

From Commitment to Action

The Framework for Compliance at the WSIB

June 2012

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1. Executive Summary

This Framework sets out the purpose and authority for WSIB compliance functions, and outlines the principles governing compliance activities and our approach for addressing non-compliance. It is intended to lay the ground work for building more effective stakeholder relationships and service excellence through the ability to demonstrate trust and system integrity.

The Framework is based upon the principle that ensuring and maintaining compliance with the *Workplace Safety and Insurance Act* drives trust in the workplace health and safety system, accountability in workplaces regarding workers' and employer's rights and obligations, and decreased WSIB subsidization of wrong behaviours, and excellent customer service.

The key components of this framework are anchored in a commitment to education and communication, excellent customer service, a culture of compliance, a responsive compliance model based on identified behaviours, an approach to compliance as a set of mutual obligations, and a risk-based process targeting of problems which can be fixed. Our activities, first and foremost, will be grounded in education and communication and will underlie all of our actions and programs.

2. Introduction and Background

Ontario's Workplace Safety and Insurance Board (WSIB) plays a key role in the province's occupational health and safety system. WSIB administers public no-fault workplace insurance for employers and their workers and is committed to the prevention of workplace injuries and illnesses. WSIB provides disability benefits, monitors the quality of healthcare, and assists in early and safe return to work for workers who are injured on the job or contract an occupational disease.

(For more information, please visit our corporate website: www.wsib.on.ca.)

Law

All WSIB compliance activities are conducted under the authority of the *Workplace Safety and Insurance Act, 1997*, S.O. 1997 Chapter 16, Schedule A, as amended (the *WSIA*). Under Part XII-Enforcement, the *WSIA* provides the WSIB with specific authority and powers for conducting examinations and investigations, and enforcing payment obligations. It also delineates offences and penalties for non-compliance with specific provisions of the *WSIA*.

Policy

WSIB Operational Policies outline the specific activities required of workplace parties to ensure compliance with the *WSIA*. These policies also outline the penalties, interest, fines and surcharges which are administratively applied to address non-compliant behaviour. These policies can also be referenced by visiting our website.

Compliance Functions

Under the authority of the *WSIA* and WSIB Operational Policies, the WSIB:

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- Applies interest and charges to employers accounts;
- Applies rebates and surcharges for experience rating purposes;
- Issues Clearance Certificates to and for compliant employers;
- Conducts audits of employers books and records, and business activities;
- Collects overdue amounts owing to the WSIB;
- Pursues civil remedies to recover monies owing to the WSIB;
- Investigates and prosecutes offences under the *WSIA*.

3. Our Approach to Compliance

Our Commitment – The Need for Balance

The integrity of the workers compensation system is founded on the belief that the system is fair to all. A commitment to compliance, where cooperation and engagement are core values, builds confidence in the system and in the ability of workplace parties to effectively manage workplace risks.

Although the WSIB has a number of programs and tools in place to address specific incidents of non-compliance within the system, employers still absorb the financial consequences of non-compliance and workplace parties are stigmatized as “gaming” the system. Avoidance and non-compliance impact the integrity of and confidence in the system and in the WSIB.

Our commitment will focus on achieving a balance between options that range from education and support to administrative action and enforcement. This need for balance drives an approach which is co-operative and persuasive rather than punitive, to achieve sustainable compliance goals.

We are committed to a strategy that encourages compliance with legislation, maintains the integrity of Ontario’s workplace safety and insurance system and relies upon effective stakeholder relationships and service excellence. Our activities, first and foremost, will be grounded in education and communication and will underlie all of our actions and programs.

We recognize that there will continue to be a minority of those who make a decision to conduct themselves in ways that undermine the integrity of the system and place undue burdens on other workplace parties. Where sanctions are determined to be the appropriate response, the actions we take will be based on a commitment to ensuring fair and consistent treatment for all workplace parties.

Our Approach – Service Excellence & Compliance as a Mutual Obligation

The road to effective compliance is built upon actions which are transparent, understood, and reflect a commitment to excellent customer service. That road begins with a compliance strategy which adheres to key principles based on fairness. Timeliness of action, consistent outcomes, and knowledgeable staff are also key components of service excellence.

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Service excellence can be achieved even when some workers, employer or providers will face sanctions for non-compliant behaviour. This is the balancing act - to integrate service excellence with a range of compliance activities.

Our approach will focus on identifying gaps in compliance and developing a range of activities to ensure we pick the right problems and fix them, adhere to principles of fairness in our actions, meet high customer service standards, encourage and support compliance, and integrate and align our actions to a common understandable compliance model.

We have examined what motivates those who do not comply. Non-compliance is rooted in a lack of knowledge or understanding of obligations, ignorance of why the obligations exist, lack of a sense of accountability, and lack of clarity about when the WSIB intervenes and why intervention is required.

There are 3 conditions which must be satisfied for effective compliance. *Those required to comply must know and understand their obligations, be able to comply, and be willing to comply.* The WSIB will provide the education, communication and services to ensure these conditions are met.

Effective and sustainable compliance is instilled through a consistently applied, fair, and balanced approach and is achieved when workers, employers and providers see little value in avoiding their obligations. The support and participation of all parties in the monitoring of compliance activities will lead to a level playing field and, in turn, system integrity.

Our approach to compliance will be:

- Constructive – provide support, advice and guidance to help compliance with *WSIA*,
- Consistent – endeavour to ensure similar circumstances lead to similar outcomes,
- Transparent – demonstrate impartiality, balance and integrity,
- Accountable – willing to explain enforcement decision-making and provide avenues for complaint or appeal,
- Proportionate – compliance and enforcement responses are proportionate to the seriousness of the offense, and
- Targeted – to the highest risk or strategic enforcement (e.g. vulnerable worker, financial security of the system).

Our Model

The WSIB has developed a model that is intended to demonstrate to our stakeholders that there is fairness and integrity in the system. Stakeholders must trust the WSIB and trust the system and their system partners.

Our model recognizes and responds to the complexity of the challenges the system faces in maintaining the integrity, trust and fairness. Our model supports a range of responses to ensure robust and fair decisions that demonstrate the integrity of the system and its partners.

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When you:

Are willing to do the right thing

Try to comply but don't always succeed

Do not want to comply

Decide not to comply

The WSIB will:

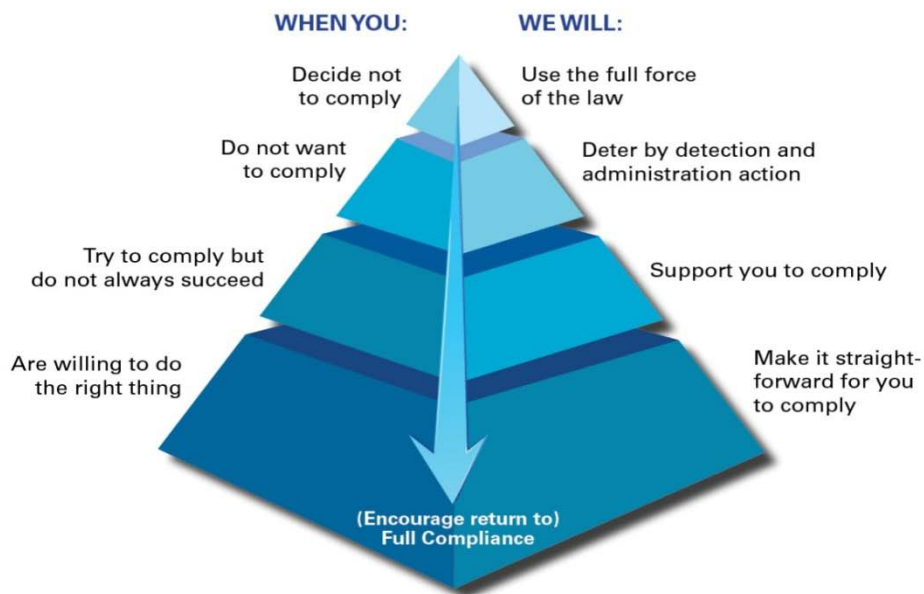
Make it straightforward for you to comply.

Support you to comply.

Deter by detection and administrative action.

Use the full force of the law.

Responsive Compliance Model



4. Our Plan

The WSIB understands that ongoing consultation and communication with key stakeholders is vital to maintaining positive external relations and ensuring an ongoing dialogue with individuals and groups that are most affected by the WSIB's decisions.

The WSIB, through its varied programs, identifies activities it undertakes to minimize the risk of non-compliance. In addition, annually we will identify a specific gap(s) and develop a range of targeted activities to address the gap(s). These annual initiatives will be reviewed with key stakeholders to seek input and ensure that our approach is understood, addresses the gap and has system integrity.

Internally, program leads across compliance functions will be consulted to assist in the creation and implementation of compliance actions to ensure consistent, transparent and fair decisions and aligned, coordinated actions.

The goals of the annual compliance plan will be to encourage compliance with workplace safety and insurance laws and to maintain the integrity of the workplace safety and insurance system.

The objectives of the plan will be based on clear, balanced principles. Workers, employers and providers will have access to information about workplace safety and insurance legislation and how to comply. Priorities will align to reduce the incidence and severity of risk in the system.

We will focus on identifying the underlying drivers of non-compliance, rather than the symptoms. We will tailor our approach to a range of activities, rather than "one size fits all". We will develop risk targeting models that will answer the following questions:

- What are the highest risks to be addressed?
- Which workplace parties do these risks relate to?
- How should these risks be approached to maximize successful outcomes?

We will target our actions where they are most likely to have the greatest impact. Actions will be focused on changing non-compliant behaviour, eliminating any financial incentive for non-compliance, ensuring our responses are proportionate to the nature of the offence and the harm caused, reducing the harm caused by non-compliance, now and in the future, and being responsive to what is appropriate for the sustainability of the workplace health and safety system.

Our actions will be determined through a problem-solving protocol based upon the following elements:

1. Choosing potential risks for targeted attention,
2. Working to understand the whole problem and the complexity of relationships through analysis,
3. Defining the problem more specifically through analysis,
4. Determining how impact will be measured,
5. Developing solutions/interventions including any partners, tools and innovative approaches required,

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6. Implementing the plan, and
7. Reviewing, tracking, monitoring, and closing.

5. Conclusion

This framework is a demonstration of the WSIB's commitment to introduce clarity, transparency, and service excellence in the development of strategies and actions to enhance compliance with the *WSIA*. It describes how the WSIB will perform compliance functions as governed by the *WSIA* and Operational Policies, and how compliance responses can be assessed against a responsive model to ensure appropriate and effective compliance activities occur.