



## Fairness reviews

### Background

The services of the Fair Practices Office are transferring to other existing agencies including WCB and the Appeals Commission. Under sections 23.1 and 23.2 of the *Workers' Compensation Act (WCA)*, the fairness review function, which looks at administrative fairness, how decisions are made and how stakeholders are treated, will be housed within WCB. WCB's Fairness Review Officer will review and make recommendations to the Board:

- relating to any matter under the *WCA*, for the purpose of determining **administrative fairness and processes used to reach decisions**, and
- relating to a breach of the **Code of Rights and Conduct** in which a worker, dependant, or employer is or may be aggrieved.

### Overview of changes

Here's a summary of what we propose:

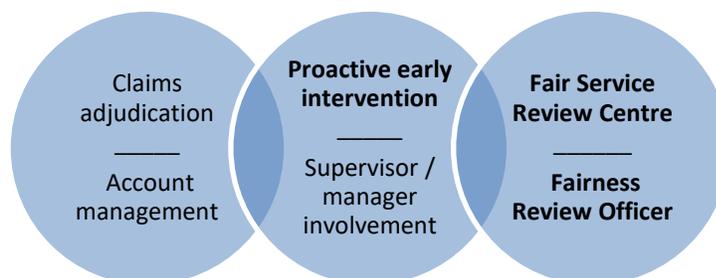
The Fairness Review Officer (FRO) will oversee the newly created Fair Service Review Centre (FSRC). The FRO and FSRC will provide impartial and independent assistance to clients who feel they were treated unfairly and ensure the *WCA*, policies, practices and procedures are applied fairly.

Administrative fairness will be assessed within two main categories, procedural and behavioural:

- Procedural fairness looks at **how decisions are made**
- Behavioural fairness looks at **how you were treated**, including whether WCB staff followed the Code of Rights and Conduct

The Fair Service Review Centre will primarily focus on **early intervention** and **facilitating conflict resolution** as quickly as possible during the decision-making process. A draft fairness review process (attached) outlines the proposed roles, responsibilities, scope and processes of the FRO and FSRC.

The FRO and FSRC are the final stage of an integrated approach to fairness reviews and service delivery.





Of note:

- The FSRC does not replace the current process for review and appeal of adjudicative and employer account decisions
- Fairness decisions and claim/account decisions are entirely separate decision streams. WCB staff involved in resolving fairness concerns will not be involved in decision-making related to a review of claim/account-related decisions on the same matter or file

See attached draft fairness review process for additional details.

### **Bill 47 legislative changes**

Here is an excerpt of the new provisions which come into effect on April 1, 2021:

#### ***Fairness Review Officer***

**23.1(1)** *The board of directors of the Board shall designate an employee of the Board as the Fairness Review Officer and define the Fairness Review Officer's role and mandate.*

**(2)** *The Fairness Review Officer shall report to the board of directors at the times directed by the board of directors.*

#### ***Powers of Fairness Review Officer***

**23.2** *The Fairness Review Officer may, in accordance with the role and mandate established by the board of directors, review and make recommendations to the Board*

- (a) relating to any matter under this Act, for the purpose of determining administrative fairness and processes used to reach decisions, or*
- (b) relating to a breach of the Code of Rights and Conduct in which a worker, dependant or employer is or may be aggrieved.*

---

**We welcome your feedback, ideas and suggestions.**

This posting is open until February 15, 2021.

# FAIRNESS REVIEW PROCESS

BoD Resolution    Date:

**REFERENCE:** [Workers' Compensation Act, RSA 2000, Sections 9.2, 23.1, and 23.2](#)

Established under the authority of sections 23.1 and 23.2 of the *Workers' Compensation Act (WCA)*, the Fairness Review Officer reviews and makes recommendations to the Board:

- (a) relating to any matter under the *WCA*, for the purpose of determining **administrative fairness and processes used to reach decisions**, and
- (b) relating to a breach of the *Code of Rights and Conduct* (the Code) in which a worker, dependant, or employer is or may be aggrieved.

The Fairness Review Officer (FRO) oversees the administrative fairness of processes within WCB-Alberta, including the Fair Service Review Centre (FSRC). The FSRC does not replace the current process for review and appeal of adjudicative and employer account decisions. For information about review and appeal, see G-2, *The Review and Appeal Process*.

The rights and obligations set out in this document are in addition to any other rights and obligations under the *WCA*, any other enactment, or the general law.

## Overview

The FRO and FSRC provide impartial and independent assistance to any worker, employer, or dependant (including their authorized representative) who feels they have been treated unfairly in their interactions with the workers' compensation system. The FRO ensures WCB treats all stakeholders fairly and justly and makes sure the *WCA*, policies, practices, and procedures are applied fairly.

Administrative fairness is assessed within two main categories, procedural and behavioural:

### ***Procedural Fairness***

Procedural fairness looks at ***how decisions are made***, including whether:

- timely decisions were made and implemented without delay
- effective and timely communication was provided, including being given enough information, notice of a decision, and clear reasons for a decision
- full, correct, and relevant information was always provided
- access to information was provided as appropriate/required
- decisions were made without bias and with consistency and impartiality
- the appropriate forum and opportunity to be heard were provided for you to express your opinion and views

# FAIRNESS REVIEW PROCESS

BoD Resolution    Date:

**Behavioural Fairness**    Behavioural fairness looks at *how you were treated*, including whether WCB staff followed the *Code of Rights and Conduct*, meaning:

- you were treated with dignity and respect
- the decision maker treated you with fairness and impartiality
- you were able to participate in decisions affecting you
- your privacy and confidentiality were protected and respected
- you felt listened to and heard
- what could and could not be done was clearly outlined to you
- if a mistake was made, the problem was addressed quickly with an appropriate apology

If the FSRC determines that an unfair practice has occurred, they facilitate resolving the issue at the most appropriate level of WCB administration as quickly as possible.

In assisting to resolve fairness concerns, the FSRC helps WCB improve its quality of service to all stakeholders. Following the conclusion of an investigation by the FSRC, you will be provided an explanation of the resolution, including any outcomes.

Based on reviews addressed by the FSRC, the FRO identifies fairness process trends, policy matters and systemic issues, and makes recommendations for improvements to the Board of Directors. The FRO makes reports directly to the WCB Board of Directors. This includes tracking trends and identifying and notifying the Board of Directors of potential systemic issues related to fairness. The FRO may also make recommendations to WCB management on an ongoing basis and will update the Board of Directors on these recommendations and any resulting outcomes achieved. An update on FRO and FSRC activities, including the volume and nature of complaints, will be included in WCB's Annual Report.

## Roles and Responsibilities

The primary focus of the Fair Service Review Centre will be on *early intervention* and *facilitating conflict resolution* as quickly as possible during the decision-making process.

As advocates of fairness, the FRO and FSRC do not take sides when resolving issues. The FRO and FSRC's roles are to review and investigate problems or concerns in an unbiased and impartial manner.

All participants in the resolution process (e.g. worker, employer, dependant, WCB staff, FSRC representative) will be invited to fully participate and engage in the fairness review process in a timely and respectful manner and contribute to a shared resolution outcome. All parties work

# FAIRNESS REVIEW PROCESS

BoD Resolution    Date:

together to move forward and restore trust in the working relationship between the affected person(s) and WCB. All issues brought forward to the FSRC should be made in good faith.

## Out of Scope

There are some things the Fairness Review Officer and the Fair Service Review Centre do not have the authority to review, including:

- The FRO and FSRC have **no power to review, change or vary a claim or account-related decision**, a decision of the Appeals Commission, or a decision of the Medical Panels Commissioner. For information about review and appeal, see *G-2, The Review and Appeal Process*. For independent advice and assistance in filing a review or appeal, see the Appeals Commission [new advisory service].
- The FRO and FSRC can only address fairness concerns related to a matter under the *Workers' Compensation Act*.
- The FRO and FSRC cannot review the fairness of processes of the:
  - Medical Panels Commissioner
  - Appeals Commission (AC)
  - Office of the Information and Privacy Commissioner of Alberta (OIPC)
  - Alberta or Canadian Human Rights Commission

The FRO and FSRC can review procedural and behavioural fairness concerns with respect to WCB processes related to the organizations listed above, for example providing information to these organizations or WCB's implementation of a decision of an organization noted above.

- The FRO and FSRC do not review the same matter (relating to the same interaction with WCB) more than once and do not review matters previously investigated by the Alberta Ombudsman nor matters where the Court has taken an action or made a decision.

## Process

- For service issues and concerns, before contacting the Fair Service Review Centre, please share your concerns with the supervisor of the person providing the service. If you are unable to resolve your concern with the supervisor, we will have the supervisor escalate your concerns to their manager to ensure we have done all we can to resolve the issue (see *Code of Rights and Conduct*). If you are not sure how to start this process – the FSRC can help you make initial contact and start the process. If you are not satisfied with the response you receive from a supervisor or manager, please contact the FSRC.

# FAIRNESS REVIEW PROCESS

BoD Resolution    Date:

- *To be most effective in helping clients, concerns should be raised while they are happening or very shortly afterward.* Early intervention prevents conflicts from escalating and allows for more productive options of resolutions and outcomes.
- To initiate a fairness review, contact the FSRC within 60 days of the interaction or the decision that led to your fairness concern. An early referral will optimize the FSRC's ability to resolve your concern and restore your trust in the workers' compensation system. If you contact the FSRC outside of the 60-day window, you may request that the FSRC extend the time period. An extension may be granted when there is a justifiable reason for the delay (e.g. you relied on someone else that you trusted to bring your concern forward, it was reasonable for you to rely on that person, and, once you became aware, you took reasonable and timely action to contact the FSRC). FSRC decisions related to extensions can be reviewed by the FRO if they are within one year of the interaction or the decision that led to your fairness concern.
- You may contact the FSRC at any point during the decision-making process. **WCB encourages you to reach out as soon as possible** when you are concerned about the treatment you are receiving. The earlier fairness concerns are addressed, the better for all parties involved. Our relationship with you is important and we want to ensure we work together to resolve the issue in a fair and equitable manner.
- To expedite the resolution process, the FSRC has access to internal WCB resources and access to your claim or account information. This includes access to individuals within WCB who have Alternative Dispute Resolution training that may assist in bringing affected parties together to quickly resolve concerns at the earliest opportunity.  
**Note: Internal WCB staff brought in to help resolve your fairness concern will not be involved in making any decisions related to a review of a claim/account-related decision on the same claim/account file as the service complaint. Fairness decisions and claim/account decisions are entirely separate decision streams.**
- The FSRC will work closely with you to address your concerns and ensure a fair resolution is reached. The FSRC aims to complete a review within 40 days (depending on the complexity of the matter and participation of affected parties).
- Outcomes will vary based on the situation. Once the FSRC has concluded a review and communicated any and all resolutions and outcomes with you, that review is considered complete. Financial remedies are not available.
- WCB, the FSRC, and the FRO will do all they can to work with you to address your concern. If you are still not satisfied following your interaction with the FSRC, please contact the [Alberta Ombudsman](#).