

Council of Environmental Health & Safety Officers



To: Consultation Secretariat
Workplace Safety & Insurance Board

From: Leigh Harold, Brock University
Chair, Council of Environmental Health and Safety Officers (CEHSO)

Date: October 1, 2015

Re: WSIB Rate Framework Reform Consultation

The Council of Environmental Health & Safety Officers would like to thank the WSIB for the opportunity to submit comments on behalf of Ontario Universities on the proposed rate framework reform. The following comments highlight the concerns of Ontario Universities and areas of agreement with the proposed changes.

Proposed Classes

With respect to the proposed NAICS-based structure, we agree that the structure is appropriate, now being expanded beyond the initial 22 classes. We also support a five-year review of the WSIB classification structure with respect to grouping and number of NAICS classes. The industry classifications and associated risk, particularly in construction vary tremendously and there should continue to be discussion about expanding the classes in this and potentially other areas.

We agree that employers should be classified according to predominant class. Main business activity should always be the predominant determinant to ensure stability and predictability.

Self-sufficiency of Classes

In general, we support a framework in which classes are self-sufficient and responsible for their own costs to collectively reduce claims costs and improve health and safety for workers in their sectors.

Per Claim Limit and Threshold

Universities agree that there should be a threshold for a claim cost limit at the employer level, above which costs are allocated to the class. This continues to protect individual employers from extremely high-cost or catastrophic claims, yet preserves costs over the threshold in a class with similar risks.

With respect to per claim limit options presented, the opinion of Universities is that the proposed range of 0.5 to 7 times annual insurable earnings is too broad and is weighted quite heavily on large employers. The concept that a large employer is 6.5 times more responsible for the cost of a claim, at a magnitude of over \$500,000 per claim minimizes the responsibility that should reasonably and fairly be attributed to even small employers. The impact on large employers would be even greater if cost-relief tools such as SIEF remain as a



consideration for elimination. As such, maintaining the current fixed per claim limit of 2.5 times annual IE, or adopting a tighter range in a graduated model is strongly urged.

Long Latency Occupational Disease (LLOD)

Given their nature of chronic exposure and latency, the origin of LLOD's is both difficult to pinpoint and rarely attributable to a single employer. Further, certain industries experience a transitory nature of employment and employers, leaving subsequent employers to inherit workers who have been exposed to LLOD hazards. Universities and educational facilities in general are long-term institutions, represent a class of employers where LLOD hazards are low and who protect their workers from those hazards where they exist. This increases the likelihood that this employer group will experience the negative impact of LLOD claims should they be attributed at the employer level vs. class level. Given the size and predictability of the proposed classes and to reinforce the need for industry sectors to control specific LLOD hazards, Universities agree that assignment at the class level is appropriate rather than across Schedule 1.

Second Injury Enhancement Fund (SIEF)

Although the proposed framework is designed to promote greater stability in premium rates, for large employers with high predictability (90-100%), the protective factor of collective liability is lessened and even with risk band movement and per-claim limits, these employers could still see premium rate changes in the hundreds of thousands of dollars on an annual basis with a single significant claim. If the underlying reason for a high-cost claim is due to pre-existing injury that, in the current model, would have been mitigated by SIEF, these employers would be stripped of an effective cost-limiting tool. While there are certainly arguments for reform of SIEF, its complete elimination would impact large employers who are expected to be responsible for their own claims costs and long-term re-employment of injured workers. Elimination of SIEF could also have a discriminatory effect on our aging population in securing employment as employers may not be as willing to take on an increased risk of injuries. As for the statement that SIEF is used by only some employers, this seems to be an educational component that could be addressed by the WSIB, and is not in our opinion grounds for its elimination. We urge the WSIB to investigate and outline a reasonable alternative to address the issue of pre-existing injury that is fair to employers and continues to support return to work efforts, whether through adjudication (initial/ongoing entitlement) and/or return to work assistance.

Catastrophic Claims

Universities agree that costs associated with catastrophic situations should be limited in the accident year, with the remainder added to future years' premium rate. It would be reasonable for the WSIB to consider pooling these costs at the class level. With respect to definition of catastrophic claim, we would consider a situation where multiple serious or fatal injuries associated with one critical incident, impacting one employer or a number of employers within the class a suitable definition.

Claims Experience and Premium Rate Setting

In principle, Universities agree that a model of premium rate setting that relies on and provides predictability, with protection for small employers yet the ability to influence premium rate based on performance for all employers is a step forward from the current model. However, we would need further examples of modelling and the proposed mix of factors to effectively comment on those used to calculate premium rate and the percentage of assignment between individual and collective liability. We also agree that new employers



should pay premiums set at the class target, although this is an area of limited applicability to Ontario Universities.

In determining the number of years included in setting initial and annual premium rates, we agree with previous stakeholder comments as published by the WSIB that the proposed six-year window may result in an imbalance and that more weight should be given to more recent (3) years and less weight placed on historic (4th -6th) years.

We would question the rationale behind forgiving employers who increase/decrease one or two risk bands, especially if doing so would result in a need to increase the risk band limitations. We would not support risk band movement limits of greater than three. It is also agreed that risk bands provide stability in rate setting for employers within a class versus establishing individualized rates.

With respect to surcharges, Universities are of the general opinion that if rebates for exceptional performance are no longer used, then neither should surcharges. However, where there is gross negligence and repeated poor performance of an employer, the possibility of a surcharge should be considered to avoid significant increases in premium rates or burden on the class. If surcharges were to be applied, looking at percentage of or repeated increases in premium greater than the three risk band limit might be an effective method of reinforcing the importance of prevention and return to work. For classes with many small employers and high collective liability, poor performers have a greater impact on the class, and this should be mitigated as needed.

In conclusion, on behalf of CEHSO and Ontario Universities, WSIB rate reform is certainly necessary and long overdue to ensure a fair premium distribution amongst employers based on their claims experience and certainty that benefits will remain for injured workers into the future, while maintaining fairness within the system. We remain invested in the consultation process and invite further discussion as the WSIB progresses in its development of the model and transitional process.