

GUIDE TO DOCUMENTS
AND
SUMMARY OF CHANGES TO DRAFT REPORT

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FEBRUARY 2005

Background

The history of occupational disease issues is summarized in *Background Memorandum on Occupational Disease Issues* (**document A**).

The history of the ODAP Panel is summarized in **document B**.

ODAP Report and Chair's Response to Public Consultation

The *Draft Report of the Chair of the Occupational Disease Advisory Panel* (the Draft Report) was subject to public consultation in 2004.

Document C entitled *Chair's Response to ODAP 2004 Public Consultation* (Chair's Response) contains my response to the recommendations received during that consultation. In it, I indicate, with reasons, where I have or have not agreed to make changes to the draft Report.

These changes are summarized below and have been incorporated into the *Final Report of the Chair of the Occupational Disease Advisory Panel* (Final Report) which is also attached (**Document D**).

An *Executive Summary* to the Final Report is provided in **Document E**.

The Final Report does not list separate recommendations. Rather, I am recommending that the WSIB Board adopt the Final Report as a whole to be used as a basis for developing a formal statement of legal principles, levels-of-evidence guidelines, and for future policy development.

Concerns related to the cost and financing of occupational disease claim awards were raised during the public consultation. The issue of cost was not part of the original terms of reference for ODAP and therefore was not dealt with in either the Draft or the Final Report. However I have made some observations and recommendations concerning these issues in the attached Chair's Response document. These recommendations and observations are also summarized below.

Changes to the Draft Report

1. The Benefit of the Doubt section has been modified to recommend that the term “issue” be clarified by the WSIB.
2. It is recommended that interpretation of s.119(2) of the WSIB Act outlined in the Final Report also apply to the *Workers’ Compensation Act*.
3. In the Role of Evidence section, the statement that “adjudication of individual claims may require consideration of [other evidence such as employment history etc.]” has been changed to “should require”.
4. The part dealing with conflicting evidence (in the “Specific Causation” section) has been redrafted in order to clarify its meaning.
5. In the “Adjudicative Channels” section, the following sentence has been added to the section dealing with case-by-case adjudication: “Where evidence for or against causation related to a particular exposure is currently unclear but may be clarified if subject to further systematic review, the WSIB should consider initiating such a review in parallel to a particular adjudication particularly if the adjudication may represent a ‘leading case’”.
6. The terms of reference for the proposed occupational disease advisory body have been amended to (1) include members with legal and policy expertise and well as members of scientific community, and (2) permit the advisory body to create temporary, *ad hoc* panels to deal with specific issues.
7. The appendices dealing with stakeholder dissents have been deleted as their views are fully presented in the Chair’s Response document.

Additional Recommendations

1. Monitoring of occupational disease costs should be a priority of the WSIB. If these costs continue to escalate as they have during the past two years, the Board should consider alternative strategies to cope with them.
2. The Board should look at directing the WSIB to prepare a paper on the issue of alternative funding formulas for the Board’s consideration. The paper could also be circulated for public comment.