The cover features a large, abstract geometric design. A dark blue shape, resembling a stylized letter 'L' or a large triangle, is positioned on the left side. A bright green shape, resembling a large 'Z' or a series of overlapping triangles, is positioned on the right side. The background is white. The text is placed within the blue and green areas.

Review of the Nova Scotia Workers' Compensation System

Report to the Minister of Labour, Skills and
Immigration on Priorities for Improvement
of the Workers' Compensation System in
Nova Scotia

JULY 2024



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List of Acronyms and Abbreviations

Abbreviation	Definition
ARR	Approved Rate Range
CPI	Consumer Price Index
CPP	Canadian Pension Plan
CRO	Client Relations Officer
OEA	Office of the Employer Advisor
EERB	Extended Earnings Replacement Benefits
GOS	Gradual Onset Stress
LSI	Department of Labour, Skills and Immigration
OHS	Occupational Health and Safety
OWC	Office of the Worker Counsellor
PCIWA	Pictou County Injured Workers Association
PIB	Permanent Impairment Benefits
RTW	Return-to-work
TERB	Temporary Earnings Replacement Benefits
WAP	Workers' Advisers Program
WCA	Workers' Compensation Act
WCAT	Workers' Compensation Appeals Tribunal
WCB	Workers' Compensation Board of Nova Scotia
Jurisdictional Abbreviations	
AB	Alberta
BC	British Columbia
CA	Canada
MB	Manitoba
NB	New Brunswick
NL	Newfoundland and Labrador
NWT	Northwest Territories
NS	Nova Scotia
NU	Nunavut
ON	Ontario
PE	Prince Edward Island
QC	Quebec
SK	Saskatchewan
YK	Yukon Territory

July 9, 2024

Honourable Jill Balser
Minister of Labour, Skills and Immigration
1505 Barrington Street
Halifax, NS B3J 3K5

Dear Minister Balser,

The Nova Scotia Workers' Compensation System Improvement Review Committee has the honour to submit to you the Review of the Nova Scotia Workers' Compensation System.

The review focused on validation and prioritization of the issues identified in Nova Scotia through the work of the Review Committee and the various sources of information that contributed to our understanding of the issues.

The Review Committee thanks you for the opportunity to participate in the review of the Nova Scotia Workers' Compensation System and for your support and encouragement as its work was completed.

Thank you,

A handwritten signature in blue ink, appearing to read 'Douglas Reid', with a stylized flourish at the end.

Douglas Reid, Chair

Members of the Workers' Compensation System Review Committee



Chair

Douglas Reid

Employer Representatives



Angus Bonnyman

President, Bonnymans' Wild Blueberries,
Director, WCB Nova Scotia



David Carmichael

Safety Specialist, Michelin North America



Louis-Philippe Gauthier

Vice President, Canadian Federation of Independent Business



Lisa Fitzgerald

Executive Director, Nova Scotia Fisheries Sector Council

Employee Representatives



Janet Hazelton

President, Nova Scotia Nurses' Union,
Director, WCB Nova Scotia



Mary Lloyd

President, Pictou County Injured Workers Association



Peter Boyles

Councillor, Municipality of Pictou County



Dustin Rioux

Occupational Health & Safety Officer, Nova Scotia Government Employees Union

Introduction From the Chair

The Nova Scotia Workers' Compensation System Improvement Review Committee was formed in 2023 to validate and prioritize the issues in the system. The Committee had the pleasure of meeting with many Nova Scotians, including injured workers and their families, employees, employers, and many individuals who work in the system to support the broad initiatives of the workers' compensation system in Nova Scotia.

During our work, we heard that the vast majority of claims are handled well. We also heard that there is a need to make improvements to address problems/issues that exist in the system. We heard from workers and employers that the system is complex and difficult to navigate, and that there is a lack of accountability within the system. In our report, we discuss ways to reduce system complexity and improve interactions with the Workers' Compensation Board (WCB). We strongly recommend that WCB enhance its recently introduced Service Level Standards and ensure there is frequent reporting to the public on the Board's (WCB) performance as measured against these Service Level Standards to improve accountability. Other key challenges in the system in Nova Scotia include the lowest benefit payments for a worker who has suffered a workplace injury or illness, average rates paid by employers that are the highest in the country, and a system that is at the lowest funded position (and in a deficit) compared to other jurisdictions across Canada.

We cannot overlook the critical importance of prevention of workplace accidents and illnesses – a number of industry sectors have made great improvements in prevention in recent years through focused and tailored prevention programs funded by their industry associations. The Review Committee believes there is significant room for improvement in prevention measures in healthcare and in many of the public sector departments. A focus on these sectors that have the highest incidence of time-loss claims will result in significant improvements to the system.

While there are a number of areas to be addressed to support system improvement that are discussed in detail in this report, addressing the duration of claims, including better supports for a safe and timely return to work for injured workers, may be the highest impact change that can be made. Helping injured workers return to work in an effective manner after an injury will contribute to improved outcomes for injured workers and reduced system costs leading to improved financial sustainability of the system. Again, a focus on healthcare and certain public sector departments is important. This in turn will provide the financial capacity required to make the necessary changes to improve benefits and provide employer rates that are closer to the Canadian average.

On behalf of the Review Committee, I would like to thank all of those who took the time to provide their input and support to the review process. This includes the many employers, workers, and individuals working in the system that provided their feedback, as well as critical data and information to support the deliberations of the Committee. We believe that this report accurately reflects all of this important information that we received from Nova Scotians. We look forward to seeing the system improvements that may come as a result.

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas Reid".

Douglas Reid

Executive Summary

What We Did

In 2023, the Nova Scotia Department of Labour, Skills and Immigration (LSI) formed a Review Committee to conduct a review of the workers' compensation system in Nova Scotia. The workers' compensation system includes a number of organizations including the WCB which insures about 353,000 workers. The WCB provides financial help and necessary benefits to workers and their families when an injury occurs. Organizations in the system, including the WCB, provide education about creating safe workplaces and preventing workplace injury and access to navigation and support services when an injury occurs. Support is available to workers and employers to help with a safe and timely return to work (RTW).

The system was last reviewed over two decades ago. The Review Committee was asked to consider the current state of the workers' compensation system in Nova Scotia and validate and prioritize the most pressing issues facing the system. Review Committee members include equal representation from employers and employees. The Review Committee worked together, with support from staff from LSI and WCB, to review and discuss a wide range of information, research, and data about the workers' compensation system. This included extensive public consultations with Nova Scotians who shared their experiences with the system, technical briefings from organizations within the system, a survey of WCB employees, a review of current legislation and regulation in Nova Scotia, findings from other system reviews (in Nova Scotia and other jurisdictions), and data about system operations and performance. All of this information informed the Review Committee's deliberations and conclusions regarding the most pressing issues facing the system.

What We Found

The Review Committee identified ten key areas as priority issues that should be addressed in the workers' compensation system:

- System sustainability
- Prevention
- Awareness and understanding of the system
- Claims administration
- Supporting safe and timely return-to-work process (RTW)

- Compensation and benefits
- Coverage
- Psychological health and safety and gradual onset stress (GOS)
- Review and appeals
- System transparency and accountability
- Other issues (temporary foreign workers, firefighters, WCB Board of Directors appointment process)

System Sustainability

It is essential that the WCB has sufficient assets/funds to pay benefits into the future and to maintain and strengthen the workers' compensation system. Assessment rates are set to generate sufficient revenue to fund the system. Nova Scotia has the highest average assessment rate across Canada at \$2.65 per \$100 of assessable payroll. Of this, \$1.72 goes toward benefits (highest benefit costs nationally), and \$0.37 goes toward administrative costs (42% higher than the Canadian average). In 2022, the residual after all costs was \$0.38 per \$100 of assessable payroll and this was applied to the unfunded liability. As of year-end 2022 (the most recent publicly available information), the funded percentage of the WCB is 93% (percentage of assets to expected liabilities) on a going-concern basis. The financial position of the WCB is a critical consideration in decisions around system improvement and the WCB has established an Approved Rate Range (ARR) of 90% to 115%. The ARR provides guidance on when system changes (e.g., improving benefits, reducing rates) may be considered. To ensure system sustainability, the Review Committee supports the WCB's decision to develop and implement the ARR framework.

Prevention

A safe and healthy workplace protects workers from injury and illness. It can reduce injury/illness costs, absenteeism and turnover as well as increase productivity, quality, and employee morale. Safety is good for business and prevention of workplace injuries is foundational to the workers' compensation system. The WCB, LSI's Safety Branch (Occupational Health and Safety (OHS) and Technical Safety) and other partners (e.g., safety associations) work in collaboration to enhance safety outcomes and offer injury prevention services and programming (e.g., outreach activities, education). The Safety Branch acts as the regulator and supports the implementation of rules and guidance to prevent injuries. The WCB is focusing on prevention and has a goal to reduce the number of time loss injuries by 17% by 2030. Currently, Nova Scotia has one of the lowest rates of time-loss claims in Canada, but more can be done to prevent injuries.

Awareness and Understanding of the System

Awareness and understanding of the system is supported primarily by activities of the Safety Branch and the WCB that provide outreach, education and awareness activities. Other organizations in the system also support in this area (e.g., Office of the Worker Counsellor, Office of the Employer Advisor (OEA), Pictou County Injured Workers Association (PCIWA), Workers' Advisers Program (WAP), Workers' Compensation Appeals Tribunal (WCAT), safety associations, Technical Safety). The Review Committee heard that workers and employers lack understanding of the system and may not be aware of how the system operates, and/or what supports and resources are available. Efforts to improve system transparency, ease of navigation, and accessibility of services and supports are important. This may include implementation of a clearer way to access support and resources for employers and injured workers (i.e., a "one stop shop").

Claims Administration

The time required to progress through the claims process can vary and is impacted by many factors, including time to receive forms and timeliness of communication. Currently in Nova Scotia, only 42% of cases receive first contact within two business days, 38% of claims receive decisions within seven days, and 66% of messages are responded to within two business days. The Review Committee heard that the claims administration process is slow, inefficient, and/or inconsistent. There is poor communication and responsiveness and employers and workers frequently do not understand the decisions made by the WCB. The Review Committee heard that it is important to have an objective and efficient means to resolve differing perspectives on medical assessments to enhance adjudication efforts by case workers and support workers in safe and timely return to work. It is also important that medical considerations of the system are efficient. Decision letters are not consistently provided and there is a lack of understanding about how medical information is used. Some injured workers feel that they were not treated with empathy or respect by some WCB case workers.

During the review period, the WCB announced its commitment to improve performance in this area and has developed and implemented service standards to support more timely and efficient claims administration. Reviews in other jurisdictions have also highlighted the importance of having a clear policy that is consistently applied on decision letters that clearly explain the rationale for claims decisions.

Supporting Safe and Timely Return-to-work

When someone is injured at work, being able to return to work safely and on a timely basis is beneficial for their overall well-being. Injured workers who cannot return to work receive Extended Earnings Replacement Benefits (EERB). In Nova Scotia, EERB is initially reviewed in the third year with a second review done two years after that if necessary, as compared to other jurisdictions that review annually. WCB offers resources for injured workers to support the RTW process, including RTW specialists, vocational rehabilitation, access to health care supports, and benefits but the system is failing Nova Scotians. Nova Scotia

has the lowest proportion of injured workers who are back to work within 30 and 180 days, the highest proportion of claims still on wage-loss benefits after two and six years, and the second longest average duration of claims (168 days) across Canada. High claims costs and long claims durations are the most significant driver of the overall costs of the workers' compensation system. The Review Committee heard about challenges related to long claims durations including lack of progress by WCB on reducing claims durations, delays in initiating a claim, delays in follow-up from WCB case workers, barriers to the employer providing accommodations for injured workers to support RTW and poor communication between the worker, employer and WCB that would contribute to safe and timely RTW. Lack of timely access to health care, including a primary healthcare provider, is also a critical factor. Nova Scotia has experienced the most significant and consistent declines in timely RTW since 2012 across all Canadian jurisdictions. WCB recognizes the value of reducing claims durations and has established an objective to reduce the time lost to injury by 35% by 2030.⁽¹⁾

Other Canadian jurisdictions legislate some type of collaboration or communication between the employer and injured worker in the RTW process, as well as penalties for non-compliance. A requirement in legislation for cooperation between the WCB, employers, and workers in the RTW process would contribute to better communication and engagement by all parties in supporting safe and timely RTW in Nova Scotia.

Compensation and Benefits

There are a number of issues related to compensation and benefits that were reviewed. The most important issues identified by the Review Committee include:

- **Indexing of benefits to inflation:** Benefits are indexed to 50% of the rate of inflation, with most other jurisdictions indexing at 100% (some apply a cap, allowing for an adjustment at 100% of inflation, to a maximum rate of 4% or 6%). This results in significant financial hardship for injured workers.
- **Percentage of insurable earnings paid:** Benefits are paid to injured workers at 75% of their net earning loss for the first 26 weeks and 85% afterwards unlike other provinces who pay benefits at 85% or 90% of net earnings as soon as benefits are approved. This contributes to a low level of benefits for injured workers.
- **Two/fifths (2/5th) waiting period:** Nova Scotia is the only jurisdiction where workers who experience a time loss injury must wait for 2/5th of a normal work week prior to receiving earnings replacement benefits, delaying income to the injured worker and causing financial hardship. Other jurisdictions have eliminated their waiting periods.
- **Maximum assessable and insurable earnings:** Workers' earnings are capped for the purpose of calculating their benefits. In 2024, the maximum assessable and insurable earning was \$72,500, the lowest across Canada, although about 80% of injured workers in Nova Scotia fall below this threshold.

The Review Committee also discussed several other issues related to compensation and benefits: benefits ending at age 65; payment of interest for delayed benefit payments; access to other supports and benefits; and Permanent-Impairment Benefit (PIB) calculation and the Canada Pension Plan (CPP) adjustment. Nova Scotia's approach on these issues is generally consistent with policies and practices in other jurisdictions, but they should continue to be monitored once other priority issues have been addressed.

Coverage

Currently, 20,600 employers are covered through the WCB, which represents 74% of the provincial workforce. The current model includes rules for inclusion and exclusion in the system; however, the rules were written more than 20 years ago, and some aspects do not reflect the current workforce of Nova Scotia. Additionally, the dual model of inclusion and exclusion is complex and may make it challenging for employers and workers to understand if they are required to have WCB workplace injury insurance and participate in the system. Further, Nova Scotia has a coverage exemption for employers with fewer than three workers known as the three-worker rule, affecting approximately 13,000 workers. Roughly 123,000 workers in Nova Scotia do not have workers' compensation coverage through WCB (it is likely that many workers with large employers would have private insurance coverage provided through a co-pay benefit by their employer) which places additional burden on other publicly funded systems (e.g., publicly funded health care or social assistance). The Review Committee heard that coverage through the workers' compensation system should be expanded, such as by eliminating the exclusion of specific industries and the three-worker rule, bringing the province in line with other jurisdictions. Nova Scotia has the lowest proportion of the workforce covered at 74%, although Ontario (ON), Manitoba (MB) and Saskatchewan (SK) have very similar rates of coverage. Seven Canadian jurisdictions have more than 90% of their workforce covered. Nova Scotia and New Brunswick (NB) are the only Canadian jurisdictions with the three-worker rule.

Psychological Health and Safety and Gradual Onset Stress

Psychological health and safety play a key role in the overall health and safety of a workplace. Workplace psychological health and safety is not explicitly defined in Nova Scotia's legislation and regulations, making workplace rights and duties in this area unclear. GOS is for persistent, work-related ongoing stress that has impacted someone's health so much that they can no longer work, and it will be added as a compensable injury through the WCB effective September 1, 2024. The Review Committee heard there is a lack of understanding and definition of workplace harassment, and there is a need for stronger psychologically safe cultures within workplaces. Workplaces need to be supported to have effective policies and procedures to address harassment and have clear processes to report and investigate complaints. Concerns were also raised about how the WCB will manage psychological injury claims and how GOS will be implemented.

All jurisdictions in Canada, except Nova Scotia, acknowledge or otherwise address psychological health and safety through policy, regulation, and/or legislation. Most jurisdictions have addressed the issue of psychological health and safety by creating legislation and/or regulations addressing workplace harassment. The Review Committee heard that government needs to take a more proactive approach to supporting workplace psychological health and safety in Nova Scotia.

Review and Appeals

If an employer or injured worker is not satisfied with the decision made on their claim, decisions may be appealed first through the WCB's Internal Appeals process or if a satisfactory result is still not achieved, subsequently through the WCAT. Internal Appeals had an overturn rate (appeals accepted or accepted in part) of 27% in 2023, while the overturn rate at WCAT was 56%. The overturn rate suggests that there may be challenges in the decision-making process. The Review Committee heard that the appeals process takes a long time, and this has a negative impact on injured workers. Delayed appeals also create administrative and financial strains on the system. Timelines for appeals vary by Canadian jurisdiction. Nova Scotia is one of three provinces that require an injured worker to appeal within 30 days, while other jurisdictions allow appeals within 90 days or have no limits. Suggestions were made to the Review Committee to improve the appeals process by providing clear information about decisions, improving accountability for following standards and policies, and ensuring that decision letters are consistently issued. The Review Committee identified that there is an opportunity for new evidence and additional adjudication to be happening with the case worker that originally reviewed the claim, rather than in the appeals system. A review of the Appeal System in Nova Scotia was conducted in 2022 and resulted in 24 recommendations for improving the workers' compensation appeals' system focused on four themes, Purpose, People, Process, and Technology. Eight recommendations have already been implemented, with work ongoing to address the remaining recommendations.

System Transparency and Accountability

Most jurisdictions mandate regular reviews of their workers' compensation systems through legislation (e.g., every five years). Many jurisdictions also include a purpose or preamble in legislation that guides the overall interpretation of the *Workers' Compensation Act (WCA)* and helps to align system partners in their purpose and in the intent of the WCA. The purpose statement can be a guidepost to planning and governance of the system. Service standards and public reporting of performance against those standards will also help to enhance transparency, identify areas in need of improvement, and support collaboration between system partners.

Summary of the Review Committee Recommendations

The following section includes a summary of the recommendations made by the Review Committee.

System Sustainability

The Review Committee believes that the Approved Rate Range that WCB has established for Nova Scotia should be monitored and reported on by WCB to determine its effectiveness and, in time, should be brought in line with other jurisdictions in Canada (i.e. a lower threshold of 100%). The Review Committee recommends that as the WCB administrative costs are significantly higher than the Canadian average, a review of its cost structure to identify areas of efficiency, productivity gains and cost savings be undertaken.

Prevention

Although the WCB and the LSI Safety Branch work closely together, there should be greater collaboration between OHS and WCB on prevention to avoid confusion and reduce complexity in the system. The Review Committee recommends having a third-party review of prevention in Nova Scotia that contributes to building a prevention strategy. The review should assess the impact of a greater focus on education around the Internal Responsibility System in workplaces. The review should consider the impacts of having Safety Branch officers that are focused on working with the top employers who are contributing to long durations, and those experiencing the most injuries. The review should also consider whether expanding the reporting of accidents should be implemented. Prevention incentive programs offered in Nova Scotia should be reviewed to better understand their contribution to improved safety outcomes, and to identify strategies for improving existing programs as well as enhanced data sharing across organizations. This should include engagement with all Nova Scotians.

Awareness and Understanding of the System

The Review Committee recommends a review of the organizations aligned with the workers' compensation system and how they interact, with the goal of having a sustainable, less complex, more accessible, and better aligned system for Nova Scotians (i.e., a "one stop shop").

Claims Administration

The Review Committee feels it is vitally important for WCB to establish and communicate clear service standards that encompass the entirety of the system. There must be public and timely reporting on performance against these standards to increase the accountability and transparency of the system. The Review Committee feels strongly that the goal to reach 80% implementation of service standards by 2030 is not a viable timeline and more urgency must be sought.

The Review Committee recommends that reasoned, comprehensive decision letters detailing the rationale behind claim acceptance or denial, the methodology used to evaluate evidence and the right to appeal are needed. The Review Committee feels strongly that the WCB should engage with employers and workers to understand their needs regarding decision letters.

The Review Committee recommends WCB review case loads and the impact to the case workers' ability to provide client-focused support.

The Review Committee believes that the WCB targets for first contact within two business days, decisions within seven days of claim, and responses to messages to within two business days should be more aggressive than the current target of 80%.

Supporting Safe and Timely Return-to-Work

All considerations that may result in delays in the RTW progress need to be reviewed, including accommodations for safe RTW, top ups that may disincentivize RTW, the use of a Medical Review Commission for clarity and independence in medical opinions, the role of the WCB Board doctors and any other considerations, such as vocational training to help the worker achieve a state of employability. There also needs to be greater focus on prevention and reducing injuries. Leadership commitment is essential to these workplaces becoming healthy and safe for their workers and to contribute to the accountability of leadership Key Performance Indicators (KPIs) need to be established for performance.

The Review Committee recommends having a requirement in legislation for cooperation between the WCB, employers, and workers in the RTW process with penalties implemented for employers and injured workers who do not cooperate in the RTW process.

The Review Committee believes that the WCB target for reduction of claims duration (reduce the time lost to injury by 35% by 2030) should be more aggressive. High claims costs and durations are the biggest driver of systems costs and data suggests that the system is not doing a good enough job in supporting injured workers to RTW.

Reviews relating to EERB should be conducted more frequently and be in line with the majority of jurisdictions in Canada to keep the injured worker connected with WCB and the workplace to monitor their readiness to return to the workplace.

Compensation and Benefits

Indexing of Benefits to Inflation

The Review Committee recommends immediate implementation of Consumer Price Indexing (CPI) at 100% with a 3% cap. The Review Committee also recommends providing the WCB Board of Directors the authority to adjust the increase in benefits to greater than 3% in circumstances that merit such an exception, such as when the financial condition of WCB allows and inflation is significantly higher than 3%. This change to indexing is to be made on a go forward basis with no retroactive adjustment.

Percentage of Insurable Earnings Paid

The Review Committee recommends the incremental model should be changed to reflect a consistent percentage, and that the rate should be increased to at least 85%. Making this change would be a second priority to improve benefits after addressing the indexing of benefits and be made once financial stability is achieved.

The 2/5th Waiting Period

The waiting period causes a delay in Nova Scotians receiving their benefits when needed most - immediately after an injury. It is also administratively inefficient to have a 2/5th waiting period, as benefits are paid at five weeks and the waiting period will be reimbursed if the worker is still off work. Other jurisdictions have eliminated their waiting periods. Nova Scotia should eliminate the waiting period once financial stability has been achieved.

Coverage

The Review Committee recommends moving to universal coverage. Government should engage with the industries/sectors not currently in the system to gain feedback on how this might be implemented. This recommendation includes removal of the three-worker rule and moving to an exclusionary model. Ensuring there is an understanding of the benefits of participating in the system and demonstrating commitment to a strong and sustainable system prior to expanding coverage may encourage the desire to participate in the workers' compensation system.

Psychological Health and Safety and Gradual Onset Stress

Psychological health and safety is a critical part of workplace health and safety. Most other jurisdictions have implemented coverage for GOS, and Nova Scotia will be aligned with those jurisdictions once GOS comes into effect in September 2024. Nova Scotia is the only jurisdiction that does not define workplace harassment in legislation, regulations, or policy, and this should be a priority to address for the province. A definition of workplace harassment will help support the WCB with the interpretation of the legislation in the adjudication process and support employers and workers in building more psychologically healthy and safe workplaces to prevent psychological injuries from occurring.

Review and Appeals

The Review Committee recommends that an in-depth review of the appeals system be conducted focused on improving efficiencies. The review would include the organizations that support the appeals process. It is also important to assess the approach to including new evidence related to a claim. The Review Committee also recommends the 30-day period for appeal in the legislation should begin when the injured worker's file is considered a complete file with all information required to progress an appeal being provided. This could also help to alleviate the adversarial and litigious approach to the appeal process in Nova Scotia.

System Transparency and Accountability

The Review Committee believes that system transparency and accountability need to be strengthened. This could include making changes to legislation to incorporate a purpose into the *WCA* as well as legislating key elements of the system such as regular reviews. In addition to service standards related to claims administration, other areas of the system where it would be beneficial to have established KPIs and reporting include resolution of complaints and timeliness and resolution of appeals. Other organizations in the system could also establish and report appropriate KPIs related to their objectives and timeliness of service provision.

Conclusion

The Review Committee is pleased to submit this report to support improvement of the system in Nova Scotia. The Review Committee believes that addressing the issues identified in this report will lead to a workers' compensation system in Nova Scotia that is more transparent, efficient, and sustainable; a system that provides appropriate supports to injured workers and value to employers that pay rates, and more effectively meets the needs of Nova Scotians.

1.0 Introduction

The workers' compensation system in Nova Scotia includes workers, employers, and the agencies and others who provide services in the system. The WCB is part of this system and provides workplace injury insurance to 20,600 employers and insures about 353,000 workers. The WCB has oversight by a Board of Directors that is governed by legislation in the *Workers' Compensation Act (WCA)* that falls under the Minister of Labour. Other organizations in the system include OHS and Technical Safety within the Safety Branch of LSI, the Appeals system including the WCAT¹, and the WAP, organizations that support workers and employers like the OWC, the PCIWA and the OEA, as well as the Safety Associations and Sector Councils. A description of the role of each of these systems/groups/organizations can be found in the Appendix A. The workers' compensation system helps educate workers and workplaces on how to prevent workplace injury, a cornerstone of health and safety for Nova Scotia workplaces. It also supports safer work in the workplace. And when a workplace injury occurs, it provides financial help, access to support services, and benefits to workers and their families. Support is available to workers and employers to help with a timely and safe return to work (RTW).

Currently the system in NS, as measured by key indicators such as costs, claims durations, benefit payments, and other supports to injured workers, is amongst the worst performing systems in Canada. It has been over two decades since the workers' compensation system in Nova Scotia has undergone a formal review with recommendations for improvement (the Dorsey Report in 2002). For most of the last 30 years, the WCB has had a large unfunded liability (i.e., did not have enough assets/funds to pay the benefit commitments expected into the future as well as to maintain and strengthen the workers' compensation system), contributing to challenges in the system such as limited benefits for injured workers and high rates for employers. By the end of 2021, the WCB's financial position was significantly improved, so in May 2023, LSI determined that the time was right for a review of the workers' compensation system in Nova Scotia and established a Workers' Compensation Review Committee for this purpose. The Review Committee was tasked with validating and prioritizing issues with the workers' compensation system in Nova Scotia that if addressed would most significantly improve the system for Nova Scotia. The Review Committee provides this report to the Minister of LSI identifying the most pressing issues facing the workers' compensation system.

The Review Committee included equal representation of employers and employees (four of each) and an independent Chair. The Review Committee representatives included individuals from sectors most impacted by workplace injury such as manufacturing, healthcare, and retail,

¹In Nova Scotia, Part II of the Act established WCAT, WCAT reports to the Minister of Justice.

and a sector not currently required to have WCB workplace injury insurance. One employer and one employee member of the Review Committee were also members of the WCB Board of Directors.

This report documents the findings of the work conducted by the Review Committee and identifies suggestions for improvements for LSI on the priorities for Nova Scotian employers and workers to achieve the best workers' compensation system possible for Nova Scotians.

Scope of the Review Committee's Work

The Review Committee was specifically asked to consider the following (in scope):

- The current state of the workers' compensation system in Nova Scotia to understand where there are strengths as well as gaps and issues.
- The problems within the existing system and prioritizing these issues from the lens of Nova Scotian workers and employers.
- How all Nova Scotians (including those that are part of the workers' compensation system and those that are not currently using the system) can be supported by the workers' compensation system if they are injured at work. The workers' compensation system in Nova Scotia exists to fulfill two roles: to support Nova Scotians when they are injured and provide supports that contribute to a safe and timely RTW; and to provide access for employers to no fault insurance at competitive rates that take into consideration an employer's support for prevention and injury rates at their organization and are reflective of their injury/RTW experience. Employer rates are based on injuries that occur and the cost of those injuries.
- Review what organizations exist to support the workers' compensation system in Nova Scotia and advise on any suggested changes that would improve the system.
- Consideration of how the WCB serves its clients using the lens of fundamentals that are essential for trust in any relationship: transparency, honesty, openness, good communication, and fairness.
- Reviewing the system from the perspective of individuals who are new to Nova Scotia, including temporary foreign workers and new Canadians who may not have experience with safety in the workplace.
- Areas for improvement that will contribute to the system being financially sustainable, having a prevention focus and with accountability for it to be effective in serving Nova Scotians' needs. The review focused on understanding issues that are imperative to this being achieved.

The following was not part of the review and is considered out of scope:

- Identifying and/or analyzing detailed options to address the problems with the system that are identified from the review.
- Determining the timing of any solutions that may be implemented. Given the current funding level of the WCB, together with the current cost of benefits and the rates charged to employers, some issues have timing considerations for implementation that are dependent upon the system being in a stronger funded position.

Following completion of the review, LSI will analyze the findings and determine next steps. The Minister of LSI is responsible for the WCA, and government is responsible for changing benefits, as referenced in the WCA, and ensuring that the workers' compensation system appropriately supports all Nova Scotians and is sustainable and effective into the future. The WCB Board of Directors is responsible for the financial planning of the WCB, including rate setting and ensuring the financial and operational performance of the WCB, which is governed by the WCA and regulations.

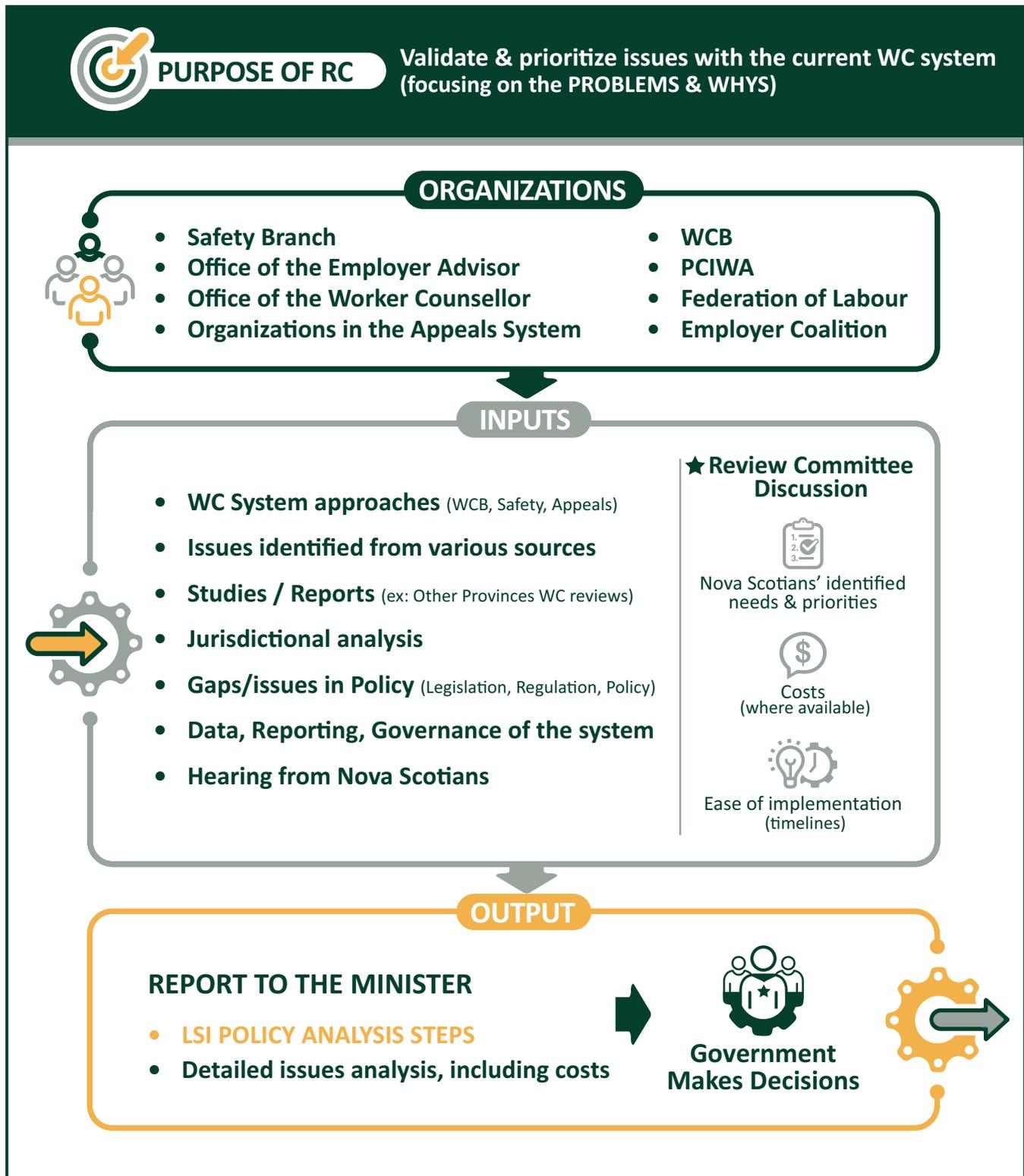
Review Committee Approach and Methods

The Review Committee, guided by a Terms of Reference and supported by staff from LSI and WCB, met regularly from July 2023 through June 2024 to review and discuss information related to the workers' compensation system (please see [Appendix B](#) for an overview of meetings and discussion topics). The Review Committee gathered and reviewed information from a wide range of sources and together identified the most prevalent and important issues with the workers' compensation system in Nova Scotia. Information used to inform the review included (but was not limited to):

- Findings from a broad public engagement process with Nova Scotians held in November and December 2023. Employers, employees, injured workers, and any other interested Nova Scotians were given the opportunity to provide their feedback on the system through multiple methods including in-person and virtual sessions (with in-person sessions held in locations across the province), written submissions, presentations to the Review Committee and an online survey. Over 1,000 Nova Scotians participated, and Review Committee members were present at all the virtual and in-person consultation sessions.

- A survey of WCB employees (i.e., case workers and hearing officers) with a participation rate of about 70%.
- Review of current legislation and regulations in Nova Scotia and information on the current situation of the workers' compensation system.
- Findings from the previous (and only) review of the workers' compensation system in Nova Scotia, the Dorsey Review, conducted in 2002.
- Findings and lessons learned from reviews of workers' compensation systems in other jurisdictions (e.g., British Columbia (BC), Alberta (AB), NB, and ON).
- Data on potential costs (where available).
- Presentations from workers and employers who shared their experiences with the workers' compensation system.
- Presentations, data, and information on organizations that contribute to the prevention of injury, safety in the workplace, support workers, support safe and timely RTW when injuries occur, and for appeals, as may be required, including the WCB, WAP, WCAT, OWC, OEA, PCIWA, the Safety Branch (OHS and Technical Safety), the Federation of Labour, and the Employer Coalition.
- Data and reporting in Nova Scotia and compared to other jurisdictions.
- Governance and red tape considerations associated with the system in Nova Scotia.

All of this information was used by the Review Committee to validate and prioritize issues with the workers' compensation system in Nova Scotia. The figure below further describes the process that was used.



2.0 Background

The Workers' Compensation System

The workers' compensation system in Nova Scotia helps educate workers and workplaces on how to prevent workplace injury and supports safe and timely RTW in the workplace. Preventing injury is fundamental to healthy and safe workplaces and contributes to reduced system costs with fewer injuries and less lost time from work. When a workplace injury occurs, the system provides benefits to workers and their families, financial help through the claims process, access to support services for both employers and workers, and assistance navigating the system when they are injured. Support is also available to workers and employers to help with a timely and safe RTW. Additionally, if a worker or employer needs to resolve an issue they have with a decision on a claim, there are supports available to help them through the appeal system. The system also encompasses investigation and enforcement of safety compliance.

Nova Scotia enacted its first *WCA* in 1915. The Minister of LSI is responsible for the *WCA* except for Part 2 of the *Act*, which governs the *WCAT*² and falls under the Department of Justice. On January 1, 1917, the *WCB* opened its doors for business. The *WCA* sets out the rules that apply to the workers' compensation system in Nova Scotia and provides the legal framework for the administration of the *WCB*. *WCB* focuses on prevention, RTW, case management³, assessment, and compensation programs. Government is responsible for implementing changes to the legislation and regulations (e.g., changes in benefits), while the *WCB* is responsible for financial and operational oversight of the *WCB*, establishing assessment rates for employers, and implementing *WCA* provisions. The *WCB* submits annual and quarterly reports to the Minister, and the annual reports are tabled with the House of Assembly.

The *WCB* is an independent agency of the Province of Nova Scotia which administers the payment of benefits to injured workers and their dependents, levies and collects assessment revenues from employers who participate in the *WCB*'s workplace injury insurance, invests funds held for future benefit payments, and provides supports for injured workers and their employers to achieve a timely return to safe and healthy work. A previous review of the workers' compensation system in Nova Scotia ([see page 25 describing this review](#))

²The *WCAT* is an independent tribunal that hears and decides appeals from the final decisions of the *WCB*. Please see the [Appendix](#) for more information.

³Case management includes coordination of care, assisting the injured worker in navigating the system and obtaining benefits and supports, and facilitating return to work.

recommended that prevention be the responsibility of the WCB, and that responsibility was moved from LSI's OHS Division to the WCB in 2002. The *OHS Act* and *Technical Safety Acts and Regulations* clarify the requirements for workplaces in relation to safety, before injuries occur. OHS and Technical Safety, as regulators, also support prevention by working with workplaces and workers on the implementation of rules and guidance to prevent injuries. The Accident Fund is the fund provided for the payment of all compensation and expenses of the workers' compensation system and the administration of the *WCA*. The WCB is responsible to maintain the financial health of the Accident Fund as referenced in the *WCA*. Under the provisions of the *WCA* and the *Occupational Health and Safety Act* (the *OHS Act*), most of the costs to LSI for administering the *OHS Act* are recovered from the WCB's Accident Fund. This is different from other jurisdictions where all of the costs of OHS are recovered.

There are a number of other aligned organizations that support the workers' compensation system. The OWC educates, assists, and advocates for injured workers and helps them navigate and understand the system. WAP provides free legal advice to injured workers, and the PCIWA provides support and advocates for workers and their families when navigating the system after an injury. The OEA provides counselling and navigation services to employers and business associations in dealing with the complex WCB system. Finally, the Safety Associations and Sector Councils are funded by the different sectors they support, and they collaborate with the system on an ongoing basis in relation to greater awareness of safe work practices, including safety training. Costs for WAP, WCAT, OEA, PCIWA, and OWC are all funded by the Accident Fund. Additional information about the workers' compensation system in Nova Scotia can be found in the Appendix.

The Meridith Principles

Workers' compensation was first introduced to Canada in 1913. Sir William Meredith headed a Royal Commission to study workers' compensation and produced a report that included five principles, known as the Meredith Principles, which form the basis of many workers' compensation systems. These principles are:

- No fault compensation - workers are paid benefits regardless of how the injury occurred
- Security of benefits - a fund is established to guarantee funds exist to pay benefits
- Collective liability - covered employers share liability for workplace injury insurance
- Independent administration - the administering organization is separate from the government
- Exclusive jurisdiction - only workers' compensation organizations provide workers' compensation insurance

The report also outlined a trade-off between workers and employers where workers gave up their right to sue employers for work-related injuries in exchange for an employer-funded insurance system predicated on “no-fault” (i.e., no assignment of responsibility or liability for an injury, non-adversarial). The goal of “no-fault” was to support a non-adversarial system with broad coverage across industries and sectors and is known as ‘The Historical Compromise’.

The WCA in Nova Scotia is guided by the Meredith Principles. The intent of the Act in Nova Scotia is to protect and support Nova Scotians who are unable to work due to a workplace injury and provides benefits to these individuals. This contributes to relieving some of the financial and medical burden for individuals and families should a workplace fatality or injury occur and protects employers from lawsuits. In addition, the Act intends for workplaces, workers and system partners to co-operate in achieving these goals.

Previous Review of Nova Scotia’s Workers’ Compensation System: The Dorsey Review

The last Workers’ Compensation Review in Nova Scotia was conducted in 2001/2002, chaired by James E. Dorsey (the Dorsey Review). The Dorsey Review Committee identified 41 areas of concern; 11 of which they determined were appropriate and in line with other jurisdictions, 16 of which addressed legislative or regulatory changes and are the responsibility of LSI, and 14 which addressed changes to the WCB’s policies. Six major themes were identified:

- coverage (e.g., three-worker rule, coverage of emerging sectors, 2/5th waiting period),
- revenue (e.g., industry grouping for assessment rates, investment return by the WCB),
- prevention (i.e., effectiveness of employer experience-rating contributing to prevention),
- benefits (e.g., indexing benefits to inflation, maximum assessable earnings),
- adjudication of claims/medical opinions (e.g., appropriateness of the method for generating internal and external medical opinions, effectiveness of internal and external appeals), and
- accountability (e.g., roles and responsibilities of WCB, WAP, and WCAT; need for appropriate performance measures).

Most of the recommendations from the Dorsey Report were not acted upon in Nova Scotia, in part due to the difficult financial position of the WCB at the time (the Dorsey Review did not focus on financial considerations for the system). Also impacting the implementation of the Dorsey Report recommendations was the Supreme Court decision that was made within a month of the Dorsey Report being released which recognized chronic pain as a compensable injury. This increased the unfunded liability of the WCB by \$300 million, which limited the financial capacity to make any other changes to the system based on the Dorsey recommendations.

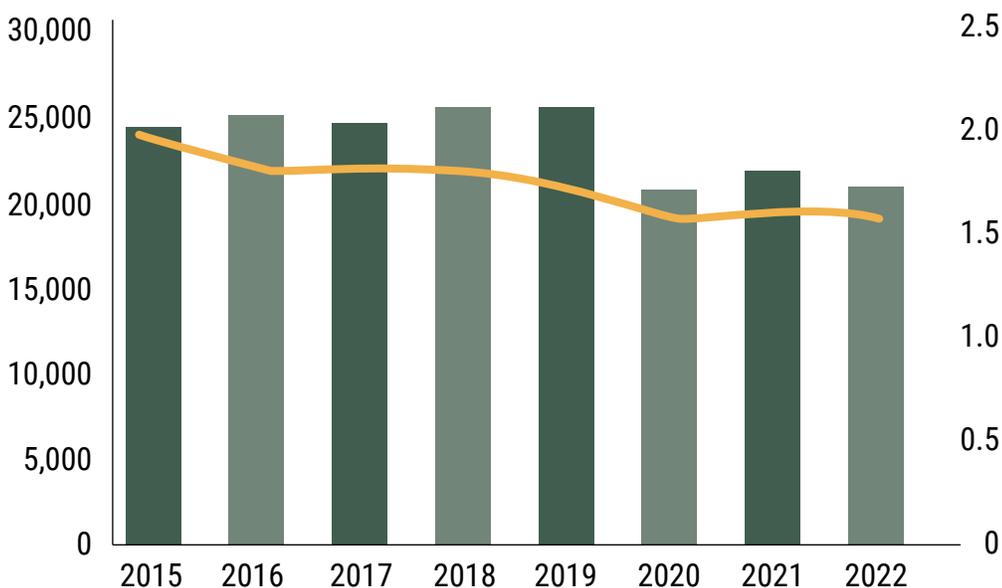
Other Provincial Reviews

BC, AB, NB, and ON have conducted reviews of their workers' compensation systems over the past 8 years. The Review Committee discussed and considered the findings from these reviews and how they might inform the Review Committee's work in the Nova Scotia context.

Current Context of Workplace Injuries in Nova Scotia

The WCB covers 20,600 employers, which includes 74% of Nova Scotia's labour force with approximately \$14 billion in assessable payroll.⁽²⁾ In 2022, there were 20,880 claims, with 5,650 of these resulting in compensable time loss, which translates to 1.60 time-loss claims per 100 covered workers.⁽²⁾ This has decreased over time, from 23,933 claims registered and 1.94 time-loss claims per 100 covered workers in 2015 (Figure 1). In 2022, 61% of time-loss claims were resolved within 60 days and 88% were resolved within 360 days.⁽²⁾ The majority of claims are approved, with a small proportion denied and a small proportion that are not pursued/disallowed⁴.

Figure 1: Number of claims registered and time-loss claims per 100 covered workers



In 2022, twenty four (24) Nova Scotians died at work or because of their work and over 1 million days were lost to workplace injury (although there were 52,000 fewer days lost in 2022 compared to 2021). The most common type of injury was sprains and strains (59%), followed by fractures and dislocations (10%) and concussions and intracranial injuries (6%).⁽³⁾ NS has one of the lowest rates of time-loss injuries in Canada, at 1.6 per 100 covered workers (Table 1).

⁴Disallowed means that the claims are not eligible for coverage.

Table 1: Time-loss⁵ injury per 100 covered workers by Canadian jurisdiction, 2022

Jurisdiction	Time-loss injury
Quebec (QC)	3.03
Manitoba (MB)	2.75
British Columbia (BC)	2.39
Canada (CA)	2.12
Saskatchewan (SK)	2.05
Alberta (AB)	1.96
Northwest Territories (NT)/ Nunavut (NU)	1.89
Yukon Territory (YT)	1.65
Nova Scotia (NS)	1.60
Newfoundland and Labrador (NL)	1.58
Ontario (ON)	1.48
Prince Edward Island (PE)	1.32
New Brunswick (NB)	1.15

The industries in Nova Scotia with the highest proportions of time-loss claims in 2022 are health/social services (32% of time-loss claims and 19% of assessable payroll), manufacturing (12% of time-loss claims and 12% of assessable payroll), and construction (11% of time-loss claims and 12% of assessable payroll). Some industries in Nova Scotia have an injury rate that is higher than the provincial average including health/social services (2.72), government services (2.55), agriculture (2.32), transportation (1.95), educational services (1.75), construction (1.70), and manufacturing (1.69). Relatively few employers account for most of the claims registered with the WCB; 3% of employers that together account for 50% of assessable payroll accounted for 72% of the new claims registered in 2022.⁽³⁾

⁵Time-loss claims are defined as the subset of Claims with Loss Dates in a given year that receive short term earnings replacement benefits in the same year and/or the first 2 months of the year following.

3.0 Identified Areas for Improvement

This section of the report discusses the key areas for improvement within the workers' compensation system in Nova Scotia. These issues were identified as important by the Review Committee through careful deliberation and detailed review of all of the evidence and information provided to the Review Committee (see [Review Committee Approach and Methods](#) section).

This section of the report addresses the following as areas for improvement in Nova Scotia:

- System sustainability
- Prevention
- Awareness and understanding of the system
- Claims administration
- Supporting safe and timely RTW
- Compensation and benefits
- Coverage
- Psychological health and safety and GOS
- Review and appeals
- System transparency and accountability
- Other issues (temporary foreign workers, system transparency and accountability)

System Sustainability

Background

It is critically important that the WCB, as the organization that collects rates from employers and pays benefits to workers, is financially sustainable (i.e., has sufficient assets/funds to pay the benefit commitments expected into the future as well as to maintain and strengthen the workers' compensation system). In the early 1990s, a major issue was discovered where the WCB's assets only covered 27% of its expected liabilities for benefits into the future (the funded percentage). This funding crisis was a major challenge for the system and resulted in large increases in average assessment rates charged to employers (almost doubling from the early 1990s to the early 2000s; 1990: \$1.47, 1993 \$2.28 and increasing to \$2.65 since 2005). Although employers in Nova Scotia paid the highest rates in Canada during this timeframe, the benefits paid to injured workers were amongst the lowest in the country, held back by the financial condition of the system.

Since 2000, claims costs and the liability of benefits payable into the future have increased, and revenue from premiums and the investment portfolio have grown, with the overall funded percentage improving to 93%, as of the end of 2022.⁽⁴⁾ The average rate for employer premiums has remained at \$2.65 per \$100 of assessable payroll since 2005, which is significantly higher than all other Canadian jurisdictions. The Review Committee understand the average assessment rate was held stable by WCB in part because there was a perception that a firm projection would better enable employers to plan long term.

The financial position of the WCB is a critical consideration in decisions around system improvements, such as increases to benefits and/or reductions of employer assessment rates. It has been over 30 years since the unfunded liability was identified in Nova Scotia as a significant concern. Section 116 of the *WCA* intends to support the financial sustainability of the workers' compensation system by providing guidance to the Board. In 2023, the WCB announced an approved rate range (ARR) that takes into account financial sustainability and the funded percentage. The ARR is a model used by WCB's across Canada that enables the system to consider necessary changes (e.g., changing benefits and/or reducing rates) and balances those changes with the principle of long-term financial sustainability. The model adopted by the WCB in Nova Scotia works as follows: if the percentage is below 90%, the WCB will increase the average assessment rate charged to employers to improve sustainability (with the increase spread over five years to enable a return to the minimum 90% threshold). If the percentage is above 115%, the WCB will implement an average assessment rate reduction and recommend enhancements to benefits that would utilize any amount above the 115% threshold. Between 90-115% (where the current [as of year-end 2022] funded percentage of 93% sits), assessment rate reductions and/or benefit enhancements may be considered, but the impact to system sustainability will need to be carefully reviewed to ensure changes will not result in a return to an underfunded position, while considering the factors influencing stability and sustainability of the system.⁽⁴⁾

Under the *WCA*, the WCB must set rates such that the revenue generated from rates collected from employers covers the costs of the claims that occur in a given year, along with the costs of administering the system. The current average assessment rate in Nova Scotia is \$2.65 per \$100 of assessable payroll. This is the highest average assessment rate across Canada (see Table 8, page 62) for the past 20 years. Like other forms of insurance, the biggest factor in the rates that are paid is the cost of claims. Employers within an industry are grouped together for industry rates, which are then adjusted based on the experience of the employer compared to others in their industry. Those who are consistently 200% worse than their rate group over at least four consecutive years (Experience Rating statements) may also face surcharges, or higher rates. The rate paid by each employer therefore differs from the average assessment rate based on these factors – rates range from \$0.32 to \$13.58 per \$100 of assessable payroll.⁽⁴⁾

What the Review Committee Heard

The Review Committee heard concerns from Nova Scotians about the financial sustainability of the workers' compensation system. The current level of funding is below 100% (i.e., the WCB does not have sufficient assets to fund all their liabilities), despite Nova Scotia having the highest assessment rates across Canada. Concern about the administrative costs of the system was also shared. The Review Committee heard that the system is not providing good value for money to Nova Scotians.

Other Jurisdictions

In 2022, \$1.72 of the average rate of \$2.65 per \$100 of assessable payroll in Nova Scotia went toward the cost of benefits, the highest in Canada and 61% higher than the Canadian average (Table 2).⁽²⁾ Benefit costs include wage loss payments and health care costs, and do not include payments related to the unfunded liability. In Nova Scotia, WCB administrative costs are 42% higher than the Canadian average – \$0.37 per \$100 of assessable payroll in Nova Scotia compared to the average of \$0.26 across Canada in 2022⁶ (Table 2).⁽²⁾ Administrative costs include salaries, professional services, building operations, communications, supplies, travel/ accommodations, training and development, depreciation, and legislated obligations.

Table 2: Benefit and Administrative Costs per \$100 of assessable payroll, 2022⁽²⁾

Jurisdiction	Benefit Cost per \$100 of assessable payroll	Administration Costs per \$100 of assessable payroll
MB	\$0.64	\$0.33
ON	\$0.75	\$0.31
NB	\$0.81	\$0.32
SK	\$0.83	\$0.29
PE	\$0.86	\$0.25
YT	\$1.04	\$0.57
CAN	\$1.07	\$0.26
AB	\$1.16	\$0.23
QC	\$1.20	\$0.19
NL	\$1.21	\$0.41
BC	\$1.42	\$0.27
NT/NU	\$1.43	\$0.84
NS	\$1.72	\$0.37

⁶Weighted average calculated by the Association of Workers' Compensation Boards of Canada

In Nova Scotia, the amount of the assessment rate that is applied to improve the funding of the liability has fluctuated over time, as the average assessment rate was held flat (in 2022, \$0.38 per \$100 of assessable payroll was applied to the liability). This has had the effect of prolonging the negative funding position in the province as the costs of benefits and systems operations have increased, reducing the amount available to address the unfunded liability. Other jurisdictions that experienced funding shortfalls took a different approach, in effect fixing the amount used to fund the unfunded liability, and letting the average rate fluctuate, with those provinces retiring their unfunded liability more quickly. As seen in [Table 3](#), Nova Scotia has consistently had one of the lowest funded percentages of all provinces across Canada.

Table 3: Percentage funded, all provinces, 2015 to 2022⁽²⁾

	2015	2016	2017	2018	2019	2020	2021	2022
PE	141%	159%	165%	146%	148%	155%	164%	148%
NB	123%	112%	102%	88%	105%	124%	148%	148%
MB	143%	146%	149%	148%	147%	144%	150%	145%
BC	138%	142%	153%	153%	155%	161%	166%	142%
SK	153%	133%	140%	128%	138%	131%	134%	128%
NL	119%	126%	132%	120%	123%	126%	132%	116%
ON	79%	88%	98%	105%	114%	113%	122%	110%
AB	134%	134%	127%	118%	119%	121%	120%	108%
QC	106%	109%	111%	109%	113%	115%	121%	107%
NS	81%	84%	89%	86%	97%	103%	106%	93%

■ Funded ratio over 115% ■ Funded ratio below 90%

Nova Scotia’s ARR is currently 90% to 115%. Compared to other jurisdictions across Canada, Nova Scotia has the lowest ARR threshold, with every other jurisdiction having a lower threshold that is at least 100% (Table 4).

Table 4: Approved Rate Range (ARR) by Canadian Jurisdiction

Jurisdiction	ARR	Current funded ratio (2022)	Gross discount rate (2023)
BC	130%	141.6%	5.10%
MB	130%	145.2%	5.75%
NT/NU	125%	104.0%	N/A
ON	115% - 125%	109.8%	5.00%
NB	115% - 125%	147.7%	6.08%
AB	114% - 128%	108.1%	5.67%
YT	114%	131.5%	N/A
SK	105% - 120%	128.0%	N/A
PE	100% - 125%	147.7%	5.50%
QC	100%	106.7%	6.00%
NL	100% - 120%	116.2%	5.75%
NS	90% - 115%	92.9%	5.50%

* N/A – not available.

Most other jurisdictions do not have specific reference in their legislation to an acceptable range for the funded ratio or how/when changes to benefits or rates should be implemented to maintain sustainability. ON is the only jurisdiction that references the range in legislation to provide transparency about what happens when the range reaches the lower or upper thresholds. ON also allows for the Governor in Council to create regulations that prescribe in the legislation the funded ratio and the activities and responsibilities of the WCB in maintaining the Accident Fund. This supports transparency so that all parties understand the decisions that are made regarding rates and benefits to ensure the sustainability of the system. The discount rate is a key input in the determination of the liability for future benefits and it is determined by management of the WCB in consultation with the WCB’s consulting actuary. Generally, the lower the discount rate the higher the liability. Nova Scotia falls in the middle of the range of rates used by the Boards in various jurisdictions in Canada, and, in Nova Scotia’s case, a change of 25 basis points in the discount rate would change the liability by approximately \$45-\$50 million (1.7-1.8% on the funding ratio).

Review Committee Perspective on the Priority Issue

The Review Committee believes that the ARR that WCB has established for Nova Scotia should be monitored and reported on by WCB to determine its effectiveness. The Review Committee also feels that, in time, the ARR should be brought in line with other jurisdictions

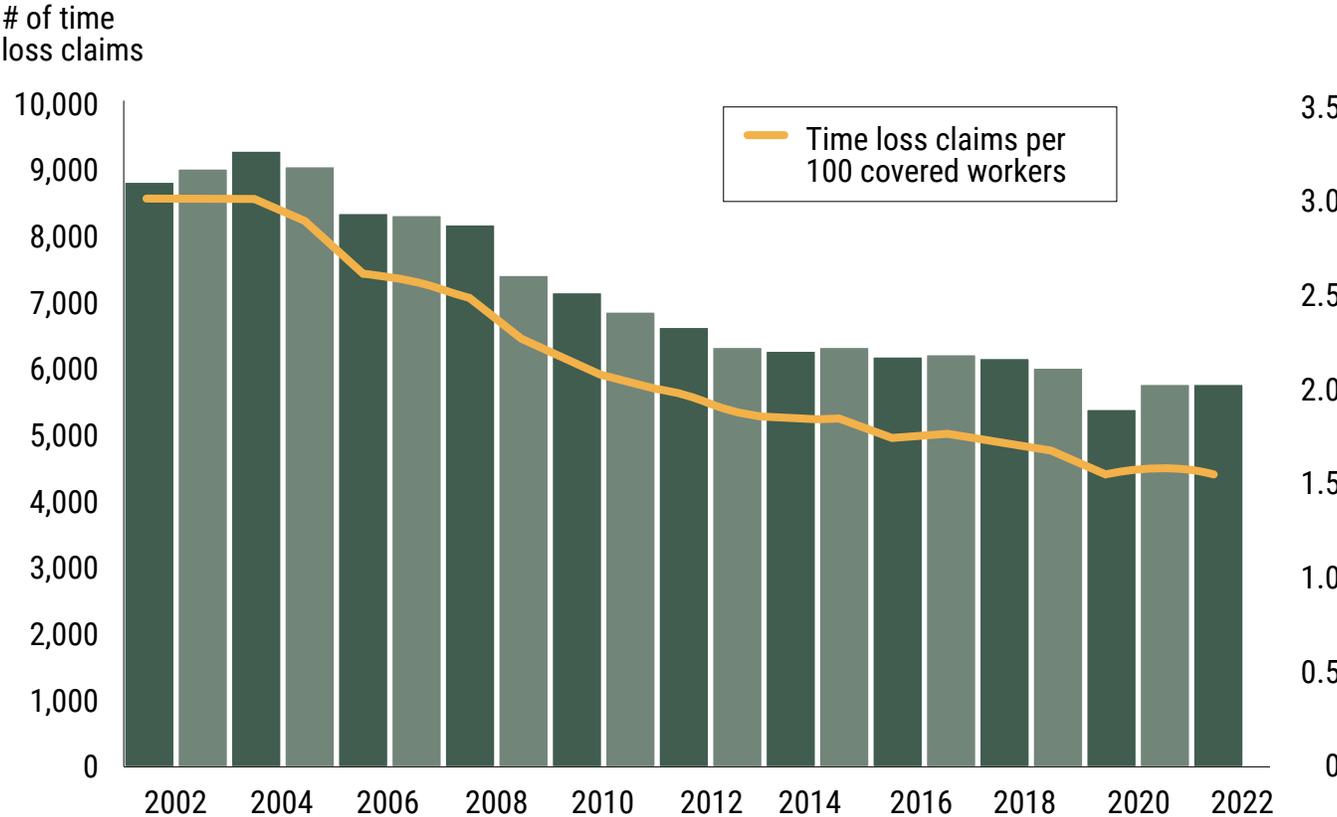
across Canada (i.e., a lower threshold of 100% rather than 90%) once improved financial sustainability is reached. The WCB would continue to have the authority to adjust rates as needed. WCB administrative costs are significantly higher than the Canadian average. The Review Committee recommends that the WCB addresses this issue through a review of its cost structure to identify areas of efficiency and productivity gains where cost savings could be generated. Nova Scotia is the only province without a WCB policy on preexisting conditions and cost relief. The WCB should engage with Nova Scotians on this issue.

Prevention

Background

Prevention of workplace injuries is a key function of the workers’ compensation system. The OHS and *Technical Safety Acts and regulations* set the requirements to prevent injuries. The system educates and supports workers and employers about how to prevent workplace injury and supports safer work in the workplace. In 2002, prevention was made a key responsibility of the WCB (following the Dorsey report). Since 2002, time-loss claims have declined from 8,769 in 2002 to 5,420 in 2022 (Figure 2), and the total number of claims has also declined (see Figure 1, p. 26).

Figure 2: Number of time-loss claims has reduced from 8,769 in 2002 to 5,420 in 2022



Prevention work is currently done by both the WCB and the LSI Safety Branch. Working in close partnership with the Safety Branch and with many other partners, WCB's injury prevention services and programming includes industry-based coaching, education, and best practices, through personalized service. They develop and promote a wide range of resources and programs such as the surcharge program to encourage safer behaviours – and rebates for those surcharges, when safety investment is demonstrated. They also offer safety certification programs and partner closely with safety associations across the province.

The WCB has established an objective in their most recent strategic plan to reduce the number of time loss injuries by 17% by 2030.⁽⁵⁾ Going forward, the WCB has stated they will put an increased focus on psychological injury prevention, supported by new tools and resources informed by best practice. They indicated they will also organize and deploy their resources and programming for those workplaces with the largest opportunities to impact the system as a whole. Finally, they plan to leverage technology and improved data to better target workplace injury prevention efforts – for example, using predictive analytics to better support prevention efforts.

The Safety Branch of LSI acts as the regulator and also supports prevention by working with workplaces and workers on the implementation of rules and guidance to prevent injuries. The Safety Branch supports workplace safety through the Pathways to Compliance Program which includes four elements: legislation, education, verification and enforcement. Incidents which must all be reported to the Safety Branch as required by the *OHS Act* include fire, flood or accident in the workplace that causes serious injuries to an individual, requires admission to the hospital, or endangers the life of the employee; major structural fail or collapse in a building; release of hazardous substance; or a fall from a work area where fall protection is required; and/or when a person is killed from a cause or injury in the workplace. The Safety Branch identifies trends that have the potential to impact on safety in the workplace, and focuses on priority industries to support safety (those that have higher injury and fatality rates or increased risks), and prioritizes specific hazard areas that cross multiple sectors and have the potential to cause serious injury/fatality (including musculoskeletal injuries, falls from height/guarding, slips, trips and falls, violence, sun and heat exposure and hazardous materials). Policy priorities of the Safety Branch include psychological health, healthcare, surface mining, fall protection, and Workplace Hazardous Materials Information System (WHMIS) Regulations.⁽⁶⁾

The Safety Branch has Safety Advisers that take a proactive role in providing safety education throughout Nova Scotia and had engagements with over 4,000 Nova Scotians in 2023. The Safety Branch focuses on working collaboratively with employers on safety before injuries occur and to have the programs in place for safety in the workplace. They conduct other outreach and provide resources with information about prevention, including posters, videos, brochures, a newsletter, safety notifications, and the NovaSAFE website. The Safety Branch and WCB regularly collaborate on education and promotion activities related to workplace safety. Some examples of collaborative projects include initiatives to improve safety in specific

sectors (health and community services, fishing, manufacturing). These efforts have helped to empower compliance and prevention focus with those sectors and contributed to improved safety cultures being achieved.⁽⁶⁾

In addition to the WCB and the Safety Branch, there are other organizations that support prevention such as the industry-specific safety associations (e.g., in community services and healthcare, construction, fisheries). Safety associations actively work with sectors to improve prevention through training and communication. OWC and OEA are also engaged in prevention support.

What the Review Committee Heard

Prevention is more important than ever, with an expanded focus on psychological health and safety in the workplace and a higher number of newcomers in Nova Scotia's workforce. There is a need for more supports for safe and healthy workplaces and the prevention of injuries. Workplaces may not always have a strong safety culture where leadership promotes and encourages safe practices. The existing resources provided by WCB and the Safety Branch related to prevention are helpful but safety training/education could also be increased to better support a safety culture. Some types of employers could benefit from additional funding or supports for prevention (e.g., to purchase equipment that would help prevent injuries).⁽⁷⁾

Employers have a responsibility to act as champions for prevention and ensure that practices that support workers and prevent injury are in place and Nova Scotians have communicated a desire for more robust supports and enforcement to support safety and injury prevention. This includes providing accessible prevention resources (e.g., in various languages), and implementing more mechanisms for enforcement and accountability. The Safety Branch needs to put intention to intervening when practices to support safety and prevent injuries are not being followed. Data should be shared by system organizations to improve prevention and programming that supports prevention. The review of the WCB system in AB highlighted the importance of robust data about workplace injuries and illnesses to inform prevention activities.⁽⁸⁾ Reporting of workplace injuries is also beneficial to understand how to improve prevention of injury.

Other Jurisdictions

Prevention is an important area of focus for all jurisdictions across Canada. At least seven other jurisdictions offer some type of financial incentive or rebate to employers on their annual assessment rates for demonstrating investments in safety and prevention. At least nine jurisdictions offer a health and safety certification program to employers, where employers can receive a rebate on their annual assessment rates for completion of the program.⁽⁹⁾

Six jurisdictions have a single organization that delivers prevention and workers' compensation benefits (PE, NB, QC, BC, YT, NT/NU).⁽⁸⁾ ON recently moved prevention from WCB to OHS. A more unified approach to prevention, whether through close collaboration and partnership

or through the mandate of a single organization, is important to ensure that employers and injured workers can easily access prevention information, supports, and resources. Nova Scotia is the only province in Canada that doesn't allow for full recovery of OHS costs from the Accident Fund.

Review Committee Perspective on the Priority Issue

Although the WCB and the Safety Branch work closely together, having two organizations with different roles related to prevention may be confusing for individuals/organizations in terms of where and how to access prevention supports. As noted above, six jurisdictions have WCB and OHS together from a client perspective. ON recently moved prevention from WCB to OHS. ON has similar WCB coverage as NS and their shift in prevention considers 100% of workplaces are supported by OHS in their province. There should be greater collaboration between OHS and WCB on prevention.

The Review Committee recommends having a third-party review of prevention in Nova Scotia that contributes to building a prevention strategy. This review should assess whether additional funding for prevention (i.e., to expand compliance and inspections) would improve safety outcomes in Nova Scotia. The Review Committee recommends the review assess the impact of a greater focus on education around the Internal Responsibility System in workplaces and having Safety Branch officers that are focused on working with the employers contributing to long durations and those experiencing the largest numbers of injuries. As part of the prevention review, government should assess whether the reporting of accidents should be expanded. The Review Committee feels that prevention incentive programs offered in Nova Scotia should be reviewed to better understand their contribution to improved safety outcomes, and to identify strategies for improving existing programs. Understanding how to enhance data sharing across organizations will contribute to improved injury prevention across Nova Scotia and allow for easier identification of and support for high-risk sectors by OHS (and WCB as appropriate). This should include engagement with all Nova Scotians.

Awareness and Understanding of the System

Background

The Safety Branch undertakes strategic outreach and education to improve awareness and understanding of workplace safety and to support injury prevention. Two areas of strategic outreach include a focus on vulnerable workers (those at greater risk of injury) and working with small businesses.⁽⁶⁾ The Safety Branch uses a model of setting, promoting, and verifying requirements for workplace and worker safety across Nova Scotia, and, when required, enforcing the requirements that are prevention focussed, in both the *OHS Act* and the *Technical Safety Act and regulations*. Recently, the Branch introduced the NovaSAFE website, with over 30,000 users since 2023, to make safety information on regulatory requirements

for a variety of OHS and Technical Safety topics more accessible. It provides clear, plain language summaries with helpful definitions, direct links to relevant sections in legislation, and additional resources that help make it easier to achieve compliance. The Safety Branch also has a team focused on awareness and outreach activities.

The Safety Branch and the WCB collaborate with workplaces on a regular basis to improve safety outcomes. Other organizations that interact with workers and employers also help employers and workers navigate the system and support awareness and understanding of the system. These organizations include the OWC, OEA, PCIWA, WAP, and WCAT as well as sector-specific safety associations. The OEA and OWC were created by LSI in 2008 to provide education, awareness and navigation of the system for workers and employers. More information about each of these organizations can be found in the [Appendix A](#). The WCA does not include an overarching purpose for the *Workers' Compensation Act* to guide the work of these organizations in supporting workers and workplaces in the system.

What the Review Committee Heard

Both workers and employers lack understanding of the system and this was supported in the feedback provided through the WCB case workers' survey. The system is seen as complex and challenging to navigate. Employers and injured workers may not be aware of how the system operates, the steps to take in a claim process, their rights and responsibilities in the system, and/or what supports and resources are available to them. It is not clear which organizations are responsible for what in the system, making it difficult for employers and injured workers to know who to contact for support or questions. This may result in employers and workers not accessing the WCB system or available resources/supports. Small and medium sized organizations may face particular challenges in this area as they do not have dedicated resources to manage the claim process. Injured workers also highlighted a lack of supports to advocate on their behalf and guide them through the system. Workers often turn to support from their Union, their Member of the Legislative Assembly (MLA), the OWC, or from the PCIWA rather than from the WCB.⁽⁷⁾ Employers may connect with OEA or safety associations for support.

The importance of ongoing education and training opportunities for both employers and workers to educate them about the workers' compensation system before an injury occurs was highlighted. There is also a need for more system transparency, reduced complexity, and improved navigation supports.⁽⁷⁾ The system also needs to be accessible for employers and workers with varied needs, including those that may not have access to the internet and/or technology. It should be easy to use and include orientation that is simple and practical. Data and information relating to the system should be shared with system partners and used in collaborative review and planning to support the system.

Other Jurisdictions

Nova Scotia has three organizations that can assist injured workers with navigating the system, the OWC, PCIWA, and the WAP. Nova Scotia is the only province with an OWC that is separate from WAP and external to government. The OWC offers more general support and assistance to anyone navigating the workers' compensation and/or OHS systems, whereas the WAP provides legal assistance when an injured worker has been denied WCB benefits. This may be confusing for some workers to navigate. Other jurisdictions provide just WAP which includes navigation support as well as legal advice.⁽¹⁰⁾ In AB, ON, MB, BC, NB, Prince Edward Island (PE), and the Yukon (YK), the OEA reports to their government labour departments.

Review Committee Perspective on the Priority Issue

There are several organizations that support awareness and understanding of the system and provide navigation. However, workers and employers still report that they find the system complex and challenging to navigate and may not know what resources/supports are available to them. Nova Scotia is the only Canadian jurisdiction with an OWC separate from WAP and external to government.

The Review Committee believes that efforts should be made to reduce system complexity and make the system more easily accessible and understandable for employers and workers. All organizations in Nova Scotia should work together in a coordinated manner to support awareness and understanding of the system, and to provide employers and injured workers with a clearer way to access support and resources (i.e., a "one stop shop"). The Review Committee recommends a review of the organizations aligned with the workers' compensation system and how they interact with the goal of having a sustainable, less complex, more accessible, and better aligned system for Nova Scotians.

Claims Administration

Background

Claims administration is the process of reviewing and adjudicating a claim made by an injured worker. The WCB has five steps in the claim process:⁽¹¹⁾

- 1. Report an Injury:** The injured worker should report the injury to their employer and seek immediate health care. The health care provider or the employer will fill out and submit a WCB injury report form to the WCB. Injured workers are also required to submit an injury report within five days of learning of the injury.
- 2. WCB Receives Form(s):** Once the WCB receives the injury report form, the claim is registered with the WCB, and a claim number is assigned.
- 3. Claims Process:** A WCB benefits administrator assesses the complexity of the claim (low to high complexity), and the case is assigned to the appropriate case worker.

4. **A Decision is Made:** The case worker gathers the necessary supporting documentation and uses that information to make a decision about the claim.
5. **Develop a RTW Plan:** If the injury causes the injured worker to miss time, the case worker will help the injured worker build a RTW plan.

The case worker is the first representative of the workers' compensation system that an injured worker or employer communicates with when a claim is filed, and, as such, their role in improving the system is critical. The case worker's understanding of the system and the supports available to workers and employers helps support effective administration of claims. Consistent adjudication of claims is heavily reliant on case workers having a clear understanding of the legislation and the policies that are used to implement legislation and their ability to clearly communicate to the injured worker and employer the reasons for the decision in a claim. Questions from the injured worker or the employer, new information related to the claim, and/or arrangements for medical assessments flow through the case workers.

The time required to progress through the steps of the claim can vary and is impacted by different factors (e.g., time to receive forms, communication timeliness, amount of time to write and distribute decision letters). Most claims (~60%) are opened through injury reports and, of those, 68% are completed digitally and processed immediately. Around 40% of claims are opened from the medical information received from a physician, physiotherapist, hospital, etc. New medical evidence can be added after the claim has been adjudicated by WCB which adds another layer of complexity and time to the claim. Employers are required to file injury reports within five days of the injury, however in many cases reports are delayed. In 2023, an average of 53% of reports were filed more than five days after the accident date.⁷ These delays may be because the employer was not aware of the occurrence or because workers do not report an injury to the employer immediately (e.g., they don't think they are injured, may think they can work through it, they may take a sick day).

Currently, 73% of cases receive first contact within two business days, 40% of claims receive decisions within seven days of claim, and 66% of messages are responded to within two business days (Table 5). The WCB has stated they are committed to improving the "end-to-end efficiency" of the system and aims to increase these percentages to 80% by 2030. The WCB has committed to developing and implementing service standards that will support achieving these targets and contribute to a more timely and efficient claims administration process.

⁷Per *Workers Compensation Act*, section 86, states that an employer must notify the Board, within five business days of becoming aware of the occurrence of the accident

Table 5: Key performance indicators identified in the WCB 2024 – 2030 strategic plan⁽¹⁾

	2023	2030
Timely Contact - First contact in two business days	73%	80%
Timely Decisions - Decisions issued within 7 days of claim open	40%	80%
Timely Payment - Claims paid within 15 days of claim open	56%	80%
Responsive Service - Message response within 2 business days	66%	80%
Service Quality*	N/A	80%

*Agreement from workers and employers that WCB provides exceptional service.

The WCB has a Client Relations Officer (CRO) – who “reviews and investigates complaints filed with the WCB regarding the quality of service delivery and process issues.”⁽¹²⁾ Formal complaints can be filed with the CRO about service delivery or the conduct or behaviour of a WCB employee (disagreement with a decision issued by the WCB is not considered a complaint and should instead proceed through the appeal process). The CRO investigates complaints and determines whether the complaint is unsubstantiated or substantiated and responds to the complainant.

What the Review Committee Heard

Challenges related to claims administration and service delivery from WCB staff were discussed by many in the consultations, although some did mention positive experiences. As seen in [Table 5](#), timely and responsive services are not consistently provided (e.g., three-quarters of claims receive contact in two business days, two-thirds receive message response within two business days). Various aspects of the claims administration process contribute to delays. Communication between the WCB and workers and employers was identified as a key area contributing to delays and inefficiencies. Consultation participants noted that case workers were not accessible or responsive (potentially due to high caseloads/lack of time and/or inefficient processes) and that there were often delays in receiving communication from WCB employees. The claims administration process was described as slow, inefficient, and/or inconsistent. Respondents to the WCB employee survey indicated they feel there is a high ratio of management to front line staff.

Employees responding to the WCB employee survey indicated they are not able to provide the level of support needed to injured workers and employers due to inefficiencies in the system and the level of administrative work required and feel there is room for improvement in claims administration processes. Case workers described challenges in using the Guidewire system that were also experienced by workers and employers. Claim documents received via fax or mail must be scanned and uploaded to the claim file, which can take on average three to four

days and creates administrative burden. The WCB provides an online portal for workers and employers to communicate with WCB employees, but some find that the portal is not user-friendly. Existing methods for secure electronic communication used by the WCB (e.g., via secure messaging in the portal) need to be improved, and strategies to improve the efficiency of document management for documents received by fax/email should also be explored. Establishing standards for timely and accessible communication and publicly reporting performance against those standards should be put in place to drive improvement. Nova Scotians are seeking a consistent means to resolve issues with the WCB.

Decision letters and written communication from the WCB is an important aspect of claims administration. In terms of clarity of decisions by WCB, employees and employers frequently do not understand the decisions the WCB makes (e.g., why claims are approved or not) and decision letters that explain the decision in plain language are not consistently provided. This issue was discussed by employers and injured workers and identified by WCB employees in the WCB employee survey. Lack of clear decision letters makes it challenging for employers and workers to understand why a decision was made and determine the next steps they should take, including potentially appealing decisions. Consultation participants noted that they also do not understand the role of health care providers and how medical information is weighed or used in assessment and decision-making. Consistently providing a clear, timely, plain language and reasoned decision letter for claims to both the worker and the employer is critical.

While the WCB does have a policy regarding the weighing of conflicting medical information (Policy 1.4.3)⁽¹²⁾, participants were not aware of it and suggested that establishing a clear policy for use of medical information in decision-making would be helpful so that all understand how the information is used. Given the current healthcare constraints in Nova Scotia, having an objective and efficient means for the WCB to resolve differing perspectives on medical assessments would enhance adjudication efforts by case workers and support workers in safe and timely return to work. Adjudicators and their decisions may benefit from expert support from an objective panel on legal and medical issues that help them in adjudicating claims to reach the right decision earlier. There needs to be a requirement that the worker, employer and WCB are communicating early so that a reasoned decision can be made with the facts in a timely fashion.

Also related to medical information, the Review Committee heard concerns that some health care providers might be biased, either in favour of approving or extending claims or in favour of denying claims. A lack of knowledge among some health care providers about workplace injuries and how workers can be supported to return to work in a safe and timely manner may also impact the information that they provide in relation to workplace injury claims.

Another key challenge discussed was a lack of empathy and respect from some WCB case workers. Injured workers said that they felt they were not listened to or treated appropriately. A high rate of turnover in case workers was also highlighted as an area for improvement. Both injured workers and employers reported experiencing inconsistent services from the WCB and noted that lack of clear policies or differences in how policies are interpreted can lead to varying claims management processes and decisions across case workers. Injured workers and employers felt they faced challenges resolving questions/concerns within WCB, including difficulty escalating issues when/if needed.

Other Jurisdictions

The BC WCB Review in 2019⁽¹³⁾ highlighted similar issues with communication, timeliness, and efficiency. They identified challenges with relying solely on telephone communication (e.g., difficulty making contact due to scheduling, challenges if the caller does not speak English) and identified email as a communication option. The BC WCB Review also identified the need for consistent and clear decision letters. They recommended that the decision letters should be clear and transparent, use plain language, and be written at no higher than a grade eight level. It was also recommended that letters clearly state the decision in the opening paragraph. If necessary, applicable policy information could be simply summarized and the policy attached in a separate document. These changes were intended to ensure clear, substantive, and respectful communication with workers and employers. While the WCB in Nova Scotia does have a policy on decision letters, it is not clear or applied consistently.

In AB's review of the workers' compensation system, WCB claims staff expressed frustration with a decision-making approach that is inflexible and strictly adheres to policies, noting that it discourages or prevents them from being flexible and creative in addressing the needs of all parties. The AB review report envisioned a culture shift to a worker-centred system where the worker's circumstances inform decisions about what should be done, with all parties (worker, employer, WCB case worker) communicating and working together to support the process.

Other Canadian jurisdictions have a role that receives and investigates complaints, similar to Nova Scotia's CRO, although the position title may vary (e.g., Fair Practice Commissioner; Senior Manager Issue Resolution). The volume of complaints received in each jurisdiction is partially reflective of the size of the jurisdiction (e.g., in 2023, 2,518 complaints were received in BC compared to 254 in NS and 15 in PE). There are no significant differences in the organization or delivery of this role between Nova Scotia and other Canadian jurisdictions.⁽¹⁴⁾

Most Canadian jurisdictions publicly report on service standards and performance related to claims administration. For example, WorkSafeNB reports the average time to first decision and reported a reduction in this time from 53 to 34 days in 2022. WorkSafeNB attributed reduced waiting times to an improved queue management system that assesses and assigns claims

to specialized teams.⁽¹⁵⁾ Boards in SK, Newfoundland and Labrador (NL), and BC also reported improvements to their service delivery times in their annual reports. In SK, improvements to their system and services were attributed to their proactive process of reaching out to interested parties as soon as a claim was registered and quality decision making through reduction in internal handoffs. NL attributed their improvements to modernization of service delivery through the introduction of automated services. In BC, improvements were made to their online portals, and new staff were added to provide services.

Workers' Compensation Boards in YK, Quebec (QC), ON, and Northwest Territories (NT) describe their service standards on their websites. In YK, service standards include time to return voicemails and emails (end of next business day) and time to make claims decisions after receiving all information (10 business days, although complex claims can be up to 30 business days).⁽¹⁶⁾ Workplace Safety and Insurance Board of Ontario is committed to responding to phone messages within eight business hours, messages from their online services within two business days, and correspondence within 10 business days.⁽¹⁷⁾ The Board in QC has committed to responding when contacted by phone within three minutes, communicating within three working days of filing an appeal, and analyzing the admissibility of an appeal within 25 days. NT reports that they make a claim decision within 15 business days from the registration date.

Review Committee Perspective on the Priority Issue

The Review Committee feels it is vitally important for the WCB to establish and communicate clear service standards that encompass the entirety of the system, aligning with other jurisdictions. Service standards highlight accountability and establish a framework that sets expectations for all, fostering transparency and equitable treatment. There must be public and timely reporting on performance against these standards, which will help to increase the accountability and transparency of the system. The Review Committee feels strongly that the goal to reach 80% implementation of service standards by 2030 is not a viable timeline and this goal should be approached with more urgency.

Clear policies are also needed to guide claims decisions and support clear communication of decisions to employers and injured workers. Communicating the policy on medical decision-making is critical so that all parties understand how medical evidence is used and why decisions are made. The Review Committee recommends that reasoned, comprehensive decision letters detailing the rationale behind claim acceptance or denial, the methodology used to evaluate evidence and the right to appeal are needed. Written communication allows the worker and the employer to clearly understand the decisions made by WCB. This will help manage expectations and avoid confusion or misunderstandings. Communicating decisions in writing also promotes accountability and transparency and that decisions are based on established criteria. The Review Committee feels strongly that the WCB should engage with employers and workers to understand their needs regarding decision letters.

The Review Committee recommends the WCB review case loads and their impact to case workers' ability to provide client-focused support. It is also important that case workers have the flexibility and the time to provide client-focused support to injured workers and employers with policies that reflect the reality of administering claims for workplace injuries in Nova Scotia. Effective, clear and efficient processes will support quicker and more consistent claims decisions, an important aspect of the injured workers' recovery and RTW process. The Review Committee believes that the WCB targets for first contact within two business days, decisions within seven days of claim, and responses to messages to within two business days should be more aggressive than the current target of 80%.

Supporting Safe and Timely Return-to-Work

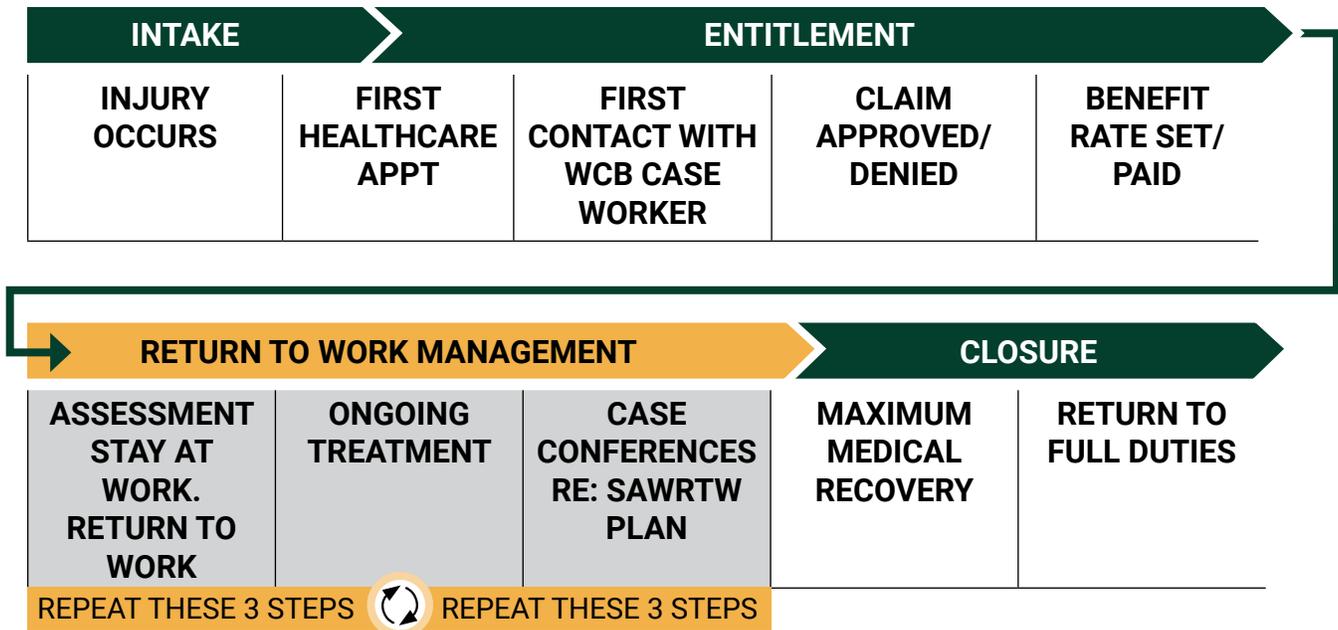
Background

When someone is injured at work, being able to return to work safely is beneficial for their overall well-being.⁽¹⁸⁾ A report from the American College of Occupational and Environmental Medicine highlighted the potential negative "psychological, medical, social, and economic effects caused by unnecessarily prolonged work disability and loss of employability."⁽¹⁹⁾ Nova Scotia has one of the highest proportions of workers on long-term benefits and around 45% of WCB new injury costs go toward long-term benefits, twice the national average.⁽⁴⁾ In 2024, there were just under 30,000 workers receiving long term benefits.⁽²⁰⁾ High claim costs and long claims durations are also the most significant driver of the overall costs of the workers' compensation system.

Injured workers who are unable to return to work received earnings replacement benefits, which may be Temporary Earnings Replacement Benefits or Extended Earnings Replacement Benefits (EERB). In Nova Scotia, EERB are calculated based on the difference between the worker's earnings before the accident and the worker's earnings or ability to earn after the accident. The worker is eligible for EERB when a permanent impairment is established, the employer is unable to meet obligations related to re-employment, and if the difference between the earnings loss and the Permanent Impairment Benefit (PIB) is greater than zero. If workers are unable to return to work at the employer where they were injured, EERB may be provided, or the WCB may help the injured worker find other suitable employment. After the EERB is awarded, the injured worker is disconnected from their employer as all further communication occurs with the WCB alone. Earnings replacement benefits are payable to a worker until the loss of earnings ends, which is at the time when the loss of earnings are no longer related to the work-related injury, or the worker reaches 65 years of age (whichever occurs first). Section 73(1) notes that the WCB may review and adjust its determination of the amount of compensation payable as EERB one time in the thirty-sixth month after the date of initial award of the benefit and then again in the twenty-fourth month after the initial review.

The WCB process for supporting and managing RTW is depicted in [Figure 3](#) below.

Figure 3: WCB RTW process



Led by the WCB, RTW support includes WCB RTW specialists, education and coaching services for employers, education for case workers, social marketing campaigns and online resources, and vocational rehabilitation. The WCB also offers RTW supports for specific sectors (e.g., healthcare and construction sectors). Services are divided up between large and small/medium workplaces as each are very different and need different services and supports.⁽²¹⁾ In addition, injured workers can access expedited healthcare supports through the WCB for traumatic psychological injury, physiotherapy, surgery, psychologists, physicians, and other specialists with specialized knowledge about supporting the RTW process. Because many injuries that occur are sprains and strains (approximately 60% in 2022⁽³⁾), expedited access to physiotherapy is an important support for injured workers. As injured workers begin the claims process with WCB, they are supported financially with TERB. This temporary benefit helps support them financially while they are recovering, allowing them to focus on a safe and timely RTW. These workers also benefit from the option for expedited access to physiotherapy and the assessments of their functional abilities to support RTW. The WCB also identified some of the successes of their RTW program including promising early results from the Traumatic Psychological Injury Program, the ability to directly access physiotherapy support, and providing access to enhanced physician services, particularly for patients without a primary care provider.⁽²¹⁾

Currently in Nova Scotia, the WCA includes an obligation for employers who employ more than 20 workers to provide accommodations (or provide a rationale for being unable to accommodate to the WCB Case Worker). However, the WCA does not include any specific requirements for RTW obligations outside of re-employment. The Act does not explicitly outline any specific requirements for employers to provide opportunities for RTW in transitional or modified duties for the worker while recovering from an injury. The Act also does not reference the need for cooperation between and among WCB, employers, and workers in the RTW process.

While Nova Scotia has been successful in decreasing injury frequency (registered claims have declined from over 24,000 in 2018 to about 20,500 in 2022, similar to the national average), Nova Scotia has the lowest proportion of those injured at work who are back to work within 30 days and within 180 days compared to other provinces (see Figure 4 and Figure 5) and these rates have worsened since 2012 while other jurisdictions have seen improvements or stayed consistent.⁽²⁰⁾ Nova Scotia also had the highest proportion of claims still on wage-loss benefits after two years (9.8%) and after six years (5.6%) compared to all other Canadian jurisdictions (see Figure 6 and Figure 7).⁽²⁾ Nova Scotia has the second longest average duration of claims across Canada (168 days in 2022) and has seen the third largest increase in this number (56% increase between 2015 and 2022) (see Figure 8).⁽²⁾ Nova Scotia also has the highest rate of Permanent Impairment Benefits (PIB) compared to other Canadian jurisdictions (30% in Nova Scotia compared to 13% national average). All of this data suggests that the system is not doing a good enough job in supporting injured workers to return to work.

Figure 4: Percentage of claims RTW within 30 days, 2012 vs. 2022⁽²⁾

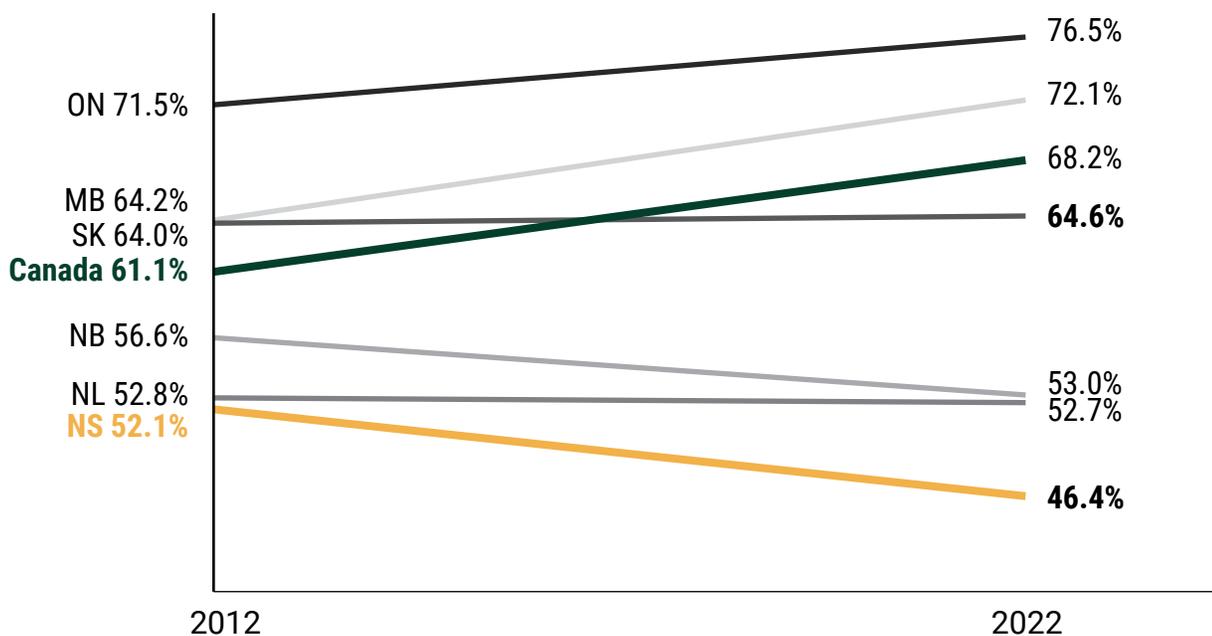


Figure 5: Percentage of claims RTW within 180 days, 2012 vs. 2022⁽²⁾

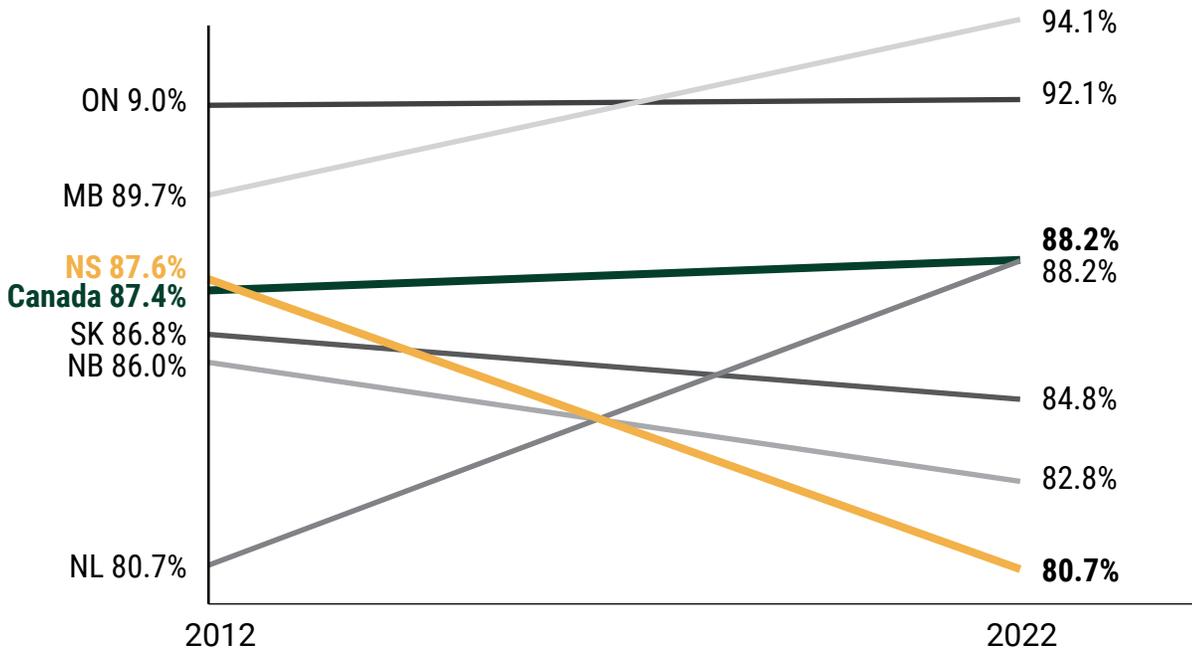


Figure 6: Percentage of claims on wage loss after two years, 2012 vs. 2022⁽²⁾

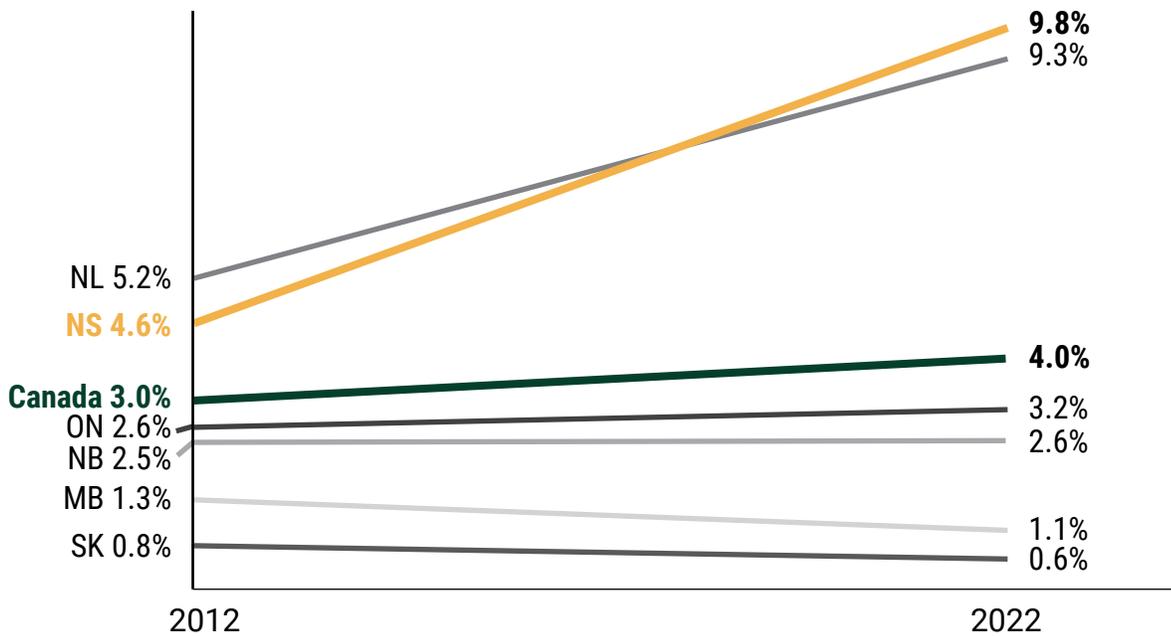


Figure 7: Percentage of claims on wage loss after six years, 2012 vs. 2022⁽²⁾

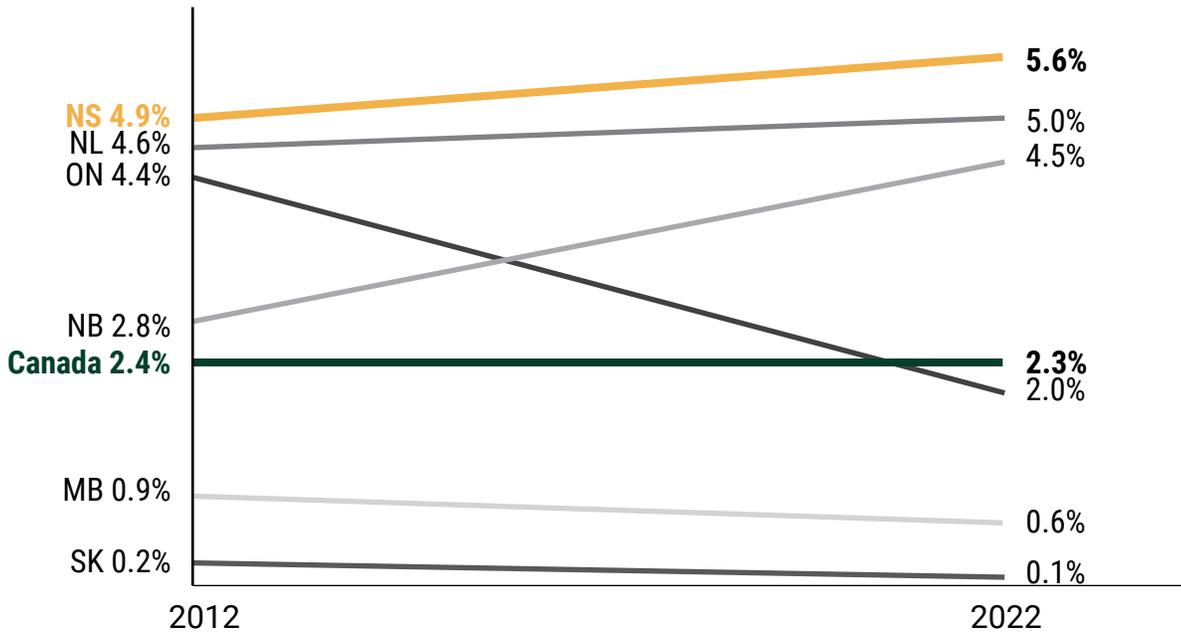
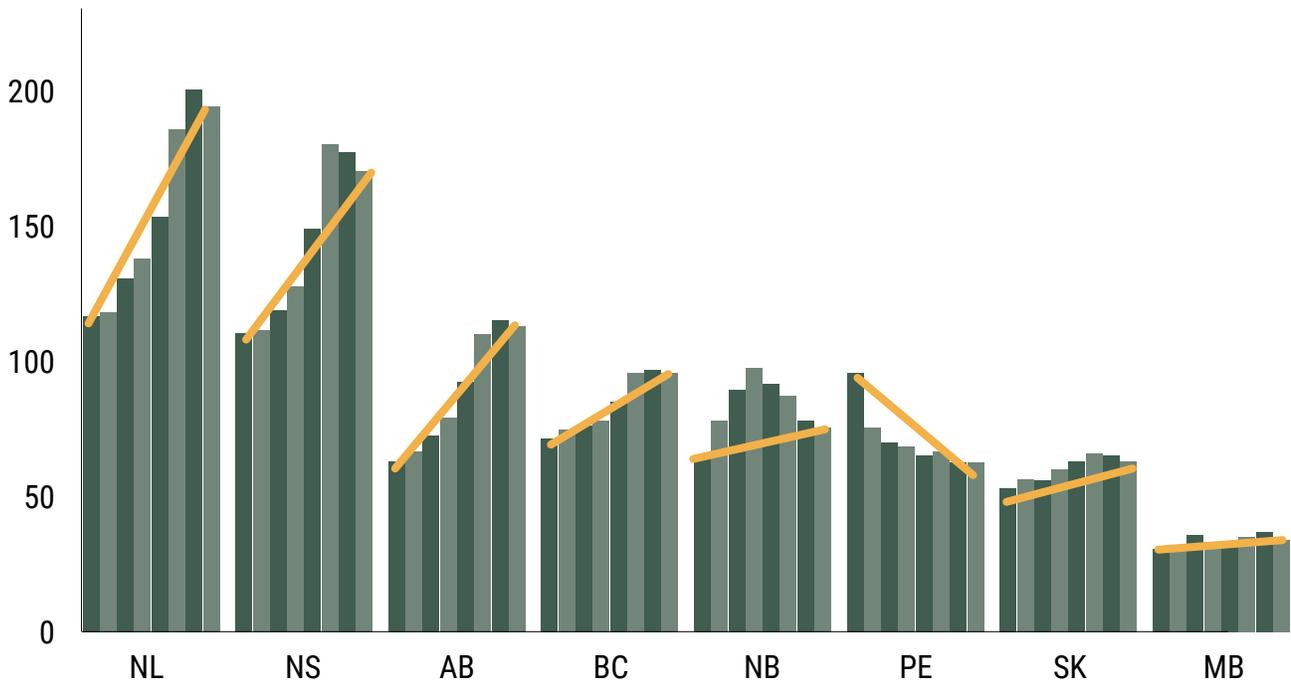


Figure 8: Average composite duration of claims in days, 2015 to 2022⁽²⁾



What the Review Committee Heard

In the consultations that took place regarding the workers' compensation system to inform the work of the Review Committee, it was found that WCB's RTW processes are not achieving the needed outcomes. Participants in both the public engagements and the case workers survey highlighted the importance of meaningful work for individuals, and the negative impacts (e.g., mental health, financial) for those that are not at work.⁽⁷⁾ Long claims durations and the RTW process were identified as challenges in Nova Scotia. The main concerns discussed included the lack of progress by WCB on reducing claims durations; delays in initiating a claim (e.g., due to a delay in receiving required medical information from health care providers and/or injury reports from employers); delays in follow up by a WCB Case Worker (target is first contact within two business days); barriers to the employer providing short and long-term accommodations for injured workers (e.g., lack of understanding about identifying appropriate modified duties for an injured worker); lack of access to supports such as re-training or vocational rehabilitation; and a lack of clear and timely communication and coordination across all parties involved in the RTW process (i.e., WCB staff, injured worker, employer, health care providers), including inconsistent use of case conferences that bring all parties together. Workers also identified that the WCB needs a more objective approach to their review and progression of medical information that alleviates adversarial situations. Small and medium sized employers may face more challenges with the RTW process as they have fewer opportunities for modified/transitional work and may face greater impacts when an employee is injured and off work.^{(7), (22)}

Lack of timely access to health care providers was also a barrier that affects recovery and RTW after an injury. While the WCB does try to provide expedited access to care, the Review Committee heard that injured workers may face delays waiting for specialists or procedures. It was also identified that there can be barriers or inefficiencies related to accessing care in the WCB's Tiered Services program or through the WCB's process for reimbursement for prescription medications. The Review Committee heard instances of injured workers being further injured in Tiered Services programs. Workers suggested that WCB should have checks and balances for workers who are dealing with service providers for their care and have concerns with that care. It was suggested the WCB should develop and implement strategies for improving the timeliness of access to care. The WCA allows for the creation of a Medical Review Commission appointed by the Minister and made up of qualified medical practitioners. When WCB or WCAT require a medical opinion during the claims process or an appeal it can be referred to the Medical Review Commission.

Shortening claims durations and improving the process for both temporary and permanent accommodations were identified as important.⁽⁷⁾ WCB recognizes the value of reducing claims durations and has established an objective in their most recent strategic plan to reduce the time lost to injury by 35% by 2030.⁽⁵⁾ The opportunities to improve the system identified by the

WCB include early engagement with injured workers and employers about RTW; motivating and supporting employers to embrace RTW; helping workers and employers understand their roles, expectations and accountabilities; working with the healthcare community to advance the stay-at-work approach; improving timelines where feasible; and leveraging data to provide a better understanding of the business and support collaboration on safe and meaningful accommodations and RTW.⁽²¹⁾ Education for health care providers involved in assessment and treatment of workplace injuries could also help to support the RTW process by highlighting the importance and benefits of returning an injured worker to work.

Other Jurisdictions

Many other Canadian jurisdictions (BC, NB, NL, ON, PE, and YT) specify in their legislation some type of collaboration or communication between the employer and the injured worker in the RTW process, as well as the accountabilities for this collaboration. In most of these provinces, there are also penalties for non-compliance by employers and workers.⁽¹⁰⁾ For employers, most often, the duty to cooperate includes requirements to contact the worker as soon as possible after the injury occurs. In most jurisdictions (all except AB, SK, QC, NT), employers also have a duty to re-employ, which means providing suitable employment consistent with the worker's functional ability and that, where possible, restores the worker's pre-injury earnings. In several jurisdictions, including Nova Scotia, it is legislated that the employer must accommodate the worker through modifications to the work or the workplace, to the extent that the accommodation does not cause the employer undue hardship.

In Nova Scotia, legislation states that employers have the duty to re-employ the worker if the worker has been unable to work due to injury and had been employed by the employer, at the date of the injury, for at least twelve continuous months. Legislation states that the WCB may determine whether the employer has fulfilled their duty to re-employ, including consideration of accommodations/modifications. Nova Scotia's legislation does not stipulate that employers must contact injured workers and does not mention restoring the worker's pre-injury earnings.

For workers, legislation most often relates to the duty to cooperate, which states that workers have a duty to take all reasonable steps to mitigate their loss of earnings resulting from an injury and cooperate in developing a rehabilitation plan. In Nova Scotia and AB, legislation includes statements that provide the Board with the authority to reduce, suspend, or terminate compensation payable to a worker if the Board determines that the worker fails to cooperate with the development or implementation of rehabilitation programs.

In Nova Scotia and AB, reviews are conducted on the 36th month after a payment is awarded. Meanwhile, in NB and PE, reviews are legislated to take place annually, while in Newfoundland they are conducted periodically. Legislation in ON requires a review every year or if a material change in circumstances occurs, while reviews may be conducted anytime in SK and MB. The WCB in BC may reconsider a decision or order after 75 days, while legislation in NWT, NU and YK make no mention of reviews at all.

Review Committee Perspective on the Priority Issue

The Review Committee finds that all considerations that may result in delays in the RTW process need to be reviewed, including accommodations for safe RTW, top ups that may disincentivize RTW, the use of a Medical Review Commission for clarity and independence in medical opinions, the role of the WCB doctors and any other considerations, such as vocational training to help the worker achieve a state of employability. In addition, Tiered service providers should be reviewed and evaluated by WCB for their performance and treatment of injured workers.

The Review Committee believes that the WCB target for reduction of claims duration (reduce the time lost to injury by 35% by 2030) should be more aggressive. High claims costs and durations are the biggest driver of systems costs and data suggests that the system is not doing a good enough job in supporting injured workers to RTW. The top employers contributing to the long durations in Nova Scotia are the Nova Scotia Health Authority, the Government of Canada, the Province of Nova Scotia, EMC – Emergency Medical Care Incorporated and the Halifax Regional Municipality, each with more than 20,000-time loss days. Because these employers have long durations, there needs to be greater focus, not only on RTW but also on prevention and reducing injuries. Leadership commitment and “tone at the top” as it relates to a safe work environment is essential to these workplaces performing better for their workers. There has been great success in reducing injuries and improving safety in industries that have safety associations to support them and the Review Committee recommends that a safety association should be implemented for government organizations. Leaders in the private sector are typically evaluated in part on their organization’s commitment to and performance as a safe work environment. The Review Committee recommends that government departments implement policies akin to the private sector in making leaders responsible for a safe work environment and an environment that supports RTW, and that targets and performance against those targets be publicly reported. The Review Committee further recommends that the Public Service Commission review its approach to accommodating injured workers and consider opportunities for injured workers to fill vacancies in other roles or departments where appropriate (e.g., a nurse on modified duties could potentially cover vacancies at 811).

The Review Committee recommends establishing legislation to require that employers have an obligation to return an injured worker to the workplace, and that the employee has an obligation to participate in the return. Having a requirement in legislation will contribute to better communication and engagement by all parties in supporting safe and timely RTW in Nova Scotia. Penalties should be implemented for employers and injured workers who do not cooperate in the RTW process. Consideration of the needs of small employers is necessary, as they have fewer opportunities to provide alternative meaningful work for an injured worker given their size. There are opportunities for the various industries to learn from each other when it comes to implementing successful alternative options that support RTW. Sectors with long claims durations would benefit from increased focus on return to work to reduce claims durations. Reviews relating to EERB should be conducted more frequently and be in line with

the majority of jurisdictions in Canada. More frequent reviews (e.g., annual reviews) would connect the injured worker with WCB and the workplace and allow for discussions on whether the injured worker is now ready and able to safely return to work.

Compensation and Benefits

The *WCA* provides specific types of benefits to injured workers which include earnings replacement benefits, permanent impairment benefits and medical aid. The earnings replacement benefits and permanent impairment benefits are based on net income and are not taxable.

In addition, the *WCA* provides for the payment of other benefits to injured workers and their families, where eligible, including survivor benefits, annuity, and rehabilitation. The compensation an injured worker is entitled to is vitally important, as it must serve as income replacement for lost wages from employment to enable them to provide for themselves and their families.

In this section, we examine various issues related to entitlement, compensation, and benefits, including:

- Indexing of benefits to inflation.
- Percentage of insurable earnings (to the maximum of the cap) paid to an injured worker.
- The 2/5ths waiting period.
- Maximum assessable and insurable earnings cap.
- Other issues (benefits beyond the age of 65, compensation in the form of interest for delayed benefit payments, access to other supports and benefits, PIB calculation and the Canada Pension Plan (CPP) adjustment).

Indexing of Benefits to Inflation

Background

Benefits paid to injured workers are adjusted for inflation annually. In Nova Scotia, the increase in benefits is limited to half (50%) of the rate of inflation reflected in the CPI, Canada's measure of inflation. For example, in 2023, the CPI inflation rate in Nova Scotia was 4.0%; therefore, benefits would have increased by half that amount (2%). This approach to addressing inflation is defined in the *WCA*, and indexing is applied to the following: PIB; EERB (replaces lost earnings greater than the PIB amount); TERB (if a worker has been in receipt of TERB for 12 continuous months); Survivor Pension; Permanent Partial Disability; and funeral costs (as of September 2024).⁽²³⁾

What the Review Committee Heard

The impacts of inflation have been a challenge, especially in recent years, with higher inflation rates (e.g., 7.5% in 2022⁽²⁴⁾) and increased cost-of-living costs (e.g., housing, food, utilities). Injured workers receiving benefits experience significant financial hardship because their benefits do not keep pace with inflation, contributing to financial hardship for injured workers and their families.⁽⁷⁾ The low level of benefits provided to injured workers contributes to financial hardship and negatively impacts the mental health of injured workers and their families.

Other Jurisdictions

Nova Scotia is the only jurisdiction across Canada that limits the indexing of benefits at half the CPI rate. Other jurisdictions apply the full CPI to benefits, with some applying a cap to the amount of the increase; four jurisdictions cap increases at 4% (PE, BC, ON, YT), and one applies a 6% cap (MB). Another jurisdiction (AB) applies an offset, reducing the amount of the increase by 0.5%⁽²³⁾ Nova Scotia provides the lowest level of indexing at 50% of the CPI rate.

Review Committee Perspective on the Priority Issue

If Nova Scotia were to index benefits to the full CPI (i.e., at 100%), the additional estimated cost to the liability is estimated to be \$120 million, with an annual increase of \$9 million (\$0.06 per \$100 of assessed payroll). These estimates are based on a long-term inflation rate of 2%.⁽²⁵⁾ Increasing the rate at which WCB benefits are indexed to inflation would provide greater support to injured workers and better align Nova Scotia with other Canadian jurisdictions. Legislative and regulatory change would be required to increase the indexing percentage from the current level of 50% of CPI. The Review Committee recommends an immediate change be made to index benefits to the full CPI, up to a cap of 3%. The Review Committee also recommends the legislation should provide the WCB Board of Directors the authority to adjust the increase in benefits to greater than 3% in circumstances that merit an exception when financial circumstances at the WCB allow, and inflation is significantly higher than 3%. This change to indexing is to be made on a go forward basis with no retroactive adjustments.

Percentage of Insurable Earnings Paid

Background

Income Replacement Benefit refers to the amount an injured worker can receive as wage replacement benefits. Since 1915, there have been steady increases in the percentage of earnings used to calculate compensation, increasing from 55% of gross earnings in 1915 to 75% in 1959. In 1996, a wage loss replacement plan was legislated in Nova Scotia. The new plan introduced temporary and extended earnings replacement benefits where workers would be paid 75% of their net earning loss for the first 26 weeks and 85% afterwards (the incremental model). The *Workers' Compensation General Regulations* which govern income replacement benefits and the incremental model were last amended in December 2009.

What the Review Committee Heard

In addition to the cap on insurable earnings (currently \$72,500), the current reimbursement rate of 75% of net earnings for the first 26 weeks also contributes to a low level of benefits for injured workers. Benefits of 75% of net income may leave the injured worker with a limited income to meet their needs. The Review Committee heard that there is a need to increase benefits paid to injured workers by moving to a single rate of 85% (i.e., no longer using the incremental model) with others suggesting that the percentage of insurable earnings paid should be set to 90% of net or above.

Other Jurisdictions

The percentage on which income replacement benefits are based varies across the country as demonstrated in [Table 6](#). Nova Scotia is at the lowest end of the range as most jurisdictions base benefits on a rate of 90% or above (eight jurisdictions at 90% and four below). NB moved their rate from 85% to 90% as of July 1, 2024, and NL has received a recommendation to increase their rate to 90% as well. Nova Scotia is the only jurisdiction in Canada that bases the amount of income replacement benefits on an incremental model (75% net income for the first 26 weeks and 85% thereafter).

Table 6: Percentage of income replacement benefits across Canadian provinces (2024)

Province/Territory	% of Income Replacement Benefits
AB	90% net
BC	90% net
MB	90% net (100% for earnings <\$24,752)
NT/NU	90% net
PE	90% net
QC	90% net
SK	90% net
NB	90% net
NL	85% net
ON	85% net
YT	75% gross
NS	75% net first 26 weeks, then 85% net

Moving to a rate of 85% of net income and eliminating the incremental model in Nova Scotia is estimated to cost \$6.6 million annually (\$0.07 per \$100 of assessable payroll).⁽²⁵⁾

Review Committee Perspective on the Priority Issue

The Review Committee recommends the incremental model should be changed to reflect a consistent percentage, and that the rate should be increased to at least 85%. Making this change would be a second priority to improve benefits after addressing the indexing of benefits to inflation and should be considered once the financial health of the system improves.

The 2/5ths Waiting Period

Background

The *WCA* stipulates that workers who are injured in the course of employment and experience a time loss from work must wait for 2/5ths of a normal work week prior to receiving earnings replacement benefits (i.e., workers cannot receive benefits from the WCB for two days after the date of their injury). In addition, neither Nova Scotia employers nor the WCB are required to pay employees for the day of their injury, which means that injured workers lose wages for two days, and possibly for the day of the injury. The WCB does pay the cost of medical aid incurred during this period, including on the day of the accident. This 2/5ths waiting period is ultimately paid to the worker if they are off work due to injury more than five weeks. Data indicates that approximately 2,900 of the 5,420 time-loss injuries in 2022 were off work longer than five weeks and so these workers did receive this amount. Some employers with unionized workforces and collective agreements pay workers for the waiting period. This approach adds administrative burden.

What the Review Committee Heard

Delays in receiving benefits due to the waiting period cause financial hardship for injured workers. Injured workers need timely financial support to minimize the stress associated with an injury, particularly in the period immediately after an injury happens. Because the waiting period negatively impacts the earnings of injured workers, it may also discourage some from making a claim.

Other Jurisdictions

Nova Scotia is currently the only Canadian jurisdiction with a waiting period. In addition to Nova Scotia, four other Canadian provinces and territories (PE, SK, BC, NT) do not have legislation that requires payment for the injury date (i.e., the injured worker is paid for the workday they were injured). Legislation in NL, QC, ON, MB, AB, and YK require employers to pay workers for the date of injury, while in NB, the WCB is required to make this payment for the date of injury.

Eliminating the waiting period in Nova Scotia is estimated to cost \$9 million annually (\$0.06 per \$100 of assessable payroll).⁽²⁵⁾

Review Committee Perspective on the Priority Issue

The waiting period causes a delay in Nova Scotians receiving their benefits when needed most - immediately after an injury. It is also administratively inefficient to have a 2/5ths waiting period, as benefits are paid at five weeks and the waiting period will be reimbursed if the worker is still off work. Other jurisdictions have eliminated their waiting periods. Nova Scotia should eliminate the waiting period once financial stability has been achieved.

Maximum Assessable and Insurable Earnings

Background

The maximum assessable and insurable earnings are a cap that is placed on workers' earnings for purposes of calculating their benefit rate. The *Workers' Compensation General Regulations*, which govern the percentage used to calculate maximum earnings, was last amended in December 2009. Section 22, subsections 2 and 3 of the *Workers' Compensation General Regulations*, gives the WCB the authority to calculate and set maximum earnings, effective January 1 of each year.

The maximum assessable and insurable earnings is calculated each year by multiplying the average industrial wage in Nova Scotia by 135.7%. The Average Industrial Wage is the average weekly wage earnings for workers in all industries in Nova Scotia as published by Statistics Canada. As of January 1, 2024, this amount is set at \$72,500 in Nova Scotia.⁽²⁶⁾ In 2020, 82% of workers with time-loss injuries made less than the 2020 maximum (\$64,500).⁽²⁰⁾ The average wage for injured workers earning under the cap was \$38,000 while the average for all injured workers was \$45,000. Of the 18% who earned above the maximum in 2020, it is estimated that around two-thirds received a "top up" to their full salary from their employer or through sick leave benefits. It is estimated that around 300 claims would not have received a top up. In 2023, WCB paid approximately 8,400 workers TERB. Of these workers, approximately 800 (9.5%) were identified as full salary top up, most of whom were self-insured.⁽²⁰⁾ In some organizations, workers may have short term disability or sick leave which would pay at 100% of their wages and could contribute to underreporting the number of workers who benefited from a top-up.

What the Review Committee Heard

The maximum assessable and insurable earnings limit the compensation that is available to injured workers in Nova Scotia. The amount paid to injured workers will be less for those earning a salary above the level of maximum assessable and insurable earnings, which may result in financial hardship. The Review Committee heard suggestions that the maximum assessable and insurable earnings in Nova Scotia should be increased to bring Nova Scotia in line with many other Canadian jurisdictions.

Other Jurisdictions

Across Canada, there is no uniform method of calculating maximum assessable and insurable earnings. At \$72,500, Nova Scotia has the lowest maximum assessable and insurable earnings, although it approximates the maximum of the other provinces in Atlantic Canada (Table 7). MB has the highest maximum assessable and insurable earnings amount at \$160,510.

Table 7: Maximum assessable and insurable earnings across Canadian provinces and territories (2024)

Province/Territory	Maximum Assessable and Insurable Earnings
MB	\$160,510
BC	\$116,700
ON	\$112,500
NT/NU	\$110,600
AB	\$104,600
YT	\$102,017
SK	\$96,945
QC	\$94,000
PE	\$78,400
NL	\$76,955
NB	\$76,900
NS	\$72,500

Increasing the maximum assessable and insurable earnings would not have a significant impact to annual claim costs or the WCB’s liability or funded position. However, an employer’s assessment would increase if the employer has employees with salaries above the maximum earnings. For employers whose workforce primarily earn well above the maximum, this increase in premiums could be significant.

Review Committee Perspective on the Priority Issue

Maximum earnings should be reviewed as Nova Scotia’s maximum earnings is the lowest across Canada. However, the Review Committee feels that this is not a high priority item considering that approximately 80% of injured workers are not impacted by this maximum as they have a salary that falls below the maximum amount.

Other

Benefits Beyond Age 65

Currently, WCB Extended Earning Replacement Benefits and medical aid paid to workers end at age 65. In Nova Scotia, a worker injured at age 63 or older can receive wage loss benefits for two years. Injured workers noted that benefits should be paid past age 65 and highlighted that now many individuals continue working beyond the age of 65. They highlighted that if an injury has not healed by the time they turn 65, their benefits should not end either. Individuals receiving workers' compensation benefits for a longer period would not have had the opportunity to contribute to the CPP or their employer's pension plan. These workers will, therefore, have lower retirement income after age 65 (i.e., lower than the benefits they have been receiving through the WCB). One solution proposed by injured workers is that the WCB and/or employers could be required to contribute to the worker's CPP, private insurance, and/or workplace pension to ensure adequate income for the injured worker in retirement.

In all Canadian jurisdictions, workers injured at age 63 or older are eligible to receive benefits which include medical aid and earnings loss for an additional two years. There are varied policies in place in other jurisdictions related to providing benefits for injured workers beyond age 65. Some jurisdictions (SK, BC, AB, NB, MB) have the ability to extend medical aid beyond age 65 if sufficient evidence is provided and the Board or Commission deems it necessary. Other jurisdictions (BC, AB, PE) have the ability to extend wage/earnings loss if the injured worker can prove they would not have otherwise retired at 65 (i.e., had they not been injured) or if they can show they incurred further financial losses.

Interest for Delayed Benefit Payments

Nova Scotia does not have legislation requiring interest payments on delayed benefit payments received by injured workers. For example, if an injured worker is denied benefits but then granted benefits on appeal six months later, the benefits are paid to the worker retroactive to the injury date, but no interest is paid on the total amount of delayed benefits. Injured workers do not feel that benefits are provided in a timely manner, and they may face financial hardship while awaiting benefits. Interest paid on delayed benefits could help workers to recover some of the costs they incurred while waiting for benefits to be paid, helping to reduce the financial consequences of an injury for workers and their families. In addition, some consultation participants noted that payment of interest could act as an accountability mechanism for the WCB to encourage timely payment of benefits. Most Canadian jurisdictions (PE, NB, ON, MB, SK, NT, NU) do not have legislation to require interest payments on delayed benefits payments, like Nova Scotia. Five jurisdictions (NL, QC, AB, BC, and YT) do have specific provisions for interest payments.

Access to Other Support and Benefits

The *WCA* currently lacks provisions for routine home maintenance, home modifications, and vehicle modifications. These omissions leave injured workers in Nova Scotia without crucial benefits necessary for maintaining quality of life, physical health, and emotional well-being. The Review Committee heard that benefits to injured workers should include coverage for routine home maintenance tasks that the injured worker can no longer complete due to the injury (e.g., cleaning, snow clearing), as well as required modifications to homes and vehicles. Nova Scotia is the only jurisdiction that does not provide for home maintenance or modifications benefits in legislation, and Nova Scotia and YK are the only jurisdictions that do not provide for vehicle modifications in legislation. The only province that allows injured workers on workers' compensation benefits to receive employer extended benefits is ON. The ON policy stipulates that the employer is obliged to continue contributions for the worker's employment benefits for one year following the date of the injury.

Permanent Impairment Benefit Calculation and the CPP Adjustment

Section 34 (4) of the *WCA* references the calculation of the Permanent Impairment Benefit (PIB) when a worker has been permanently injured at work. The entitlement is calculated by taking 30% of 85% of their net average earnings and multiplying it by the percentage of permanent impairment suffered by the worker. If an injured worker is receiving or entitled to receive benefits through the CPP or the Quebec Pension Plan, the WCB reduces their PIB by 50% (as per Section 38 (b)(iii) of the Act).

Review Committee Perspective on Other Compensation and Benefit Issues

Nova Scotia's approach on the issues described (benefits beyond age 65, interest for delayed benefit payments, access to other supports and benefits, and the PIB calculation and CPP adjustment) is generally consistent with policies and practices in other jurisdictions (with the exception of requiring home maintenance and modifications and vehicle modifications in legislation, which is in place in most other jurisdictions but not in Nova Scotia). However, the Review Committee believes that these issues should be further explored to understand the cost implications and impact to Nova Scotians once other priority issues have been addressed and financial stability has been achieved.

Coverage

Background

Currently 20,600 employers are covered through the WCB, representing 74% of the workforce in Nova Scotia. The Dorsey review identified low workers' compensation coverage for Nova Scotians as an issue. In addition, the review also noted the need for expanded coverage of workers' compensation workplace injury insurance in Nova Scotia, unless specifically excluded by the Governor in Council.

The current model for coverage in Nova Scotia includes rules for both inclusion and exclusion in the system. However, the *WCA and Regulations* were written more than 20 years ago, and some aspects do not reflect the current workforce in Nova Scotia. For example, more recently emerging sectors (e.g., renewable energy, artificial intelligence, e-commerce, gig workers) are not referenced or included in coverage. In addition, the dual model of employers and workers that are included and/or excluded from WCB workplace injury coverage is complex and can make it challenging for employers and workers to understand the system. In an inclusionary workers' compensation model, the rules apply to all except those specifically excluded in regulations, which results in more transparent and understandable rules.

In addition, Nova Scotia has a coverage exemption for employers with fewer than three workers where coverage is not required (known as the three-worker rule). In Nova Scotia, about one in four workers do not have workers' compensation coverage due to exemptions/exclusions for certain industries and the three-worker rule. This means that roughly 123,000 Nova Scotians do not have workers' compensation coverage under the WCB while approximately 50,000 have no coverage at all.⁽²⁷⁾ Many would have private coverage provided by their employers, but those who don't are exposed and unsupported if they are injured in the workplace. When injured workers do not have any other coverage, this places additional burden on other publicly funded systems, i.e., a worker may have to rely on income assistance or other social services and programs if they are no longer able to support themselves financially. In 2018, it was estimated that expanding the coverage base to be more inclusive would reduce publicly funded healthcare and social assistance costs by \$5 million per year.⁽²⁸⁾

What the Review Committee Heard

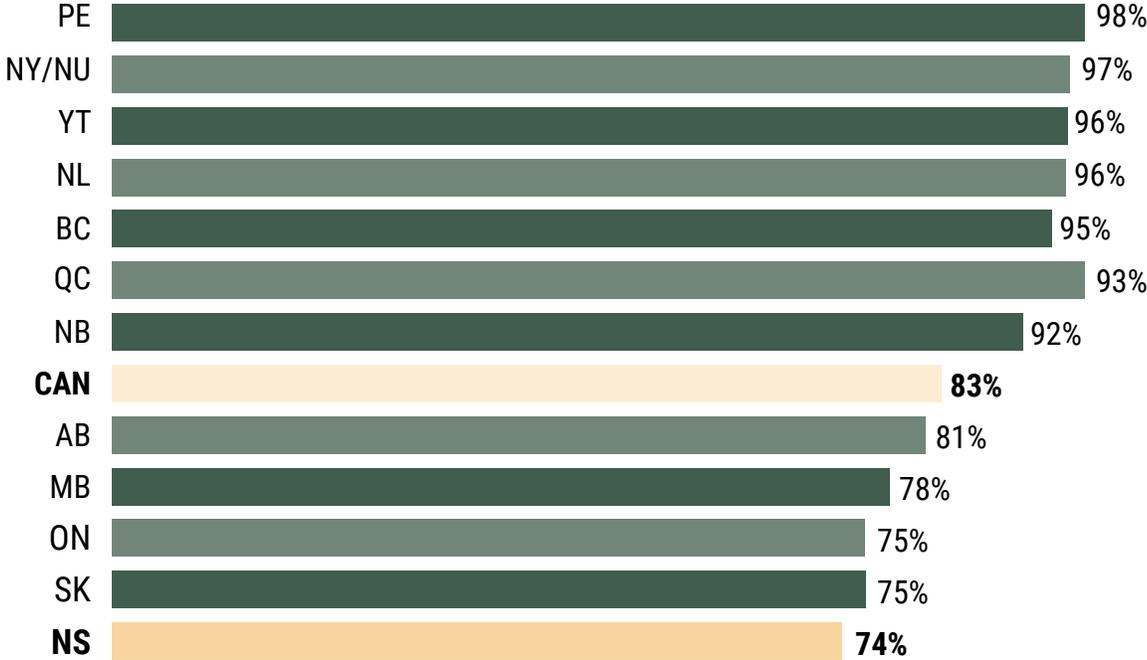
Some employers and a number of workers suggested that coverage through the workers' compensation system should be expanded. There is a desire for coverage of vulnerable workers, including those that are not currently covered due to the three-worker rule and those who are part of an industry where it is not mandatory to have workers' compensation coverage. There is also interest in making coverage universal and mandatory. This would involve eliminating the exclusion of specific industries as well as the three-worker rule. It should be noted that the Review Committee did not specifically seek input from sectors that are currently not included (such as law firms and financial institutions). Workers who do not currently have coverage through WCB and who responded to a survey conducted as part of the public engagement perceive that if they had coverage, they would have benefits if injured at work, long-term support for serious injuries, and peace of mind knowing they have coverage for injuries. Expanded coverage or an inclusion-based model would also make it easier to understand the workers' compensation system in Nova Scotia and could improve alignment with other Canadian jurisdictions, particularly within Atlantic Canada, making it easier for employers with workers in multiple jurisdictions. However, consultation participants noted that small employers with three or fewer employees would need sufficient lead time to prepare if

the three-worker rule was eliminated due to the cost and administrative implications to their business. Public consultation on expanding coverage was underway prior to the COVID-19 pandemic. The biggest issue identified through these consultations was that workers and employers that are not currently insured through the WCB did not understand the benefits of the WCB coverage.

Other Jurisdictions

Currently, Nova Scotia and ON are the only jurisdictions with a workers’ compensation model consisting of inclusionary and exclusionary rules (dual model). At 74%, Nova Scotia has the lowest rate of coverage in Canada (Figure 9) and approximately 13,000 workers in Nova Scotia are impacted by the three-worker rule. If Nova Scotia were to eliminate the three-worker rule, approximately 76% of the workforce would have workers’ compensation coverage, making the rate of coverage in Nova Scotia comparable to ON, MB, and SK. Seven other jurisdictions (NT, YT, BC, QC, NB, PE, NL) are above 90% covered. There is no Canadian jurisdiction with 100% coverage.

Figure 9: Proportion of Workforce Covered, 2022 by workplace injury insurance



Nova Scotia, MB, and ON have similar sectors excluded from mandatory coverage as in Nova Scotia (Table 8). AB is the only province that allows farms and ranches to have the option of WCB injury insurance or private insurance. Nova Scotia and NB are the only provinces with a three-worker rule.

Table 8: Excluded industries by jurisdiction

Category	NS	PE	NL	NB	QC	ON	MB	SK	AB	BC	YT	NT
Financial Services – Banking/ Insurance	X					X	X		X			
Accounting/ bookkeeping	X						X		X			
Agriculture	X						M	X	M			
Licensed Professionals – Medical Professional Officers/Lawyers	X					X	X		X			
Legal Services	X					X	X		X			
Consulting	X											
Business Services	X					X	X		X			
Computer Services/Tech Sector	X					X	X		X			
Clergy/ Religious Organizations	X	X				X	X	X	X			
Cosmetology/ Barbers	X						X					
Professional Sports/ Other Sports	X	X	X	X	X	X	X	X	X	X		
Arts, Entertainment and Recreation	X	X						X				
Day Care/ Early Childhood Educators	X											
Domestic Employment	X	X	X	X	X	M		X	X	M		
Commercial Fishing	X	X		M				X				
AVERAGE ASSESSMENT RATE (2022)	\$2.65	\$1.47	\$1.69	\$1.69	\$1.67	\$1.30	\$0.95	\$1.23	\$1.17	\$1.55	\$2.07	\$2.40

M= Mixed coverage **X=** Excluded from mandatory coverage

Review Committee Perspective on the Priority Issue

The Review Committee recommends moving to universal coverage. Government should engage with the industries/sectors not currently in the system to gain feedback on how this might be implemented. This recommendation includes removal of the three-worker rule and moving to an exclusionary model. Ensuring there is an understanding of the benefits of participating in the system and demonstrating commitment to a strong and sustainable system prior to expanding coverage may encourage the desire to participate in the workers' compensation system.

Psychological Health and Safety and Gradual Onset Stress

Background

Psychological health and safety plays a key role in the overall health and safety of a workplace. Almost three-quarters (70%) of Canadian employees are concerned about the psychological health and safety of their workplace, and 14% do not think that their workplace is healthy or safe.

Statistics Canada states 19% of women and 13% of men reported that they had experienced harassment in their workplace in the past year where workplace harassment includes verbal abuse, humiliating behaviour, threats to persons, physical violence, and unwanted sexual attention or sexual harassment. Nova Scotia's *OHS Act and Regulations* do not explicitly define workplace psychological health and safety, making workplace rights and duties related to psychological health and safety and workplace harassment unclear for workers and employers. Canada formally ratified International Labour Organization - The Violence and Harassment Convention, 2019 (No.190) on January 30, 2023 (in force since January 2024) which recognizes the right of everyone to work free from violence and harassment. Nova Scotia's current Violence in the Workplace Regulations addresses violence, but not harassment.

Worker safety from a physical and psychological perspective will be more important than ever. Having clear workplace psychological health and safety rules that support legislation, regulation, and/or policies better situates the province to provide quality living and working conditions. Psychologically health and safe workplaces contribute to overall worker health and safety, productivity, and retention. A positive approach to psychological health and safety such as the prevention of workplace harassment allows workplaces to recruit and retain talent, have improved employee engagement, and enhanced productivity for a stronger economy.

On November 9, 2023, the Nova Scotia Legislature passed amendments to the *WCA* allowing GOS to be a compensable injury under the *WCA*. GOS is for chronic stress that arises out of and in the course of the worker's employment and is caused wholly or predominantly by one or more significant work-related stressors and that has impacted someone's health so much that they cannot work anymore. The existing definition of "accident" in Section 2 of the *WCA* limits

the types of workplace psychological injury for which compensation may be awarded, explicitly stating that stress other than an acute reaction to a traumatic event shall not be compensated for, so this amendment will change that definition. The amendment also includes parameters identifying what stress is not considered compensable workplace stress, so claims for issues such as labour relations (e.g., performance management, discipline, termination) and interpersonal conflict will not be compensable under the WCA. The amendments come into effect on September 1, 2024. While it is not possible to determine the actual cost of GOS until it has been implemented, based on existing cost information from the WCB, there is a potential for the average assessment rates for employers to increase by between \$0.02 to \$0.07 per \$100 of assessable payroll. These costs will not impact the liability but will be based on actual annual claims costs.

What the Review Committee Heard

The Review Committee heard feedback that highlighted the need for government to take a more proactive approach to supporting workplace psychological health and safety. Participants in the consultations discussed their experiences of workplace harassment. Most often, harassment was verbal, but participants also discussed experiencing discrimination, sexual harassment, and physical violence. Findings included lack of clear understanding and definition of workplace harassment, the need for stronger psychologically safe cultures within workplaces where harassment and bullying behaviours are not normalized or accepted, and the need for leaders to be held accountable for responding to harassment.

Workplaces need to be supported to have effective policies and procedures to address harassment as well as clear processes to report and investigate complaints. Concerns were shared about possible lack of confidentiality, and a feeling that no action will be taken if a report is made, particularly if the person perpetrating the harassment is someone in a leadership role. Consultation participants highlighted how they would like their employer to demonstrate a commitment to address workplace harassment by taking action when incidents occur and providing greater transparency related to their response.

In the consultations, participants also noted concerns with how the WCB manages current claims related to psychological injuries. Participants lacked understanding about how GOS will be implemented and the impact this change will have on assessment rates and rates for employers. Consultation participants also noted the need for stronger training, expertise, and policies within WCB to better manage the claims process for psychological injuries (including GOS); more training for workplaces about the roles and responsibilities of the employer in managing psychological injuries; and tools for employers to support workers with these injuries.

In addition to the public consultations conducted to inform this review, the WCB has been extensively engaging with Nova Scotians on the development of the GOS service model and policy. Engagement has included policy webinars, meetings with employer groups, developing an online resource for GOS, and a GOS specific newsletter.

Other Jurisdictions

All other Canadian jurisdictions acknowledge or otherwise address psychological health and safety in some way through either policy, regulation, or legislation. Most jurisdictions have addressed the issue of psychological health and safety by creating OHS legislation and/or regulations addressing workplace harassment (as a source of potential psychological harm). Others have gone further by explicitly referencing and acknowledging psychological health and safety (as a general concept) as an important part of general workplace health and safety. Workplace harassment is recognized as a potential cause of psychological injury that is explicitly addressed by jurisdictions in their *OHS Act and regulations*. AB, BC, ON, QC, and SK all define harassment in legislation and the remaining jurisdictions (MB, NB, NL, NT, NU, PE, YT) define harassment within regulation. The only provinces that have not implemented GOS are the other Atlantic provinces and MB.

Nova Scotia is the only province that does not currently define harassment within their OHS legislation, regulations, and or policy. This makes workplace rights and duties related to psychological health and safety unclear for workers and workplaces in Nova Scotia and causes challenges to the overall health and safety of workplaces in Nova Scotia.

Review Committee Perspective on the Priority Issue

Psychological health and safety is a critical part of workplace health and safety. Most other jurisdictions have implemented coverage for GOS, and Nova Scotia will be aligned with those jurisdictions once GOS comes into effect in September 2024. Nova Scotia is the only jurisdiction that does not define workplace harassment in legislation, regulations, or policy, and this should be a priority to address for the province. A definition of workplace harassment will help support the WCB with the interpretation of the legislation in the adjudication process and support employers and workers in building more psychologically healthy and safe workplaces to prevent psychological injuries from occurring.

Review and Appeals

Background

If an employer or injured worker is not satisfied with the decision made on their claim, decisions may be appealed. The decision must first be appealed to the WCB through the Internal Appeals process. Once the WCB's hearing officer has made a final decision on the internal appeal, the employer or worker may appeal the decision further through the WCAT. In both processes, the appeal must be submitted in writing within 30 days of the decision and Internal Appeals or WCAT will make a decision within 60 days of the hearing. Additionally, the appellant may have the ability to appeal to the Nova Scotia Court of Appeals within 30 days of the appeal board decision, if the appeal is related to a question of the jurisdiction of WCAT or on any question of law. Often employers may not be aware of their statutory right to appeal a decision and will not participate in the appeal process. Some employers are indifferent to the appeals process as in their experience they are not listened to.

In the 2023/24 fiscal year, the Internal Appeals of WCB received 1,240 appeals, the majority of which were from workers (84%) (Table 9) and WCAT received 457 appeals in the 2023/24 fiscal year (Table 11). The number of appeals received by WCAT has decreased from 563 in 2018 to 457 in 2023, while the number of appeals received by Internal Appeals has increased slightly between 2021 and 2023.

Table 9: New appeals received, Internal Appeals⁽²⁹⁾

Year	Worker	Employer	s. 251 Referral	Other	Total
2021	948	168	68	12	1,196
2022	900	139	47	3	1,089
2023	1,038	191	8	3	1,240

In 2024, the average time from receiving the appeal until all submissions are received (i.e., the appeal is ready to be heard) is 54 days. On average, it takes 44 days for the appeal to be assigned to a hearing officer and five days for the hearing officer to render a decision once the appeal has been assigned. In total, from appeal received to hearing officer decision rendered, the internal appeal process takes 105 days, the majority of which is awaiting submissions and assignment to a hearing officer.⁽²⁰⁾

Table 10: Appeals processing timelines, 2023 (days)

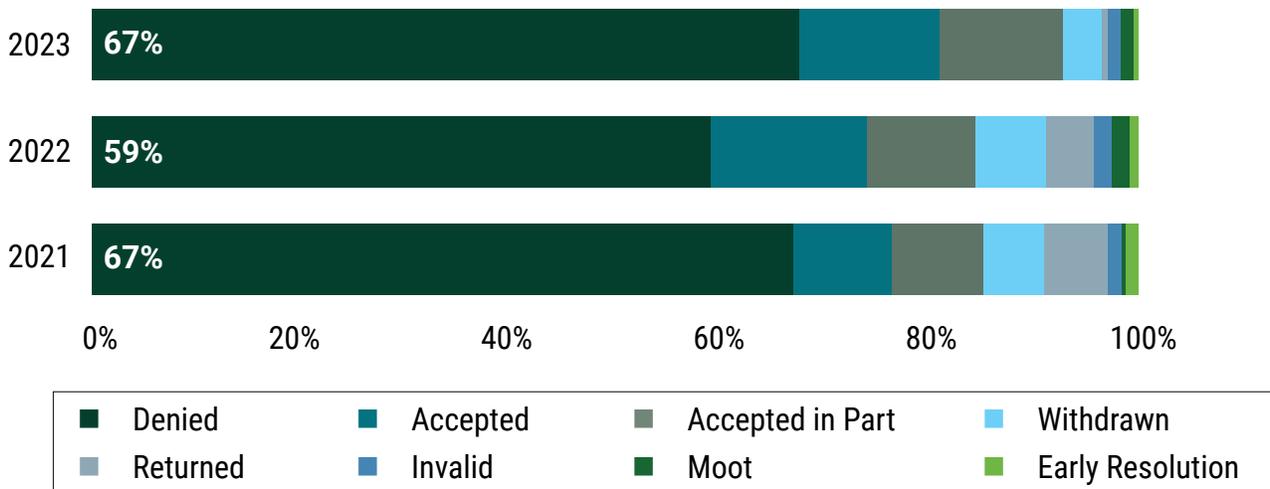
Month (2024)	Avg. rec'd to Sub Deadline	Avg.-Sub Deadline to Assigned	Avg.-Assigned Date to Decision Date	Avg.-Received to Decision
January	53.0	146.4	3.92	203.3
February	48.8	104.7	4.85	158.3
March	49.8	80.0	5.68	135.5
April	29.4	83.6	4.53	117.5
May	43.1	72.7	5.11	121.0
June	43.8	78.8	3.82	126.4
July	38.7	72.6	4.11	115.4
August	37.2	66.0	3.77	106.9
September	34.3	60.7	3.76	98.8
October	32.0	45.2	4.36	81.5
November	51.9	58.3	3.07	113.3
December	74.3	21.8	5.88	102.0
Overall	44.1	75.2	4.37	123.7

Table 11: New appeals received, WCAT⁽²⁹⁾

Fiscal Year	New appeals received
2018/19	521
2019/20	563
2020/21	522
2021/22	429
2022/23	457
2023/24	544

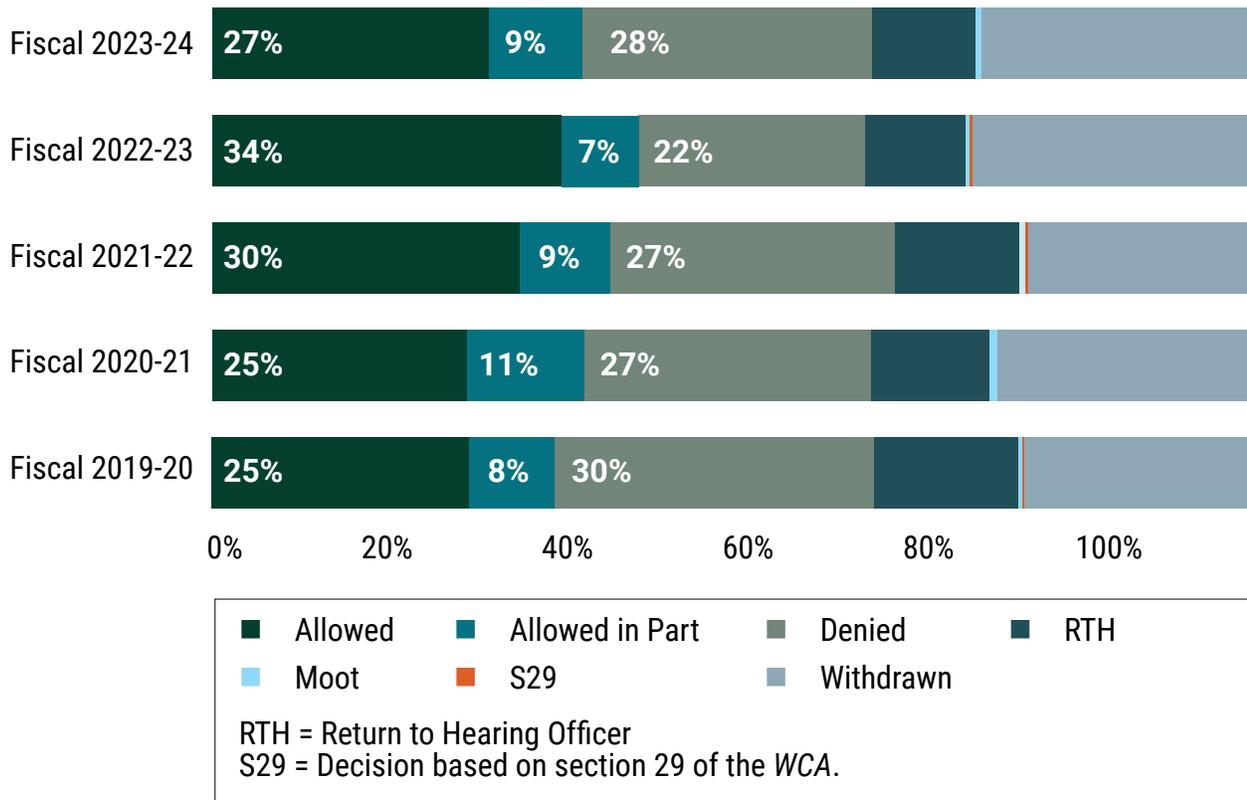
Among the appeals addressed by Internal Appeals at WCB, the majority of appeals resolved in 2023 were denied (67%) (Figure 10) and Internal Appeals had an overturn rate (appeals accepted or accepted in part vs. denied) of 27%. This was a decrease from the 2022 rate of 30%.

Figure 10: Appeals resolved by the Internal Appeals of WCB in 2023⁽²⁹⁾



Among the appeals addressed by the WCAT, about a third of appeals resolved in 2023/24 were accepted or partially accepted (36%), while 28% were denied (Figure 11). WCAT had an overturn rate of 48% in 2023/24.⁽³⁰⁾

Figure 11: Result of appeals resolved by the WCAT



WAP assists with appeals after an injured worker is denied benefits but may help workers at all levels of decision making in the system. They are an independent agency, similar to Legal Aid, but only deal with legal matters related to injured workers' entitlement to workers' compensation benefits. WAP provides legal advice to those who are looking to appeal. Advisers may get involved and appear for workers at all levels of decision making in the workers' compensation system, including court, if appropriate. Nova Scotia is the only province where WAP represents workers on judicial reviews at the Nova Scotia Court of Appeals. On average, WAP has 3-4 court appearances per year and provides an average of five responses to service per week (Table 12).

Table 12: WAP services by year.

	2017/18	2018/19	2019/20	2020/21	2021/2022	2022/23
Provided Service to workers	2,328	2,376	2,055	1,739	1,828	1,772
Requests for service	941	939	787	736	697	773
Requests/ Representation Denied	83	170	193	88	118	98
Files Closed	906	655	971	700	764	813
Active files fiscal year end	1,418	1,268	1,073	1,093	1,058	952

A review of the Appeal System in Nova Scotia was recently conducted (spring 2022), which resulted in 24 recommendations for improving the workers' compensation appeals system. The consultant conducting the review met with LSI, PCIWA, OEA, Department of Justice, OWC, WAP, WCB and WCAT. The objective of the review was to gather insight from system partners that would make the appeals system work more effectively and efficiently for Nova Scotians. There were 24 draft recommendations resulting from the review, grouped into four theme areas of purpose, people, process, and technology in the system. The feasibility of the recommendations was assessed and to date, eight recommendations have been implemented with work continuing to address the remaining recommendations.

What the Review Committee Heard

The Review Committee heard that the appeals process takes a long time which has a negative impact on injured workers. For example, injured workers appealing a denied claim do not have financial support while they are waiting for their appeal and may therefore feel pressure to return to work before they are able. If a decision is overturned on appeal, while benefits are paid back to the date of entitlement, injured workers do not receive any other compensation for the negative financial impact that occurred while they were waiting for the appeal process to be completed.

Delayed appeals also create administrative and financial strains on the system. Consultation participants also discussed the litigious and adversarial nature of the system, difficulty understanding why an initial claim decision was overturned, and limited policies or systems to deal with mismanaged claims earlier on in the process to reduce the number of appeals. Employers and injured workers also noted that they were not consistently informed about the appeal process.

The Review Committee heard suggestions to streamline and improve the appeals process including implementing better standards/criteria to support the decision-making process, providing clear information about decisions to employers and workers, ensuring accountability for following standards and policies (e.g., standard on proof, timelines for decisions, reinstate the benefit of the doubt definition from the former Act), and ensuring that reasoned decision letters are issued whenever a claim is accepted or denied, and in every case where earnings replacement benefits are approved or denied.

The confidentiality of information provided related to appeals was also discussed. When employers are participating in an appeal, they have the ability to request information on the claim which may include personal health information for the worker related to the appeal. It was suggested that a provision could be developed that requires employers to keep claim documentation and oral evidence disclosed in hearings confidential and not use this information for other purposes.

The Review Committee heard that many appeals are successful, which brings into question the efficacy of the system (e.g., overturned claims suggests that the original claim decision was incorrect). Employers perceive that the high success rate of appeals reflects an appeals process which favours employees. Participants noted that decisions by WCAT are not necessarily integrated into WCB practice, contributing to ongoing differences in decision-making. Differences may be in part a result of different interpretations of legislation and policy between the WCB and WCAT. It is important that WCB employees are trained in gathering and weighing evidence to improve decision-making and reduce the number of decisions overturned on appeal.

There is also opportunity to improve collaboration in advance of formal appeals by having WAP and hearing officers/case workers connect earlier in the process to ensure that no information had been missed, making all efforts by WCB to gather all evidence to make a decision in a timely fashion rather than having new evidence appear later and delay the claims decision. If the appeal continues to WCAT, all evidence on file would be made available for the appeal process, enabling quicker resolution.

Nova Scotia has a CRO that receives and investigates complaints, however, the Review Committee heard concerns that existing mechanisms for resolving issues related to claims were not independent enough and therefore not effective. Although disagreement with a decision made by the WCB is currently outside of the mandate of the CRO, the Review Committee heard that Nova Scotians want the CRO to have greater accountability and provide more support related to all aspects of the system, including timely resolution of issues before they proceed to a formal appeal process.

Other Jurisdictions

Nova Scotia, NL, and QC are the only provinces that require an injured worker to appeal within 30 days of decision. Other Canadian jurisdictions range from 90 days to no time limit on appeals.

Table 13: Timeline for appealing decisions by jurisdiction

Jurisdiction	Timeline for appeal (Internal)	Timeline for appeal (WCAT)
NS	30 days	30 days
NL	30 days	30 days
QC ⁽³¹⁾	30 days (administrative review)	90 days from administrative review
BC	90 days	30-90 days
NB	90 days	1 year
PE	97 days	30 days
ON	6 months	6 months
AB	1 year	1 year
YT	2 years	1 year
NT	3 years	3 years
MB	No time limit	No time limit
SK	No time limit	No time limit

Nova Scotia allows extensions to the time limit of 30 days and is the only jurisdiction that has no time limit on the extension. NB, PE, and YK do not allow for extension; NWT, BC, AB, ON, and NL allow extensions, but up to a certain maximum; and MB and SK do not have extension periods because they do not limit the timeline for appeal.

Most Canadian jurisdictions, including Nova Scotia, allow for the introduction of new evidence regarding a claim during the appeals process. At the Appeals Tribunal level of appeals, six Canadian jurisdictions (NL, NB, PE, MB, SK, YT) require new evidence to be referred back to the WCB, whereas BC, ON, and AB will consider new information at the Appeals Tribunal level. In Nova Scotia, case workers will not accept new information once a decision has been made. Instead, to have new evidence considered, an appeal needs to be filed, which may contribute to a higher number of appeals being filed.

Review Committee Perspective on the Priority Issue

The Review Committee recommends that an in-depth review of the appeals system be conducted focused on improving efficiencies. The review would include the organizations that support the appeals process. It is also important to assess the approach to including new evidence related to a claim. The Review Committee also recommends the 30-day period for appeal in the legislation should begin when the injured worker's file is considered a complete file with all information required to progress an appeal being provided. This could also help to alleviate the adversarial and litigious approach to the appeal process in Nova Scotia.

System Transparency and Accountability

Background

Ensuring the transparency and accountability of the workers' compensation system is a key consideration in system improvements. Some of the initiatives already mentioned in this report (e.g., developing and reporting on service standards and the WCB's established strategic objectives as discussed in the Claims Administration section of this report) will help to contribute to an environment of accountability. Regular engagement and public reporting on progress by all organizations in the system is critically important to ensure that workers and employers are aware of efforts to improve the system and the impact of those efforts.

What the Review Committee Heard

The Review Committee heard that the workers' compensation system is not accountable or transparent enough. Consultation participants shared the need for more information and communication about performance and the actions the WCB is taking to address areas of concern (e.g., claims durations, appeals). The perceived lack of accountability and transparency contributes to low levels of trust in the workers' compensation system. The Review Committee also heard the importance of building a strong culture of improvement at the WCB, including establishing service standards and publicly reporting on performance against these standards.

Other Jurisdictions

Nova Scotia's WCA does not include a purpose statement. Establishing such a statement may prove useful in providing guidance in interpreting the law. A purpose statement written into an Act guides the intent of the overall legislation, regulation and policies and may enhance clarity, accountability, alignment, and reinforcement of historical foundations and contribute to collaborative planning, key performance indicators (KPIs), and meaningful system reporting. Eight other jurisdictions across Canada have language written in their legislation to provide greater transparency on the purpose of their workers' compensation legislation (YT, NT, NU, BC, AB, ON, NB, MB).

The Claims Administration section of this report discusses the importance of establishing service standards around claims administration (e.g., timeliness in responding to questions and making claims decisions) and implementing and reporting on KPIs and the work that other jurisdictions have done in this area. Regular reporting of KPIs would also enhance access to data about the system to inform improvement. Nova Scotia, like other jurisdictions, has limited resources and the workers' compensation system can be better served if organizations in the system have access to data to inform their work and focus on the areas to be addressed in order to improve safety outcomes.

Regular review of the workers' compensation system is important. A review provides an opportunity for input from those with an interest in the system and helps to identify strategies to improve the system. The system needs to "keep pace" with the changes in the province and regular reviews will assist that process. The last review of the workers' compensation system in Nova Scotia was in 2002, a gap of over 20 years between reviews. A review every five years would align with the practice in many other jurisdictions – NL, PE, NB, MB, SK, and NWT/NU mandate regular reviews of their *workers' compensation act*.

Review Committee Perspective on the Priority Issue

The Review Committee believes that system transparency and accountability need to be strengthened. This could include making changes to legislation to incorporate a purpose into the *WCA* as well as legislating key elements of the system such as regular reviews. As previously noted, there should be urgency in developing and implementing service standards as well as publicly reporting on performance against the standards. In addition to service standards related to claims administration, other areas of the system where it would be beneficial to have established KPIs and reporting include resolution of complaints and timeliness and resolution of appeals. In addition to the WCB reporting on performance, other organizations in the system could also establish and report appropriate KPIs related to their objectives and timeliness of service provision. Where possible measures to assess performance of the system in Nova Scotia should incorporate jurisdictional comparators.

Other Issues

Temporary Foreign Workers

Thousands of temporary foreign workers come to Nova Scotia each year, including more than 1,500 individuals who support the provincial agriculture sector. These workers may not have experience with workplace safety or the workers' compensation system, although they are working in a sector with many health and safety risks. Temporary foreign workers may also face language barriers in understanding their rights and responsibilities related to workplace injury and/or in communicating with the WCB.

Education on the prevention of injuries in the workplace, training, and system services for temporary foreign workers, migrant workers and their employers was highlighted as a need. This education should be focused on the unique needs of these workers and their rights and benefits through the workers' compensation system, and delivered in languages other than English (e.g., Spanish).

Firefighters

Nova Scotia has over 6,000 volunteer and 700 career firefighters supporting communities across the province. The Review Committee heard that firefighters in Nova Scotia have concerns related to prevention of injuries and would like more collaboration and support from health care providers to prevent injuries. A better understanding of the unique needs of the firefighting community, particularly related to screening for and diagnosing cancers that have been linked to firefighting (e.g., testicular cancer, mesothelioma) is required.⁽³²⁾

WCB Board of Directors Appointment Process

Currently, the process for appointing new Directors to the WCB Board of Directors is managed through the Government of Nova Scotia's Agencies, Boards, and Commissions process. This process is cumbersome and lengthy, which causes delays in the work of the WCB Board. Delays sometimes mean that Directors whose terms have expired are asked to remain on the Board until new appointments can be made. Legislation dictates that Directors who remain during this interim period are non-voting. While the Review Committee understands it has not been an issue to date, it is possible that having non-voting Directors could impact quorum requirements and potentially delay important initiatives. The Review Committee feels that the process for appointing Directors to the WCB Board should be reviewed to determine if there are alternatives or changes that could make the process quicker and more efficient, including making provisions that Directors who remain during the interim period are entitled to vote.

4.0 Conclusion

Nova Scotia's workers' compensation system plays a pivotal role in supporting workplace safety and helping those who are injured at work. The system faces challenges including the highest average assessment rate across Canada, the lowest benefits for injured workers, and a funded position that remains below 100%.

The Review Committee has worked diligently to better understand and prioritize the issues in the system, listening carefully to the extensive input received from Nova Scotians and reviewing evidence and information provided to support the process. This report describes the key areas where improvements are needed, including system sustainability, awareness and understanding of the system, prevention, claims administration, safe and timely RTW, compensation and benefits, coverage, psychological health and safety and GOS, review and appeals, and system transparency and accountability.

The Review Committee believes that addressing the issues identified in this report will lead to a workers' compensation system in Nova Scotia that is more transparent, efficient, and sustainable; one that provides appropriate supports to injured workers and value to employers that pay rates, and more effectively meets the needs of Nova Scotians. Ongoing input and collaboration from all those involved in the workers' compensation system (the organizations that form the system as well as employers and workers) will be critical as system improvements are developed and implemented. The Review Committee is pleased to submit this report to support improvement of the system in Nova Scotia.

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Appendix A: Additional Information on Organizations in the Workers' Compensation System

This section provides additional context and descriptions of other organizations in the workers' compensation system.

Department of Labour, Skills and Immigration's Safety Branch (LSI)

The Safety Branch of LSI supports delivery of requirements referenced in the *WCA and regulations* that contribute to prevention and reduced injury for workplaces and workers. The Branch concentrates their efforts on safe and healthy workplaces, work practices through education and outreach, inspection and enforcement, and safety standards for regulated equipment to protect Nova Scotians, including registration, permits, and licenses. Two divisions of the Safety Branch are *Occupational Health and Safety (OHS)* and *Technical Safety (TS)*.

Occupational Health & Safety (OHS)

The OHS Division of the LSI Safety Branch promotes safe and healthy workplaces through workplace education, safety standards, and compliance. OHS works closely with government partners, sector councils, and businesses and collaborates with the WCB to promote safer workplaces.

Technical Safety (TS)

The Technical Safety Division of the LSI Safety Branch is mandated to support workplaces and workers and using various compliance tools (e.g., certification, registration, licensing, permits). Technical Safety administers the Acts and Regulations related to fuels, elevating devices, cranes, amusement devices, boilers and pressure equipment, electrical work, and power plants and power engineering, as well as cranes to promote and support safety in Nova Scotia. The *Technical Safety Act and Regulations* is responsible for safety and licensing of certain occupations under the *Technical Safety Act*.

The Appeals System

WCB Internal Appeals (IA)

The IA team review issues on appeal and make the final decision (resolution) on behalf of the WCB in a timely manner. The issues on appeal will focus on the issues from the appellant's perspective. The final resolution or decision means that the resolution or decision provided at IA is final and will eliminate the need for back-and-forth adjudication. Decisions from IA are targeted to be provided within 90-days.

Workers' Advisers Program (WAP)

The WAP is part of the Labour Services Branch of LSI and is a legislated program to provide free legal assistance, advice, and representation to eligible injured workers and their families who are seeking workers' compensation benefits. Generally, a worker must have a reasonable expectation of success with respect to a request for compensation before WAP will provide representation. WAP is established pursuant to Part III of the *Workers' Compensation Act*.

Workers' Compensation Appeals Tribunal (WCAT)

The WCAT is a legislated service to act as an independent tribunal which provides a formal process to hear and decide appeals on decisions of the WCB. An appeal can be submitted by a worker, deceased worker's dependant or estate, or an employer looking to challenge a decision on compensation or assessment. Only written decisions that dispose of an internal WCB appeal can be appealed to the Tribunal. The WCAT is accountable to the Minister of the Department of Justice and receives its funding from the provincial government.

Other Organizations that Support the Workers' Compensation System

Pictou County Injured Workers Association (PCIWA)

The PCIWA is a registered not-for-profit association that provides support for injured workers to assist, advise, or represent them in a claim. The PCIWA will provide support to the injured worker only once they have advised the injured worker of the services and contact information of WAP and the worker has declined to contact WAP or, has been declined representation by WAP, or the injured worker is seeking services and assistance that are not offered by WAP. PCIWA is the only injured workers' association which receives funding from LSI through the Accident Fund. The PCIWA is accountable to the WAP Chief Worker Adviser.

Office of the Workers Counsellor (OWC)

The OWC is managed by the Nova Scotia Federation of Labour and provides education, advocacy, and navigation support for workers related to the workers' compensation and OHS systems in Nova Scotia. The OWC provides assistance to workers in Nova Scotia, including navigation and answering questions, education for union or community groups on WCB or OHS, an advocacy, including advocating on behalf of workers for changes to the WCB and LSI.

Office of the Employer Advisor (OEA)

The OEA was established in 2008 through WCB policy pursuant to Section 162 "Funding for research and safety programs." OEA is accountable to the WCB through a contractual agreement. The OEA also offers education, and navigation concerning workers' compensation issues for employers participating in the workers' compensation system. In 2017, the OEA branched their business scope into two distinct streams; those still funded by grant funding with WCB Nova Scotia and a range of labour and employment programs and services for a fee.

Appendix B: Overview of Review Committee Meetings

