



EMPLOYERS' ADVOCACY COUNCIL

SUBMISSION TO:

The Ministry of Labour's Consultation on the Expert Panel Review of the Health and Safety System

Monday June 28, 2010

EAC's Response to the Expert Panel Review:

On behalf of the Employer's Advocacy Council (EAC) and it's 400 plus members, I wish to thank you for the opportunity to participate in the review of the Ontario Occupational Health and Safety system and to present our recommendations for the improvement of the most important asset, our human capital advantage in Ontario.

The Employers' Advocacy Council (EAC), is a membership based non-profit organization, and takes great pride in being the leading source of information, training and advocacy on workplace insurance, health and safety.

For 25 years now, through our advocacy, workshops and safety group program, we work with employers to reduce worker compensation costs, the number of worker claims and injury prevention.

The EAC look forwards and is committed to working with the Government as well as other stakeholders to support the design and the implementation of a world class system with the ultimate goal of better serving both workers and employers in Ontario. In order to achieve this goal, **we believe that the following two principles are critical to achieving success:**

- Government must provide a clear, evidence based analysis on issues, and demonstrate (facts, data, verification) to support proposed solutions for the improvement of workplace health and safety.
- Government and all stakeholders need to collaborate and must agree on a process fostering problem solving approach through principled based consultation.

KEY ISSUES

1) Roles and Responsibilities of the System Partners

Duplication of Services and Overlapping Roles



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- Presently, there is a great deal of duplication of existing functions/services within the Health and Safety system. The Ministry of Labour (MoL) and the Workplace Safety and Insurance Board (WSIB) both have and do apply enforcement functions causing confusion and potential duplication of penalties.
- Similar Prevention services offered by WSIB, a number of Health and Safety Associations (HSA's) and the Worker's Health and Safety Centre (WHSC).
- The pricing model for services between the HSA's and WHSC varies drastically, even though Ontario's employers have already prepaid for the prevention services through their contribution through their WSIB premiums.

Unclear Leadership Accountability

Under the existing Occupational Health and Safety Council of Ontario (OHSCO), the system leadership does not seem to be accountable to anyone but themselves, thus defeating the purpose and the spirit of accountability.

System Effectiveness

- Ontario's health and safety performance has seen a continuous improvement over the past 11 years 1999-2009 (WSIB statistics, June 2009) total injury/illness reduction of 41% over the mentioned period which speaks highly of Workers' and Employers' commitment to improvement. However, we are not seeing a comparable reduction ratio with injury/illness costs, which continue to escalate at an alarming rate. The cause and effects of these trends need to be addressed.
- Small employer outreach continues to be a challenge to the existing system partners. There is a big disconnect with this constituency by the system which does not seem to be able to address their unique and limited resource needs.
- The present system partners are not effectively reaching the "Poor" performers to assist, guide and shift them towards improvement.

System Fairness

- The financial support to employer and worker organizations is not equitable. Funding varies from one organization to another (ex. The Office of the Worker's Advisor VS Office of the Employer's Advisor funding). There needs to be a more balanced approach.

Lack of Meaningful Consultation (Engagement)

There is a gap between the existing system partners and the workplace stakeholders when it comes to meaningful engagement. The employer community is looking for a fair, timely



and open dialogue with the regulators, often decisions are made in isolation and stakeholders are left out of the loop finding out through back rooms channels.

Recommendations:

Reduce duplication and establish clear roles.

- 1) WSIB should focus on their insurance functions only with no Prevention obligations, removing the Prevention Division and rolling them into the *Prevention/Education*.
- 2) Since the panel mandate is focusing on the Health & Safety System of Ontario, the *Prevention/Education* needs to incorporate both employer and worker organizations under a unified leadership with responsibility and accountability to the MoL.
- 3) The HSA's, WSIB Prevention Division, the WHSC/Worker's Clinics combined and aligned under the MoL, the MoL will then have two distinct areas. One of *Prevention/Education*, the other *Enforcement*.
- 4) Introduce a fair, equitable and consistent pricing model to encourage employers to utilize the services of the new *Prevention/Education* organization with a focus that it is a pre-paid service through employer's premiums.

System Effectiveness/System Fairness:

1. Establish an implementation framework and targets for change. While continuing to work with stakeholders towards continuous improvement and towards achieving further injury/illness reduction, WSIB must provide an action plan as to how they intend to mitigate and address the escalating cost of claims. The plan must be measurable and accountable.
2. A strategy to reach Small Employers across the Province by focusing on their specific needs, limited time and financial resources.
3. Institute a more effective approach to reach and motivate "Poor" performers.
4. Introduce a fair and equitable formula for funding of organizations serving employer and worker.
5. Create an engagement process that provides confidence to both employer and worker communities by utilizing principles based on consultations focusing on problem solving approaches.

2) Impact of the Underground Economy on Workplace Health & Safety

- The underground economy represents a considerable risk created for workers health and safety; it is also a major concern for law-abiding employers which at the end of the day have to pay for the insurance cost covering employers operating in the underground economy.

- We believe that the Government has the legislative enforcement tools to address this issue.
- With the introduction of the HST, there is a concern that it will enhance the underground economy.

Recommendation:

1. Implement increased enforcement strategy. Consider wider enforcement (ex. during off hours) and introduce a hot line to encourage reporting of underground activities.
2. Analyze and explore the reasoning behind employers and workers operating in the underground economy (utilizing evidence based analysis).

3) Protection of Vulnerable Workers/ Mandatory Entry Level H&S Training

We see the above two areas as integrated with the objective of providing minimum or mandatory H&S training to all workers. This is a key component in workers protection and of a successful H&S program. The cost factor is a significant challenge, in particular with “Small Employers” both in terms of financial and human expenditure. The present revenue generation drive of the HSA’s does not facilitate the achievement of a trained workplace system.

Recommendation:

1. Introduce a mandatory H&S course for high school.
2. Develop training programs/tools and latest technology addressing language and literacy challenges of Ontario’s workplaces.
3. Ensure HSA’s Health & Safety training cost is consistent, effective, affordable and accessible.
4. Introduce a Province wide registry and tracking system for OHS related training.
5. **Strongly recommend** exploring a system similar to Quebec, which allows employer to invest up to 1% of total payroll towards training “*Contribution to the Workforce Skills Development and Recognition Fund*” (WSDRF). This will particularly appeal to small and medium size employers encouraging them to take advantage of this fund, training leads to safer work environment .

<http://www.revenu.gouv.qc.ca/en/entreprise/retenuess/cotisations/formation.aspx>

4) Use of Incentives to Motivate Superior H&S Performance/Procurement

- The EAC is strongly opposed to the creation of new administrative or other forms of penalties as the current legislation and regulations provide for adequate enforcement tools. There needs to be a greater focus and efforts towards applying these existing tools.



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- Rewarding good performance is important. We support greater incentives, since it encourages performance improvement, ultimately leading employers to re-invest and enhance their H&S program.
- Government must play a leading role in linking procurement decisions to H&S goals. Government agency purchasing processes often are silent on H&S requirements and need to lead by example and leverage with their influence ensuring third party companies meet minimum H&S standards and performance requirements.

Recommendation:

1. Explore a Prospective Experience Rating to replace the existing Retrospective through an open and transparent consultation process with stakeholders.
2. Continue and enhance rewards to good performing employers with financial incentives (rebates).
3. Encourage workplaces to incent good H&S performance by;
 - a) Linking performance management system to H&S performance
 - b) Persuade insurance companies and financial institutions to recognize and reward lower risks through evidence of good H&S performance.
4. Implement an Accreditation program that recognizes superior H&S performance both through procurement and appropriate financial rewards.
5. Encourage the continue offering voluntary incentive programs, such as Safe Communities and Safety groups.

5) Role of JHSC

- We fully endorse the important role of JHSC's as a valuable vehicle to support H&S improvement in the workplace. However, concerns exist about the effectiveness with which JHSC's are able to execute their role. There is a marked difference between committee members in the degree of engagement, some fear retribution when raising issues, others go beyond the boundaries of their mandate.
- Certification training has been in place for close to 20 years, with no evidence demonstrating the effectiveness and impact on the workplace.
- The Internal responsibility System (IRS) is a valuable construct but needs greater clarity and supporting implementation framework. Presently, the system as outlined in the legislation, is a list of groups and their responsibilities with no implementation framework or set of tools and best practices to implement the IRS.

Recommendation:



1. Ensure that there is supporting evidence and clear performance metrics prior to implementing any changes to the JHSC system.
2. Develop evidence on the effectiveness of Certification training with set improvement goals and directions.
3. Introduce more focus on sector specific training
4. Encourage the adoption of an H&S management system framework (ex. OHSAS 18001) to support clarification of the IRS issues in workplaces.

6) Impact of Advancement in Technology/Innovation

- The present system does not support workplace needs in tracking or facilitating access to information and or resources, it is difficult for employers and workers to obtain information which also varies in accuracy from existing one system partner to another.
- Insurance companies provide insurers with secured access to claim files which leads to a more timely resolution and satisfaction.

Recommendation:

1. WSIB staff needs to be able to access files electronically while at Ontario workplaces to address issues in a timely fashion. This could lead to quicker resolutions and earlier and safe return to work.
2. Develop an online secured system to provide employers and workers with easy access to claim files. As well as electronic filing forms to facilitate claim filing process.

Conclusion:

In conclusion, EAC believes that a revamped and more focused approach to the Ontario Health & Safety System will yield better results for both employers and workers, it will also contribute to a positive and stronger environment for business in the Province leading to a stronger competitive edge and sustained economic growth. EAC feels that the recommendations that we have highlighted here today are necessary to fully realize Ontario's vision for leadership and prosperity.

Respectfully Yours,

Fred Spiro,
Executive Director,
Employers' Advocacy Council