

**YUKON WORKERS COMPENSATION HEALTH & SAFETY BOARD**

**AN EVALUATION OF THE**

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**EMPLOYER CONSULTANT PROGRAM**

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## Executive Summary

The Yukon Workers' Compensation Health and Safety Board (YWCH&SB) funded a two-year trial Employers Consultant Program that ended in August 2004. Delivered through the Yukon Chamber of Commerce (YCC), the program aimed to provide advice and assistance to Yukon employers concerning workers' compensation and health and safety matters. The Board commissioned this independent evaluation to provide reliable feedback about the program's implementation and results as well as the continuing need for such services.

In conjunction with the Steering Committee, the consultants developed an evaluation plan that, among other things, described program logic. Intended results or outcomes for the program were not specified in original program documents and required definition. Formal questions posed for the evaluation are:

- 1) Were employer consultant services implemented effectively?
- 2) To what extent did the program generate positive short-term results?
- 3) Does an ongoing need exist to provide employer consultant services?
- 4) What alternative delivery mechanisms exist for providing these services?
- 5) What lessons were learned through the trial program?

The evaluation methodology included a review of program documents and data; an online survey of employers; interviews of some 30 employers, employer organizations and others; and examination of similar programs in other jurisdictions.

Findings from the research are as follows:

1. The Contribution Agreement with YCC regarding Employer Consultant services was implemented effectively. Services were delivered substantially as planned; however, data collection and reporting requirements under the Contribution Agreement were not fully met. Resources appeared to be effectively allocated and controlled, and fair value was received for money expended.
2. The program generated positive short-term results by improving some employers' relevant knowledge and attitudes. Although significant, these results are relatively narrow in scope because baseline data are limited against which to measure the desired changes. The results can be attributed in large part to the efforts of the program. The research produced data that will serve as a baseline for future evaluation should the program be continued.
3. An ongoing need exists to provide employer consultant-type services in the Territory. The rationale for such a program is sound and has been thoroughly tested and honed in jurisdictions such as British Columbia for 30 years. The Board needs to make an informed decision about whether the program will feature an *adviser* or an *advocate* similar to that of the current Workers' Advocate.

4. When considering delivery options, it is important that the program be established under the Act to provide independence from the Board, stability and legal authority. Two fundamental delivery options are available: through a Yukon Government department (the current Workers' Advocate model), or through an arrangement with a non-government organization such as the YCC. Based on the experience of other jurisdictions as well as feedback from stakeholders, the recommended option is delivery through a Yukon Government department.
5. Lessons learned from the two-year trial program include:
  - > Planning such programs should include defining intended results.
  - > The program is on the right track and shows promise for producing the intended results over the longer term.
  - > It will take several years to see longer-term results.
  - > Many employers are ignorant about workers' compensation; this is the greatest indication of the need for an employers' consultant of some kind.
  - > The role of the employer consultant needs to be clearly defined; there was confusion about this role among those involved in the program.
  - > An employer consultant/adviser/advocate requires training.

If the decision is made to launch an employer consultant-type program, we recommend the following:

1. Establish the program under the Act in the same manner as the Workers' Advocate, with appropriate clauses to define its independence, role, authority and accountability.
2. If the decision is made to establish the position(s) as advisers and not advocates, preclude the advisers from holding positions or engaging in activities that involve advocacy.
3. Prepare a program plan in conjunction with stakeholders that:
  - > Defines expected results from the program
  - > Sets out strategies and priorities for achieving these results
  - > Describes activities consistent with the legislated role and duties
  - > Discusses how the program will be monitored
4. Deliver the program through a Yukon Government department in the same manner as the Worker Advocate office.
5. Ensure that staff appointed under the legislation receives appropriate training.

# Introduction

## Background

The Yukon Workers Compensation Health & Safety Board (YWCH&SB) introduced a program aimed at providing advice and assistance to Yukon employers in their dealings with the Board. The trial program was approved for a two-year period that ended 31 August 2004. Designated services were delivered through a contribution agreement (contract) with the Yukon Chamber of Commerce (YCC), which hired a full-time “Employer Consultant” (EC) to work out of its Whitehorse office.

At the conclusion of the trial period, the Board requested a formal evaluation of the program. Following a public call for proposals, Malloch Graham + Associates was retained late in 2004 to carry out the evaluation.

The workers’ compensation system is established through the Yukon Workers Compensation Act. The Act sets out certain obligations and rights for both workers and employers. A number of employer-oriented organizations in the Territory (such as chambers of commerce, the Tourism Industry Association, and the Yukon Contractors Association) maintained that employers need advice and assistance to effectively comply with their obligations under the Act. Their submissions helped convince the Board to underwrite this trial program. Prior to that time, the YWCH&SB did not offer an outreach-type program of advice or assistance to employers.

More than 2,400 employers have established accounts with the YWCH&SB. Board staff adjudicates approximately 1,000 claims each year for injuries sustained on the job. About 450 of these claims involve the worker losing time from work; periods of time off work range from a few days to – in severe cases – the remainder of a workers’ working life due to a permanent disability. Throughout this process of claim adjudication and getting injured workers back to work, employers can play a significant role. Conversely, it is reasonable to assume that the vast majority of employers who have only a few workers or do not experience a workplace injury may have limited dealings with the YWCH&SB.

## Purpose

The purpose of this evaluation is to provide organized feedback about the implementation of Employer Consultant (EC) services in the Territory. More specifically, the evaluators were charged with addressing the questions set out in the Evaluation Plan, namely:

- 6) Were employer consultant services implemented effectively?
- 7) To what extent did the program generate positive short-term results?
- 8) Does an ongoing need exist to provide employer consultant services?
- 9) What alternative delivery mechanisms exist for providing these services?
- 10) What lessons were learned through the trial program?

This is primarily a *formative* evaluation, that is, it focuses on whether the program was implemented as planned and whether activities can reasonably be expected to produce results. As discussed in the evaluation plan, the short time frames involved in both the trial program (two years) and the evaluation (a few months) make it difficult to measure program outcomes. It may take considerably longer than two years to make meaningful contact with 2,400 employers, let alone influence their attitudes and behaviour along the desired lines. In this situation, the evaluation seeks to determine if the program is on the right track: are we doing the right things, in the right frequency and concentration, in order to produce results over the longer term?

The evaluation project was directed by a Steering Committee comprising three YWCH&SB managers. In addition to retaining the consultants, this Committee:

- > Provided background information to the evaluators;
- > Assisted in preparing and approved the Evaluation Plan (Appendix 1);
- > Arranged technical support for the research, which mainly consisted of providing email addresses for employers;
- > Provided feedback on the clarity and completeness of the final report in terms of meeting the expectations described in the Evaluation Plan.

The findings of the evaluation as set out in this report are those of the consulting team. In keeping with formal evaluation practice, neither the Steering Committee nor the members of the YWCH&S Board of Directors played an active role in interpreting the results of the research.

### **Planning the Evaluation**

The consultants led the Steering Committee in preparing an evaluation plan; the completed document is shown in **Appendix 1**. This plan serves several purposes:

- > It describes the Employer Consultant program's intended purpose, logic and activities;
- > It defines specific questions or issues to be addressed in the evaluation;
- > It describes performance indicators, sources of information and suggested methods for collecting information (the methodology for conducting the evaluation).

Sound evaluation is based on a good understanding of a program's logic, i.e. the extent to which activities can be linked to desired outcomes. It is not sufficient to say, for example, that a program exists to deliver a service or services to employers; one must define the desired *changes* (in attitudes, behaviour, etc.) that the program seeks to achieve among employers. In the case of this Program, those changes or outcomes likely include, in the short term, increases in employers'

- > Understanding of their legislated rights and obligations within the workers' compensation system
- > Participation in YWCH&SB activities
- > Proactivity in returning injured workers to work
- > Perceptions of YWCH&SB as fair and transparent

In the longer term, desirable outcomes would include:

- > Yukon employers consistently act in accordance with their rights and obligations
- > Time missed due to workplace injuries is reduced
- > YWCH&SB system costs and assessment rates are reduced.

These outcomes can ultimately be used as the determinants of the program's *effectiveness*. As discussed previously, however, the short time frames involved here preclude any conclusions at this time about the program's longer-term effectiveness.

## Methodology

The intended methodology for completing this evaluation is described in detail in the Evaluation Plan (Appendix 1). Both quantitative and qualitative indicators are described, as well as methods for assembling the required data. The methods used by the consultants in this evaluation include the following:

### 1. Document Review

We reviewed internal documents such as strategic plans, financial reports, correspondence and files pertaining to the creation of the Employer Consultant Program.

### 2. Quantitative Data Review

We reviewed quantitative data and other information assembled by YCC in fulfillment of the Employer Consultant contract; these data primarily described program or service activities. We reviewed employer-related data from the 2001 YWCH&SB Stakeholder Review conducted by the Yukon Bureau of Statistics, as well as various reports of Yukon employer trends over the past decade, e.g. payrolls, industry composition, claim activity, and so on.

### 3. Employer Survey

We designed and administered a survey of employers to secure their views about relevant services by the YWCH&SB, including those of the Employer Consultant. The survey was administered online through a dedicated website, and was sent via email to 612 employer email addresses. This number included ALL employers who had recorded an email address in their YWCH&SB assessment return. We added a further 100 employer addresses to this list (addresses were secured through telephone calls), selected at random, so that the total survey sample was representative of all Yukon employers in terms of:

- > Industry classification
- > Geographic location; and
- > Size of business or organization (as measured by number of employees).

Of the 612 addresses contacted, 6% were duplicates and nearly 100 emails were returned as undeliverable, leaving about 475 useable addresses. From these, we received 157 completed and valid questionnaires.

On the afternoon of February 18, the Whitehorse Chamber of Commerce sent an email to all its members encouraging them to complete the survey, and identifying the survey website. Since this WCC message would almost certainly produce responses from employers not in our sample, and therefore corrupt the results, the survey was curtailed. Fortunately, we had received sufficient responses at that point to ensure an appropriate confidence level ( $\pm 7.5\%$  19 times out of 20) for the survey.

Subsets of survey data that feature less than 10 responses are considered inconclusive and are not referenced in our analysis.

A copy of the survey instrument is displayed in **Appendix 2**. A summary of data collected from the survey is presented in **Appendix 3** and comments by respondents are in **Appendix 4**.

#### 4. *Key Informant Interviews*

Approximately 30 people were interviewed; interviewees included:

- > YWCH&SB managers, staff and former staff who were involved in creating or managing the Employer Consultant Program
- > Managers and leaders of the YCC, and the Employer Consultant
- > Employer-oriented groups who expressed interest in the program; these included the WCC, Tourism Industry Association, Contractor Safety Association
- > The Yukon Federation of Labour
- > The Workers' Advocate office in the Yukon Department of Justice

Interviews were conducted according to an interview guide that posed mostly open-ended questions to respondents and invited their feedback and opinions about YWCH&SB services to employers in general, and more specifically about the program under review.

#### 5. *Inquiry About Other Jurisdictions*

We examined relevant information about employers' advisers in other provinces and visited the office of the British Columbia Employers' Advisers Office in Richmond.

#### 6. *Client Meetings*

We met with the Steering Committee during the start-up period to review the evaluation's purpose and process. During the course of assembling and reviewing information, we met with the Project Manager and senior YWCH&SB staff on several occasions to discuss or clarify information collection issues. At the conclusion of the evaluation, after the final report had been accepted, we presented our findings to the YWCH&S Board of Directors.

# Findings



## *Were employer consultant services implemented effectively?*

Available data and feedback indicate that the Contribution Agreement with YCC regarding Employer Consultant services was implemented effectively. “Effective” in this instance does not refer to the effectiveness of the services or the program; it refers to the implementation or start-up phase of the program, and whether services were delivered in accordance with the plan. Since the trial period was only two years, the entire term can be considered the start-up phase.

We found that:

- ▶ ***Services were delivered substantially in accordance with the Agreement.***

The contract took effect in September 2002 and an Employer Consultant (a former Employer Representative on the YWCH&S Board of Directors for 2½ years) was quickly appointed by the YCC. By all accounts, the program (or, more specifically, the incumbent) geared up promptly and began delivering services in a week or two. The contract is explicit and detailed in setting out the services to be delivered (see Appendix 1 – Evaluation Plan).

The employer consultant kept records of his interactions and maintained client files. YCC submitted quarterly reports of activities to the YWCH&SB throughout the period of the contract. Table 1 summarises contact data from the final seven quarterly reports, covering December 2002 through August 2004 (21 months); the first quarterly report, covering September to November 2002, did not provide actual numbers of contacts.

While these data give some indication of the services delivered, they do not provide a complete picture. For example, they do not reveal client numbers or types (e.g. industry, size, location), nor do they indicate time allocations or distinguish between individual and group sessions. The Contribution Agreement specifies that both industry class and time allocation are to be reported. A final report of the two-year program was supposed to be delivered within 30 days of Agreement termination but, six months afterward, had not been submitted.

From all indications, services specified in the Agreement were delivered as expected. Data collection and reporting requirements, however, were not fully met, and the absence of more comprehensive data prevents further analyses of service delivery.

Data collection around services can be challenging and time-consuming, particularly in the case of a single service deliverer. It would be useful in the longer term to develop a defined, appropriate set of data that would meet the monitoring needs of the program.

Table 1  
Employer Consultant Activities  
(December 2002 to August 2004)

Activity	Contacts
a) Counsel employers on safety, service, assessment, return to work programs and options, and appeals relating to OH&S or assessments.	168
b) Advise Employers Stakeholder Advisory Committee of systemic issues relating to OH&S or assessment appeals	134
c) Provide advice to employer on the intent, process and procedures of the compensation and OH&S system, including the administration of the acts and regulations, and the policies of the Board	196
d) Answer questions related to the OH&S and workers' compensation system, or refer employers to the Board for response.	159
e) Educate employers on current issues and trends, e.g. return to work, duty to accommodate, preventing workplace injuries/illnesses, young worker safety.	473
f) Work with the board to provide employers with relevant statistics to help employers improve their workplace environment.	197
g) Assist employers in OH&S and assessment appeals or, at their request, represent employers in these appeals.	55
h) Represent employers at advisory committee & policy working groups.	18
i) Facilitate the participation of employers at stakeholder advisory committee meetings, policy working groups, assessment review hearings, and so on.	55
<b>Total</b>	<b>1455</b>

► *Resources appeared to be effectively allocated and controlled.*

The contract allowed YCC to invoice the Board for approved and documented costs up to a maximum of \$450,000 over the two years. Actual expenditures for the first 11 months were approximately \$158,000 and for 23 months \$320,000; the final claim under the contract had not yet been approved when this report was prepared. An audit carried out for the first year's expenditures found that all expenses were made in accordance with the contract.

The contract is quite explicit in describing eligible costs and allowances. It essentially provides for one individual to deliver services with administrative support from YCC. Given these straightforward arrangements, it is not surprising that no questions arose regarding resource allocation or control during the term of the contract.

This finding is, of course, limited by the fact that at the time of writing YCC had not delivered its final report and the final claim had not been approved, pending an audit of second-year expenditures.

► *Fair value was received for money expended.*

With the proviso that a final claim had not been approved at the time of writing, it appears that the YWCH&SB received fair value for its expenditure under this contract. Amounts paid out in Year 1 were in compliance with the contract and we presume that Year 2 costs will likewise comply. While some YCC support cost rates appear to be rather abundant (e.g. management support at \$75.00 per hour), these rates were agreed in advance and acceptable to YWCH&SB.

The two-year trial program cost about \$320,000 (in comparison, the Workers' Advocate office budget for 2004 was \$358,000). This expenditure was well under the two-year budget of \$450,000 yet still produced a new program from scratch, and specified services delivered largely as planned. In other words, YWCH&SB received the services it specified for substantially less money than it budgeted. This situation suggests that the Board received fair value for its expenditure.



*To what extent did the program generate positive short-term results?*

The Evaluation Plan explains why short-term results for this program are difficult to measure. Program documents, including the YCC contract, do not specify outcomes or results; they are restricted to describing services. Desirable outcomes presumably include positive changes in employers' attitudes, knowledge and behaviour; achieving such changes among 2,400 employers based on the efforts of one consultant in a two-year period is a tall order. There is also the question of attribution: to what extent can results be attributed to the program?

Despite these challenges, our research indicates that (1) the program produced *some* positive results in the short term, and (2) the results can be attributed in large part to the program.

We assessed the degree of change/results/outcomes among employers by comparing data collected through our online survey with that of a 2001 survey. Although the two surveys featured different methodologies<sup>1</sup>, six relevant and identical questions were posed in each one. In comparing trends over time, the data are illustrative for our purposes. Full comparative data for the two years are presented in **Appendix 5** and are summarized in Table 2 below.

These data point to significant improvements in the views of employers along the lines of the four questions. Even allowing for some error owing to the different methodologies used in the two surveys, it is apparent that these short-term results are quite positive.

Two additional survey questions generated data that could theoretically be compared, but the results are inconclusive because of large numbers of "don't know" responses; the questions are:

- > Since you've handled WCB/Health & Safety issues for your business would you say that the service you've received has improved?
- > As an employer, would you be interested in accommodating the early return to work of an injured worker if the worker was supported financially and otherwise by the Board?

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<sup>1</sup> The 2001 research by the Yukon Bureau of Statistics was a telephone survey of injured workers, YWCH&SB employees, and some 910 employers; results are reported in "YWCH&SB Stakeholder Review"; November 2001.

Table 2  
Comparing Employer Views 2001 and 2005

<i>Percentage of positive responses to the questions:</i>	<b>2005</b>	<b>2001</b>
Is the Board helping injured workers recover from their workplace injuries?	59.8%	36.5%
Do you think the Boards' policies are fair?	58%	46.2%
How familiar are you with the way employer assessment rates are set by the Board?	49.1%	37.7%
How familiar are you with the services and programs the Board provides to employers?	51.6%	31.1%

To what degree can these results be attributed to the program? Our investigations indicate that, during the period since the program was launched, two initiatives might have contributed to these results, namely the launching of the Construction Safety Association (CSA) and About Better Customer Service (ABCS), a Board staff training program. It is unlikely that the CSA's efforts played a major role in these results because:

- > The Association was launched only in September 2003;
- > Its mandate concerns health and safety issues only, and not workers' compensation;
- > The CSA has dealt actively with about 50 employers, only about 2% of the Territorial total.

It is entirely possible the ABCS helped improve the views of employers who received service from Board staff (17% of survey respondents who dealt with the Board recently felt service had improved), but the above questions do not deal with personal service. The Stakeholder Advisory Committee may also have contributed, although it is not an outreach program and, since the EC was a member, its influence would be impossible to isolate. On balance, it appears that these factors would not likely contribute in a major way to the above results. We therefore conclude that the Employer Consultant Program was the primary reason behind the specified improvements.

The areas noted in Table 2 are not the only results that could be used to measure program success. Other indicators could include improvements in such employer traits as:

- > Awareness and understanding of the workers' compensation and OH&S systems
- > Taking a more active role in claim outcomes
- > More receptive to injury prevention activities
- > More proactive in returning injured workers to work
- > Engaged in Board policy development, strategic planning, and other initiatives
- > Hold positive perceptions of the workers compensation system and the Board.

The 2005 online employer survey provides data in each of these areas (see Appendix 3). It is not possible to conclude whether there have been improvements in these areas over the past few years because no baseline data exists with which to compare. Nevertheless, the 2005 data can serve as a baseline against which to measure future program activity, should it occur.



*Does an ongoing need exist to provide employer consultant services?*

- ▶ ***The Employer Consultant role is consistent with current YWCH&SB priorities.***

The YWCH&SB Strategic Plan 2002-2004 sets out vision, mission, core strategies and actions for the Board – its priorities for that period. This plan remains in effect until a new strategy (currently underway) is complete. Excerpts that relate directly to the role of the Employer Consultant include:

Our Mission:	<ul style="list-style-type: none"><li>&gt; Preventing workplace injury, disease and disability</li><li>&gt; Addressing the needs of workers and employers in changing work environments</li></ul>
	“We ensure staff are knowledgeable...in providing a broad range of quality services to employers, workers...”
Key Success Factors:	<ul style="list-style-type: none"><li>&gt; Client satisfaction (of employers and workers with injuries)</li><li>&gt; Accommodating Workplaces (re injured workers returning to work)</li><li>&gt; Prevention</li></ul>
Core Strategies:	<ul style="list-style-type: none"><li>#2. Making prevention and safe workplaces a priority</li><li>#6. Strengthening relationships with stakeholders</li></ul>

Although an employer consultant/adviser role is not mentioned specifically in the Strategic Plan, the above references support or at least are consistent with the concept. Furthermore, an effective employer consultant/adviser function would contribute to each of these areas of YWCH&SB priorities.

- ▶ ***The program rationale is fundamentally sound.***

Employer consultants or advisers have existed in Ontario and British Columbia for 30 or more years, and in three other jurisdictions for at least a decade (see **Appendix 6** for a brief description of these programs, with a focus on British Columbia). During this time, the rationale for the function has been confirmed by the authorities who establish and monitor workers compensation systems in the provinces. These include legislative assemblies, attorneys-general, ombudsmen and, in the case of British Columbia, a Royal Commission and a Core Services Review.

Using the British Columbia model as an example, the rationale is:

- > The concept of workers’ compensation and the Rules of Natural Justice (a legal reference point for such systems) set up a system in which workers and employers are equal in all material respects. This principle was cited by the BC Ombudsman and led to establishment of the province’s Employers’ Advisers Office in 1974. It has since been confirmed by a BC Royal Commission in the 1990’s and a Core Services Review by the Province in 2002. Both initiatives strongly supported continuing the workers’ and employers’ advisers offices, which has been done.

- > Equality means that each party should receive equal consideration and services within the system. This principle is more than a legal abstract; it is a necessity if the system is to work effectively. In BC, the workers' and employers' advisers are created under the same clause of the Act. Newfoundland takes the added steps of (1) equalizing funding for the two offices; and (2) linking their funding: either both or neither receives money.
- > "Workers' compensation systems are complex environments... Both workers and employers need help to navigate the system... The legislation imposes significant financial, administrative and prevention obligations on employers; failure to meet these obligations can have a substantial impact on an employer... In my opinion, access to adequate, knowledgeable and timely assistance is essential for both workers and employers to effectively participate in a system based on significant statutory entitlements and obligations."<sup>2</sup>
- > "If adequate assistance is not provided within the workers' compensation system, then the level of frustration and anger among dissatisfied workers and employers will increase. This frustration and anger will no doubt turn outwards from the system – to MLA's, the Ombudsman and the media."<sup>3</sup>
- > Provision of such "lay services" is a long-standing tradition in Canadian workers' compensation systems. They help to prevent the "slide into legalism" that is prevalent in the United States.
- > Employer advisers play practical roles that help the system work well. In BC, for example, they facilitate employers' access to information (and save WCB's time and money in the process), and act as deemed employers in cases where an employer has ceased to exist.

This rationale is sound regardless of jurisdiction. Yukon is a small jurisdiction and that fact may influence some aspects of program scope and delivery. Small size, however, is quite compatible with the rationale of employers' adviser services.

#### *Adviser versus Advocate*

There is a clear distinction between an employers' or workers' *adviser* and an *advocate*. The YWCH&SB is familiar with the role of advocate through its funding of the Workers' Advocate Office. The Employer Consultant, on the other hand, was intended primarily to be an adviser rather than an advocate. Section 7 of the Contribution Agreement permits the Consultant to act as agent for or represent an employer or an employer organization, so long as the employer underwrites the cost. Section 13 acknowledges that such "lobbying" will not represent a conflict of interest.

This arrangement does not appear to work well in practice. During his term of appointment, the Employer Consultant served in two additional capacities that seem to fall into the "advocacy" role; namely, he was a member of:

- > The Act Review Panel charged with the mandatory review of the Act
- > The Board's Stakeholder Advisory Committee (although it is not clear whether this Committee is primarily "stakeholder" or "advisory" in nature).

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<sup>2</sup> Core Services Review of the Workers' Compensation Board; Alan Winter; March 11, 2002; pg 299

<sup>3</sup> Ibid. Pg. 300

Such activities tend to blur the advisory role of the Consultant. Indeed, we found considerable confusion existed about the Employer Consultant's role. An advocate can serve as an adviser (the Workers' Advocate is a good example); a pure adviser cannot serve – even on a part-time, supplementary, moonlighting or voluntary basis – as an advocate, without undermining his status as a non-stakeholder in the system. Clarity would be served by using the term “adviser” or “advocate” instead of “consultant.”

None of this discussion is to suggest that the function should not be that of employers' advocate, i.e. a role similar to that of the Workers' Advocate. It does suggest that, if the Board decides to continue the program, it should consider the options and make a deliberate, informed decision as to the role of adviser versus advocate.

► ***The program addresses a defined need.***

Taken as a whole, responses to our inquiries indicate there is a need for an employer consultant service in the Territory.

Feedback on this topic came through individual and group interviews; our online survey; and a handful of unsolicited written submissions. The interviews were valuable in providing an opportunity to discuss this complex issue in some detail, whereas the survey provided some relevant “top of mind” perceptions and opinions.

*Interviews*

Employers and employer groups overwhelmingly pointed to the need for an employer consultant. The most common arguments were:

- > Generally speaking, employers, particularly small employers, lack the expertise and the time to deal effectively with WCB issues.
- > Employers need someone to help them navigate through the system. Many new issues are coming that require effective consultation with employers. It is difficult for WCB to get feedback or input from employers unless someone facilitates that process.
- > WCB faces a huge credibility gap; employers will not believe what WCB says and they cannot get straightforward answers. There's a lot of cynicism and apathy by employers regarding WCB issues. Employers are afraid to deal directly with WCB.
- > Employers need a way to be represented in the system; they need an effective voice in the act review process. They need a watchdog regarding costs of the system.
- > Information that the EC provided about accident and injury rates helps in planning safety programs and understanding the relationship between injury rates and costs.
- > Every employer in the Yukon has a story about a bogus injured worker's claim. All employers are afraid to contest bogus claims.
- > Labour is very well organised; employers are not. Without an employer consultant, the entire WCB system is skewed in favour of labour.
- > Many avenues of redress exist for injured workers who feel they have not been treated properly. Employers have few if any avenues of redress.

- > If WCB was doing its job with regard to employers; if the board was open and transparent; and if employers believed and trusted the WCB, there would be no need for the EC.

Some of these arguments are valid and some are not. The claim that “employers have few avenues of redress” is not entirely true; however, the fact that this perception is widely held shows ignorance of the system and a need to educate employers. Likewise, the view that if the Board was doing its job, there would be no need for an employer consultant, is mistaken. Experience in many jurisdictions indicates that, even if the Board were perfectly fair and transparent in its dealings with employers, there would be a need for an employer consultant or adviser because a degree of suspicion will always exist. When suspicion or mistrust exists – on the part of employers or workers – the system doesn’t work as well as it should.

Many comments relate to the need for an advocate, e.g. for the act review or as a watchdog for the system. These views are strongly held by some. As discussed previously, the need or desire for an advocate must be distinguished from that for an adviser.

A powerful argument for an employer adviser is the needs of small employers – those with less than ten workers. In the Yukon, the vast majority of employers fall in this category. In British Columbia, 90% of the Employers’ Adviser efforts take place with this group. There is no reason to expect that the average small employer has any greater capability than the average worker to deal with the workers’ compensation system.

### *Employers Survey*

Some survey data are difficult to reconcile with interview findings, particularly in the area of support for the EC function: interviewees were unanimous in their support of the program, compared with just over half of survey respondents. The employers’ survey, however, is not a needs assessment. It measures employers’ “top of mind” views but does not analyze specific needs or explore complex issues. With this limitation in mind, survey data (Appendix 3) indicate that:

- > 33% of respondents are aware that the EC existed
- > Of these “aware” respondents, 29% had contact with the EC and they found the services quite useful: 37 responses were for “very” or “somewhat” useful; 4 responses were for “not very” useful
- > 52% of total respondents support the idea of the EC Program; 19% do not support it; and 29% don’t know
- > When the cost factor is mentioned, only 17% support spending about \$200,000 per year on the service; 62% do not; and 21% don’t know
- > Of the one-third of respondents who were aware of the EC service, 26% support renewing the program; 41% do not; 33% don’t know

Considering that the program existed for only two years, awareness and support levels are significant. Furthermore, there is significant support for the idea even among those who were unaware the service existed. There is resistance to the cost of \$200,000 although respondents’ comments revealed a degree of confusion over this issue, e.g. several did not want to contribute to YWCH&SB administrative costs that are already high. Such comments, as well as the high

percentage of “don’t know” responses, underline the fact that these data should not be interpreted too strictly; they are impressions and perceptions that need to be explored further.

The research suggests that employers fall into two categories in terms of their view of the YWCH&SB: those who generally approve of the way the Board manages workers’ compensation in the Territory, and those who do not. In our survey of 157 employers, 35% fell into this “negative” group and 65% into the “positive” category. These groups had many similarities; in fact, their similarities outnumbered their differences in terms of answers to our survey questions. For example, there were no significant reported differences between the two groups as to whether they:

- > had an employee file a claim in the past two years;
- > understand how workers’ compensation works;
- > support health and safety in their workplace;
- > were a member of a chamber of commerce;
- > thought service from the Board had changed recently;
- > were aware that an Employer Consultant existed in the past two years.

They did, on the other hand, report significant differences in several areas; those holding negative views of the YWCH&SB have the following inclinations:

<b><i>Those holding negative views of the YWCH&amp;SB are</i></b>	
<b>MORE likely to:</b>	<b>LESS likely to:</b>
<ul style="list-style-type: none"> <li>&gt; have had a recent audit by the Board</li> <li>&gt; have had recent contact with Board staff</li> <li>&gt; believe that Board policies are mostly unfair</li> <li>&gt; have had contact with the Employer Consultant during the past two years</li> </ul>	<ul style="list-style-type: none"> <li>&gt; be involved in YWCH&amp;SB initiatives such as policy development or strategic planning</li> <li>&gt; believe that the Board helps a great deal to return injured workers to work</li> <li>&gt; support the concept of an Employer Consultant, or related costs of \$200,000 annually</li> </ul>

The fact that 35% of employers hold negative views of the YWCH&SB is in itself a statement of a problem and a need to take some corrective action. Some of the reasons behind these views include the perception that the Board is not open and transparent; that it does not provide full information; and that its policies are unfair to employers. At the same time, nearly half of these employers state they are not familiar with how the Board sets assessment rates, or what services the Board provides to employers. A key function of an employer consultant/adviser could be to remedy this situation.



*What alternative delivery mechanisms exist for providing these services?*

The fundamental option for providing these services is whether they will be internal or independent. A true employers' adviser or advocate must be independent from the Board, and this independence (as well as related matters regarding role, duties, authority and so on) should be set in legislation. The Workers' Advocate office is a good example of this approach. Employers made it clear that an internal service operated within the YWCH&SB would lack the credibility to advise or advocate for employers and so could not meet employers' needs. Similarly, the Board contracting with an individual to deliver the service does not provide sufficient independence or authority and does not protect the service from such things as budget reviews and changing political priorities.

With respect to an independent employers' consultant/adviser/advocate, there are essentially two delivery options: through a Yukon Government department, or through contracting with a non-government organization (NGO). The merits of these two approaches are discussed below.

*Option 1: Yukon Government Delivery*

This approach is parallel to that of the Workers' Advocate office and is the same as that used by the majority of provincial jurisdictions. The arrangement with the Yukon Government is one of administrative convenience: the office is not subject to budgetary approval by the government, and the Ministry recovers all operating costs from the YWCH&SB. The government also provides a degree of oversight in such things as human resource and purchasing policies, financial reporting, and the like. The arrangement has apparently been effective for the Workers' Advocate and acceptable to organized labour. This precedent and the experience of several provinces suggests that it would work equally well for an employer consultant/adviser.

*Option 2: Non-government Organization Delivery*

This model is used in Newfoundland (see Appendix 5) and was used in the recent trial program delivered by the Yukon Chamber of Commerce under a Contribution Agreement with the Board. The NGO could be something other than the YCC<sup>4</sup>, although employer representatives did not specify any alternatives. One difficulty with this approach is that tacking on such a program to a small NGO (and all Yukon NGO's are small) could lead to internal disruption; e.g. a loss of focus on the organization's central purpose or conflicts with its core funding arrangements with government. NGO's may also have capacity constraints; for example, the YCC was unable to produce required data and timely reports.

Stakeholders we interviewed had no particular preference between these options other than to emphasize that the service must be independent from the YWCH&SB to be effective. Responses to this question (#19 – see Appendix 2) in our online survey are inconclusive because the most common response was “I don't have enough information to answer this question.”

The combination of other jurisdictions' experience, stakeholder feedback and the Workers' Advocate precedent all point to Yukon Government delivery as the recommended option.

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<sup>4</sup> YCC spokespersons took a neutral stance regarding delivery options; they did not lobby to retain the program.



### *What lessons were learned through the trial program?*

1. *Planning such programs should include defining intended results.* It is not sufficient to simply describe a service to be provided; the program must set out what it intends to accomplish by providing the services, in both the short and longer terms. The program plan should also give some thought to how these results will be measured.
2. *The program is on the right track.* Notwithstanding measurement limitations, our research demonstrates that significant improvements have occurred since 2001 on a few dimensions relevant to the program's presumed goals. This does not mean that everything the Employer Consultant did contributed to these results (the lack of activity data prevents such analysis); but the sum of activities over two years did produce some positive results.
3. *It will take several years to see longer-term results.* Changes in employers' (or anyone's) attitude, knowledge and behaviour don't happen overnight, particularly within a disparate target group that numbers at least 2,400 and with program resources of one individual.
4. *Many employers are ignorant about workers' compensation.* Misconceptions and misinformation abound; many are documented in our research. Nearly half of employers self-report their lack of knowledge. It is abundantly clear that many of the "knowledgeable" half don't know what they don't know. This lack of knowledge leads to inefficiencies in the system, mistrust, frustration, added system costs, and ultimately, less-than-healthy workplaces and working environments. This lack of knowledge is probably the greatest indication of the need for an employers' consultant of some kind.
5. *The role of the employer consultant needs to be clearly defined.* There was confusion about this role among Yukon employers and even by the incumbent (see examples below). A key choice must be made regarding the role of adviser versus advocate. Whatever the choice, it must be effectively communicated to stakeholders and adhered to by the incumbent.
6. *An employer consultant/adviser/advocate requires training.* We heard of instances in which the Employer Consultant's enthusiasm may have exceeded his knowledge of his role and the workers' compensation system; two examples:
  - > A newsletter item projected that the Board's 2003 claims costs would exceed \$20 million and losses would be \$12 million, when in fact claims costs were \$15.7 million and the operating deficit was \$1,100. The projection was based on faulty assumptions that were not checked with Board staff.
  - > On one occasion, the incumbent contacted the Auditor General to report that the YWCH&SB was in violation of its own financial policies. This call showed dubious judgement and did nothing to build a good working relationship with Board staff and Directors.

In BC, new employer advisers undergo about 18 months of training before managing their own client files. If any such program is created in Yukon, the incumbent(s) should be subject to a similar level of training.

# Recommendations

As described previously, we conclude that a defined need exists for an employer consultant-type service related to the YWCH&SB. The basis of that need is:

- > The complexity of the workers' compensation system
- > The inability of most small employers to comply with and respond to the system
- > The potential penalties and costs attached to employers' non-involvement or non-compliance
- > The ignorance of many Yukon employers about the system

If the decision is made to launch an employer consultant or similar program, we recommend the following:

1. Establish the program under the Act in the same manner as the Workers' Advocate, with appropriate clauses to define:
  - > the program's independence from the YWCH&SB
  - > its role as one of either adviser or advocate
  - > duties of the position(s)
  - > authority to access Board information and files in the same way as staff
  - > secrecy provisions to the same standard as those for Board staff and Directors
  - > authority to recover program costs from the YWCH&SB
  - > accountability requirements, e.g. specified reports and financial statements
  - > a requirement to evaluate the program in a specified time (in BC, for example, all new programs have an automatic "sunset" clause in five years and must be evaluated within that time).
2. If the decision is made to establish the position(s) as advisers and not advocates, preclude the advisers from holding positions or engaging in activities that involve advocacy, such as membership on the Act Review Panel. Membership on advisory committees, policy working groups or internal YWCH&SB committees, however, is consistent with the adviser's role.
3. Prepare a program plan in conjunction with stakeholders that:
  - > Defines expected results from the program
  - > Sets out strategies and priorities for achieving these results
  - > Describes activities consistent with the legislated role and duties
  - > Discusses how the program will be monitored, e.g. what ongoing data will be collected and reported
4. Deliver the program through a Yukon Government department in the same manner as the Worker Advocate office.
5. Ensure that staff appointed under the legislation receives appropriate training.