

June 28, 2010

Mr. Tony Dean
Chair
Occupational Health and Safety System Review
123 Edwards Street, Suite1305
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Dear Mr. Dean;

As employers and employer associations in this Province we welcome the opportunity to participate in the review of our Occupational Health and Safety system and to make recommendations for improvement that will result in improved performance in Ontario workplaces and avoid the creation of unnecessary and costly system bureaucracy.

While employers are looking forward to working with government and other stakeholders to help design and implement positive changes to the health and safety system, two critical success factors must be recognized for any improvements to be realized:

- Government must provide a clear, evidence based analysis of the issues and demonstrate that proposed solutions will improve workplace health and safety.
- Government and other stakeholders must agree to work together using a principles based consultation and problem solving approach. (For example - see paper on this process developed by the Business Council on Occupational Health and Safety).

Outlined here are some of the key system issues identified in the consultation paper that the undersigned are making recommendations on.

Roles and Responsibilities

Duplication of Services and Overlapping Roles

There is a great deal of duplication of functions and services within the health and safety system. Enforcement functions are found in both the Ministry of Labour and the Workplace Safety & Insurance Board. Prevention services are offered by multiple Health and Safety Associations and by the Workplace Safety & Insurance Board. Training roles and programs are duplicated across the system, including having a separate workers' health and safety centre and training system.

Unclear Accountability for Leadership

Accountability for leadership of the system is unclear with so many groups involved. In this respect, the system is complex and confusing for companies to understand, and the roles of, and relationships between the various entities within the system are not clear. The employers question the need for and value of the Occupational Health and Safety Council of Ontario as a leadership and coordinating body for system initiatives. Having this group is thought to simply add to the confusion about leadership.

Effectiveness of System Questioned

While Ontario has an improving record of performance in occupational health and safety relative to other jurisdictions, employers question the cause and effect relationships behind these trends. Employers are the ones who invest in health and safety, build it into the organization's culture, and put policies, procedures and programs in place. The employer community's contribution could be recognized more fairly, and the direct contribution of the health and safety system in the province to performance results better demonstrated.

Lack of Meaningful Engagement

Overall there is a lack of meaningful and effective engagement of workplace stakeholders in the development of new health and safety initiatives in the Province. The System partners need to include employers and labour in the definition of who are System partners and in the development of regulatory-change activities to ensure there is a clear connection to improving workplace performance.

Engagement efforts do not seem to be effectively reaching the "poor" performers and those operating outside of the law. Too much of the current System's focus is on those who are already investing in health and safety.

Opportunities to engage other Ministries with respect to health and safety are not being realized. For example, health and safety requirements and opportunities could be better integrated into the new business registration, immigration and education systems and processes.

Recommendations with respect to **Roles and Responsibilities**:

1. Reduce duplication and establish clear roles. Clear and distinct roles and mandates should be assigned to the system partners and related service duplication and gaps should be addressed. The Workplace Safety & Insurance Board should focus on insurance functions. Enforcement and system prevention functions should be with the Ministry and Health and Safety Associations respectively. Enforcement is an element of prevention.

We strongly recommend that no new agencies be created as a result of the Panel's work.

2. Establish clear leadership accountability. The Ministry of Labour should have overall leadership accountability for the occupational health and safety System in Ontario.
3. Implement meaningful engagement. The System needs to engage the workplace stakeholders (employers and labour) in a meaningful and proactive manner. Stakeholders should be involved in the design of any System change that will impact the workplace. A culture of openness and transparency needs to be established between the current System partners and the workplace stakeholders. Particular effort needs to be made to reach small businesses, and compliance assistance to small and medium-sized organizations should be one of the key planks of the OHS System.
4. Establish an implementation framework and targets for change. Effective implementation is the key to achieving beneficial change. There is no point designing a new System if the resources, processes and leadership required for effective implementation are not put into place. The government needs to ensure that it puts such a framework in place and sets specific targets to measure progress towards defined goals as part of the implementation framework.

The Internal Responsibility System

Joint Health and Safety Committees are seen as a valuable vehicle to support health and safety improvement in the workplace. However concerns exist about

the effectiveness with which Joint Health & Safety Committees (JHSC) are able to execute their role. The certification training that supports the JHSC system should provide more sector or industry specific training. The current certification training is felt to be too generic. We question whether evidence exists to demonstrate the effectiveness and impact of certification training on health and safety outcomes.

The **Internal Responsibility System (IRS)** is a useful construct but needs greater clarity and a supporting implementation framework. At present, IRS, as outlined in the legislation, is a list of groups and their responsibilities. There is no implementation framework or set of tools and best practices to implement IRS. As well, it is difficult to determine who the front line supervisor is in many workplace situations. This needs clarification before any further work can be done on IRS in the workplace.

Recommendations related to the **Internal Responsibility System** include:

1. Ensure that there is supporting evidence and clear performance metrics before implementing any changes to the JHSC system.
2. Develop evidence on the effectiveness of certification training and set improvement goals and directions.
3. Clarify who is a Supervisor and develop easy to use implementation strategies and tools for employers to use in the workplace.

Incentives

Employers are strongly opposed to the creation of new administrative penalties or other forms of penalties. The current legislation and regulations provide for sufficient enforcement tools. There needs to be a greater focus and effort paid to 'working' with business to ensure regulatory compliance rather than simply penalizing them at first contact.

There needs to be greater use of incentives, which includes meaningful recognition. Properly developed incentives are very effective in changing behaviours. For example, rebates are a necessary and valuable incentive in an insurance system that is retrospective. A critical part of any world class Health & Safety Management system is the ability to provide timely and meaningful recognition for good performance. The system must adopt this basic approach if it wants to encourage and support improvement in Ontario workplaces.

Employers have a critical role to play in aligning their internal performance management systems with occupational health and safety performance. Prevention organizations can encourage and support this, but ultimately it is employers, not government, who must take the initiative to do this.

Governments can play a leading role however in linking procurement decisions to health and safety management systems and goals. Government agency purchasing processes are too often silent on health and safety requirements. Government should lead by example and leverage their influence by insisting that third party companies meet specified health and safety management system standards and performance requirements. Employers also play an important role in this regard.

Recommendations in the area of **incentives/supply chains** are:

1. Continue to reward good performing employers with performance-based premiums.
2. Encourage workplaces to exhibit good health and safety performance by:
 - Linking performance management systems to health and safety performance.
 - Encouraging insurance companies and financial institutions to recognize and reward lower business risks through evidence of good health and safety performance.
3. Implement the original accreditation proposal developed by the Accreditation Working Group as this proposal recognizes and addresses the needs of small and medium sized businesses.*

**CFIB has not surveyed its membership on this proposal and is therefore unable to support at this time.*

4. Encourage the continued participation of employers in Safety Groups beyond the proposed 5-year limit.

Training

Training is a critically important ingredient for successful health and safety performance. It is also a significant cost for employers, particularly small employers, both in terms of financial expenditure and operational disruption.

Canadian Federation of Independent Business research shows that smaller businesses already invest heavily in workplace training. It is important to recognize however that small firms train differently than their larger counterparts. Informal, on-the-job training is of greater importance and provided in greater frequency among smaller businesses. This type of training is currently not easily recognized by government, but can be intensely valuable for the recipient of the training.

Small and mid-sized employers in particular need financial incentives, or some form of cost protection or discounts, in order to invest in health and safety training. Currently, the revenue generation needs of the Health and Safety

Associations are driving training costs beyond the reach of many small to mid-sized employers.

At present, there is no comprehensive, accessible system for capturing and accessing training records for individuals related to health and safety. There are many tickets, course records, certificates etc. that are administered by employers, unions, educators and training organizations across the province through a wide variety of electronic and hard copy systems. This is inefficient and frustrating for workers and employers and can jeopardize health and safety performance when evidence of training is not easily obtained.

Finally, language and literacy challenges are a growing and significant barrier to training. This is particular true for the construction industry which attracts a large immigrant workforce. It is difficult for small to mid-sized businesses to address this problem on their own.

Recommendations related to **training** include:

1. Develop training programs and tools which recognize and address the language and literacy challenges of Ontario's workforce.
2. Continue to ensure that health and safety training is sector specific.
3. Use technology to facilitate the development of a province-wide registry and tracking system for health and safety related training.
 - Should be linked to individuals
 - Records should be portable
4. Link the new business registration system to health and safety training requirements so that new employers understand what is required.
5. Ensure that health and safety training, where needed, is affordable and accessible for employers and workers. Partner with the Ministry of Finance to implement a "Training Tax Credit" that is designed to support small and medium-sized business.
6. Develop a province-wide training program on how to develop a culture of health and safety.
7. Integrate meaningful health and safety education (not just the Green book) into high school, college and university curriculums.

Underground Economy

Employers are also concerned about the underground economy. In addition to the considerable risks this creates for health and safety, the underground

economy means that law-abiding employers must pay the insurance costs of employers who operate in the underground economy.

Government has the enforcement tools it needs to address the underground economy. Employers who operate legitimately do not want to incur additional costs for enforcement or be penalized in any other way for new efforts by government to address the underground economy. Additionally, it must be recognized that poorly designed initiatives could serve to drive more companies into the underground economy.

Recommendations related to the underground economy include:

1. In tackling the underground economy, government actions (either enforcement activities or regulation) must not punish law-abiding firms.
2. Implement more effective enforcement and audit efforts within the current legislative and regulatory framework.
3. Develop a better understanding as to why employers and workers decide to operate in the underground economy before designing any new solutions or strategies to address the problem. As a first step, the 'underground economy' needs to be clearly defined.

Additional Recommendations

1. Develop an on-line system to provide employers with easy access to information and analytical tools related to their occupational health and safety performance and claims.
 - Claims records and status
 - Ratings and performance
 - Lost Time Incidents and non-Lost Time Incidents
 - Analysis by classification unit, rate group, and sub-sector
2. Develop a standard set of Health & Safety metrics with which to assess health and safety performance in Ontario.
 - Currently, can't compare across communities, employers, or sectors.
 - Need standard metrics to do comparisons of performance.
3. Performance measures should track severity of incidents rather than just their disabling consequences.



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