious and agree to review them in order to apply greater urgency.

In addition, we agree with the need to issue clear decision letters after consulting with workers and employers regarding their respective needs.

SUPPORTING SAFE AND TIMELY RETURN TO WORK

PERSPECTIVE

WCB Nova Scotia agrees with the report's succinct diagnosis of the problem in Nova Scotia: Data shows clearly that "the system is not doing a good enough job in supporting injured workers to return to work."

While workplace injury rates have been trending down over time, the rates of return-to-work after injury have been moving in the opposite direction for over a decade.

A quote from WCB's annual report identified the core issue affecting us all:

"In Nova Scotia, people injured at work stay on short term benefits far longer than in other provinces. A higher proportion of workers go on to receive long term benefits, many for life."

Of course, we all agree that some workers who suffer from serious injury are not able to return to work. Such cases are extremely regrettable, and the WCB system is committed to supporting these individuals and their families.

ACTION

WCB has identified and is already focussing on four key drivers of RTW outcomes.

1. Quicker decision making by WCB enabled by clear and simple processes for case workers to follow and technology to reduce administrative burden
2. Holding tiered service providers accountable for their treatment of injured workers and return to work outcomes
3. Ensuring physicians are aligned around the importance of return to work outcomes
4. Holding employers responsible for accommodating injured workers, with a particular focus on the employers contributing to long durations

WCB is holding itself accountable for delivering on these key drivers through a variety of initiatives including a KPI standing committee of the Board, transparent SLAs, clear individual goals and targets for WCB employees, and a revised corporate structure that allows us to serve both employers and workers in the most cost effective and efficient way possible.

We are also implementing best practices from other provinces, particularly relating to prevention and safe, timely return to work. Safe and timely return to work is a key focus of our *Protect More Strategic Plan 2024-2030*, and we agree with the sentiment to approach it with greater urgency and more ambitious targets. WCB commits to setting goals that are ambitious, attainable and have clear timeframes.

We are grateful for our partners' understanding that achieving our strategic goals require significant behavioural change throughout the system, and while we have no lack of urgency at WCB, we need to influence others to change as well in order to accomplish our goals. For this reason, there is an urgent and important need for "duty to cooperate" legislation which holds accountable both employers and workers. In many other provinces, return-to-work accountability is owned by employers and workers who regularly engage in transitional duties, whereas in Nova Scotia, return-to-work appears to be owned by WCB and health service providers. We encourage the legislative changes as a catalyst for the cultural change across the province.

COMPENSATION AND BENEFITS

PERSPECTIVE

The review report identifies a number of areas for improvement with respect to worker benefits.

These include indexing of benefits to inflation, percentage of insurable earnings paid, the 2/5ths waiting period, maximum assessable and insurable earnings, and others.

ACTION

The review report suggests a variety of actions, most of which are legislative in nature. The review report also notes that some issues “should be further explored to understand the cost implications and impact to Nova Scotians once other priority issues have been addressed and financial sustainability has been achieved.”

Attached to this response is a cost/benefit scenario planning table, which estimates the potential impact of each of the items mentioned in the review report.

Each item is costed with respect to impact on employer rate, funding ratio, and benefit to workers. The Approved Rate Range (ARR) framework established by the Board provides guidance on when system changes may be considered. To ensure system sustainability, the Board and the Review Committee agree that system changes are aligned with the ARR framework.

COVERAGE

PERSPECTIVE

All Nova Scotians deserve WCB protection. Inclusion is a core value at WCB Nova Scotia.

The fact that WCB represents only 74% of the Nova Scotian workforce is a clear call to action. All other provinces have higher coverage ratios, most above 90%.

We agree with the review report’s observations relating to coverage.

ACTION

WCB Nova Scotia supports the recommendation to move to universal coverage.

We agree with the suggested change from the current dual model of inclusionary and exclusionary rules, which would require elimination of the three-worker rule and move to an exclusionary model.

Respectfully, we caution that “expanded coverage” as a step toward “universal coverage” has the potential to negatively impact financial stability.

The preferred approach would be all-at-once from a financial sustainability perspective.

PSYCHOLOGICAL HEALTH AND SAFETY AND GRADUAL ONSET STRESS

PERSPECTIVE

We agree with the observations made in the review report, and are grateful for the opportunity to have engaged with Nova Scotians throughout the review committee consultations as we prepared for gradual onset psychological injury.

ACTION

WCB is fully prepared to deliver efficient and effective claims administration and exceptional service delivery effective September 1, 2024.

We are using this new legislation as an opportunity to innovate, develop, and implement an improved service model. This includes clear decision letters, accountability through service level commitments, a new navigator model to serve both employers and workers, and technology that helps reduce administrative burden on our case workers, freeing them up to provide exceptional service.

WCB has also invested in prevention tools for employers of all sizes and all industry sectors across Nova Scotia, engaging with employers at every stage to ensure preventing injury is the primary objective. Psychologically healthy workplaces is our focus, and we have learned and adopted best practices from other provinces including Saskatchewan and Manitoba.

Finally, WCB has brought net new mental health services to Nova Scotia. We worked with government, including Labour, Skills and Immigration, Community Services, and Mental Health and Addictions. We consulted with other provinces, then completed a comprehensive and transparent request for proposal process.

As a result, WCB has contracted with three organizations which will provide diagnosis and treatment to Nova Scotians in need, all experienced experts in occupational therapy who have served workers successfully in other provinces. We also ensured that we are able to serve people in more remote areas by providing online mental health services.

REVIEW AND APPEALS

PERSPECTIVE

WCB Nova Scotia agrees with the review report's observations: The appeals process takes far too long. Nova Scotians are not well served by its adversarial and litigious nature.

ACTION

WCB Nova Scotia recently conducted a review of the appeals process, in partnership with the employer stakeholder group, the Federation of Labour, and the heads of both the Workers' Advisers Program (WAP) and the Workers' Compensation Appeals Tribunal (WCAT).

We believe that a further review would be duplicative and unnecessary.

We have prepared customer journey maps for both the worker and employer experience, identified "pain points," and have made recommendations for improvement.

The internal appeals process is within the control of WCB and we are already implementing the recommended improvements, including addressing processing pain points and establishing SLAs.

We recommend service level agreements be established for external appeals as well.

SYSTEM TRANSPARENCY AND ACCOUNTABILITY

PERSPECTIVE

WCB Nova Scotia agrees with the report's observations.

ACTION

WCB Nova Scotia has addressed the issue of accountability and transparency with the implementation of service level agreements for certain activities and key performance indicators.

These are now published as part of WCB's *Protect More Strategic Plan 2024-2030*.

We acknowledge that these accountability measures are new, and we need to earn back the trust of those we serve. Re-establishing this trust will take time.

We are committed to consistently delivering on our promises as we also increase their ambition over time.

APPENDIX 1: ESTIMATES OF LEGISLATED BENEFITS CHANGES

Legislated Benefit Change	Impact on Benefits Liability	Increase in Annual Claim Costs	Impact on Funded Position*	Increase in average rate required to bring Funded Position back to baseline annually over 5 years**	Increase in average rate required to fund new benefits annually
1. Increase in CPI (assumes 2% long-term CPI. Estimates increase significantly if CPI is higher than 2%.)					
a) From 50% to 75% CPI	\$58M	\$4.4M	2.3% reduction	\$0.11	\$0.03
b) From 50% to 100% CPI	\$120M	\$9.1M	4.8% reduction	\$0.23	\$0.06
2. Eliminate 2/5th waiting period	No impact	\$9.0M	No impact	\$0.06	\$0.06
3. Increase from 75% to 85% of net benefits paid, first 26 weeks	\$10M	\$6.6M	0.4% reduction	\$0.07	\$0.05
4. Increase maximum assessable and insurable earnings.	Net - no impact. Assumes additional revenues to cover additional claims costs.				
5. Universal Coverage – all Expanded Coverage – 3 worker rule	<p>Coverage to all workplaces, covers additional 120,000 + workers, including lower risk sectors that pay a lower assessment rate, results in a reduction in overall average assessment rate by approximately \$0.15 - \$0.30. While universal coverage would lower the average rate it will not change the rate paid by existing employers.</p> <p>Expanded coverage as a step toward “universal coverage” has a potential negative impact to the rate. For example, elimination of the 3-worker rule adds about 6,000 workers and will increase the average assessment rate up to \$0.04 as it captures higher than average risk industries.</p>				
6. Interest on delayed decision (assume prevailing interest rate – current 5%)	\$1M	\$0.07	No Impact	Less than \$0.01	Less than \$0.01
7. Permanent Impairment Benefit calculation increases from 30% to 50%	\$89M	\$14M	3.5% reduction	\$0.21	\$0.09
8. Long Term awards: no CPP offset	\$57M	\$2.8M	2.3% reduction	\$0.10	\$0.02
9. Extend long term benefits by 2 years to age 67	\$218M	\$10.6M	8.7% reduction	\$0.35	\$0.07

Costing estimates provided represent best estimates and, as such, should not be considered with more certainty and precision than warranted given the number and nature of underlying assumptions. Actual results will differ from the projections and these differences may be material.

* The bottom threshold of the Board's current approved rate range is 90%, and decisions could push the funded position below that level at which time a rate increase would be required.

** Includes benefits liability impact smoothed over 5 years as representation to impact on employer rates plus the on- going annual claims costs impact for five years.

APPENDIX 2: APPROVED RATE RANGE GRAPHIC DEPICTION

Approved Rate Range

Our goal is a financially sustainable workers' compensation system that provides workers and employers with the benefits and rates they need and deserve.

The Approved Rate Range Framework will help achieve this goal.

What is the Approved Rate Range?

It is a Nova Scotia model that enables the system to consider necessary changes and balances those changes with the principle of long-term sustainability.

The framework:

- Defines the funding level where changes can be made sustainably.
- Sets upper and lower thresholds for the system's funded percentage to guide when adjustments are made to the average assessment rate for employers or recommendations made to Government to improve benefits for workers.
- Ensures long-term system sustainability so we can continue to deliver more value to workers and employers while ensuring a financial imbalance never happens again.

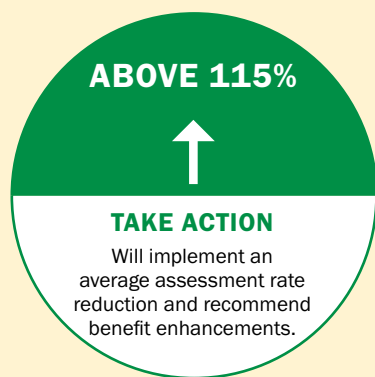
FUNDING BASIS VS. IFRS 17

The funded ratio used in the Approved Rate Range is the "funded basis" ratio. This is based upon the "going-concern" method, which considers the long-term expectations of the investment fund. It may differ from the formal financial statements, which use the IFRS-17 methodology. Valuations under IFRS-17 can fluctuate much more often, introducing risk to long-term planning and forecasting needed in the WCB's financial planning.

APPROVED RATE RANGE FRAMEWORK

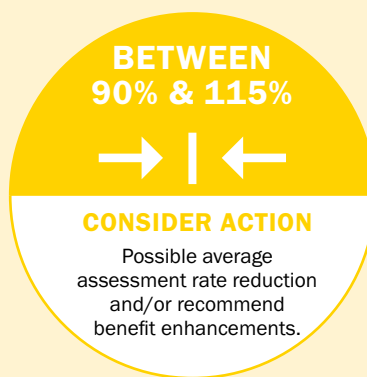
The WCB Nova Scotia is committed to a balanced approach to reducing employer rates and improving worker benefits, with implementation over time and in a sustainable manner.

Funded percentage:



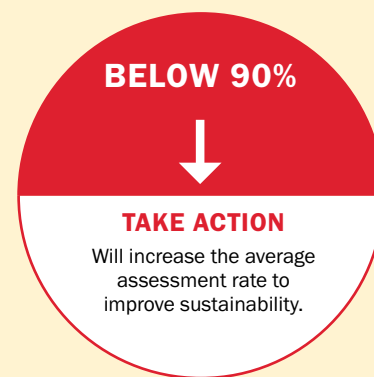
UPPER THRESHOLD >115%

Improvements actioned will utilize the amount in excess of 115% (i.e., if the upper range is 120%, 5% would be used to make improvements to average rates/benefits).



WITHIN FUNDED RANGE BETWEEN 90% AND 115%

May consider a reduction in the average assessment rate and/or recommend improving benefits in a balanced way while considering the factors influencing stability and sustainability of the System.



LOWER THRESHOLD <90%

The average assessment rate would increase to achieve financial sustainability, and it would be spread over five years to enable a return to the minimum of 90%.

Factors that influence the Approved Rate Range:

- The draft funded position for the preceding fiscal year, as known on March 31, will be considered in determining whether action will be taken each year per the framework.
- In accordance with the legislation, assessment rates must continue to cover the current and future costs of claims incurring in the year.
- Calculation of the funded ratio will be based on the going-concern method, which considers the long-term expectations of the investment fund to value benefits liability.
- The average employer assessment rate is set annually in September. All other existing factors considered as part of the rate-setting model continue to apply.

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