



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: GENERAL AND CORPORATE POLICY NO.: GC-13

BOARD APPROVAL:

APPROVAL DATE: April 26, 2005

BOARD ORDER NO.:

EFFECTIVE DATE: April 26, 2005

POLICY STATEMENT

SECTION

REFERENCE: s. 93, s.108 and s. 112 *Workers' Compensation Act R.S.Y. (2002)*

POLICY: **RELEASE OF INFORMATION**

Application

This policy applies to requests for the release of information filed with the Board other than requests for information in respect of a worker's claim, which are governed by the provisions of sections 18 and 27 of the *Workers' Compensation Act R.S.Y.* ('the 2002 Act') as well as Board policy CL-44 ('Release of Claims Information to Employers').

Background

On December 11, 2002, the Information and Privacy Commissioner notified the Board that the Board is not a 'public body' within the meaning of the *ATIPP* and therefore is not subject to the jurisdiction of the *ATIPP* or the Information and Privacy Commissioner.

Subsection 93 (1) of the Act prohibits members of the Board and any employee of the Board from divulging or allowing to be divulged any information obtained in the administration of the Act, except in the performance of their duties or under the authority of the Board.

The purpose of this policy is to ensure that the Board responds to requests for the release of information in an appropriate and timely manner and in accordance with its legal responsibilities.

Policy Statement

After receiving a request for the release of information, the decision maker will consider whether the release or protection of the information is provided for by any specific provisions of the Act or the *Occupational Health and Safety Act*. If the release or protection of the information is provided for by any provisions of either Act, the decision maker will respond to the request in accordance with those provisions and any related policies and directives.

If the release or protection of the information is not provided for by any specific provisions of either Act, the decision maker will consider whether the information falls within any of the categories of information considered to be protected from disclosure as listed in Appendix 'A' of this policy.

If the information falls within any of the categories of information listed in Appendix 'A' of this policy, it cannot be released. If the information does not fall within any of the categories of information listed in Appendix 'A', it can be released.

Procedure

All requests for the release of information made under this policy will be referred to the President, who will decide whether the information should be released and respond to the applicant in writing. The decision will include reference to this policy, and the applicant will be informed of their right to request a review of the decision by a Board Inquiry Panel.

A request for review by a Board Inquiry Panel must be submitted to the President within thirty (30) days after the applicant is notified of the President's decision.

Board Inquiry Panel

The Board Inquiry Panel will be composed of three (3) members from the Board of Directors: the chair or alternate chair, one (1) employer representative and one (1) worker representative

The Board Inquiry Panel has jurisdiction as provided under s.112 of the Act.

The inquiry will be conducted in accordance with the Rules of Procedure set out in Appendix "A" of Board Policy GC-05 'Reviews and Appeals'.

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The Board Inquiry Panel may try to settle, or may authorize a mediator to try to settle, a matter under review.

The inquiry must be completed within ninety (90) days after receipt of the request for review, or within up to one hundred and fifty (150) days if additional time is necessary for mediation.

The Board Inquiry Panel will prepare a report of its findings, recommendations and reasons, and will provide the report to the applicant, the President and the Board of Directors.

Annual Report

The Board's Annual Report will include a report on the number and disposition of requests for review brought before a Board Inquiry Panel under this policy.

History

GC-13 Access to Information, effective February 17, 2004, amended April 26, 2005.

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Appendix 'A'

The following categories of information are considered to be protected from disclosure under this policy:

Cabinet or Board Confidence

Information that would reveal the substance of deliberations of Cabinet and any of its committees or the Board and any of its committees, including any advice, recommendations, policy considerations, or draft legislation or regulations submitted or prepared for submission to Cabinet and any of its committees or the Board and any of its committees.

Policy Advice, Recommendations, or Draft Regulations

Information that would reveal advice, recommendations, or draft Acts or regulations developed by or for the Board or the Minister.

Disclosure Harmful to the Financial or Economic Interests of the Board

Information, the disclosure of which could reasonably be expected to harm the financial or economic interests of the Board, including:

- Information which could reasonably be expected to result in the premature disclosure of a proposal or project, or in undue financial loss or gain to a third party. A 'third party' means any person, group of persons, or organization other than the applicant or the board.
- Information about negotiations carried on, by or for the Board.
- Plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations or arbitrations to which the Board is a party.

Legal Advice

Information or a record that is subject to solicitor client privilege or that was prepared by or for the Board in contemplation of and for the purpose of existing or reasonably expected proceedings in court or before an adjudicative body, regardless of whether it has been communicated to or from a lawyer.

Disclosure Harmful to Investigation and Enforcement

Information, the disclosure of which could reasonably be expected to interfere with the enforcement of any provision of the *Workers' Compensation Act* or the *Occupational Health and Safety Act* or an investigation under either Act.

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Disclosure Harmful to Inter-jurisdictional Relations or Negotiations

Information the disclosure of which could reasonably be expected to harm the conduct by the Board of relations between the Board and other boards, organizations or governments, or reveal information received in confidence from another board, organization or government.

Disclosure Harmful to Individual or Public Safety

Information the disclosure of which could reasonably be expected to threaten anyone's health and safety or interfere with public health and safety.

Information can be disclosed to the public or an affected group of people if there are reasonable grounds to believe that the information would reveal the existence of a serious health or safety hazard to the public or a group of people.

Information to be Published or Released Within 90 Days

Information that is published and available for purchase by the public, or that within 90 days after the applicant's request is received is to be published or released by the public.

Disclosure Harmful to Business Interests of a Third Party

Information that would reveal trade secrets of a third party or commercial, financial, labour relations, scientific or technical information of a third party.

Information that is supplied, implicitly or explicitly, in confidence.

Information, the disclosure of which could reasonably be expected to:

- harm significantly the competitive position , or interfere significantly with the negotiating position of the third party;
- result in similar information no longer being supplied to the Board when it is in the Board's interest that the information continue to be supplied; or
- result in undue financial loss or gain to any person or organization.

The information may be released if the third party consents to the disclosure.

Disclosure Harmful to Personal Privacy

Personal information about a third party, if the disclosure would be an unreasonable invasion of

the third party's personal privacy. A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information:

- relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;
- was compiled and is identifiable as part of an investigation into or an assessment of what to do about, a possible violation of law or legal obligation, except to the extent that disclosure is necessary to prosecute the violation or to enforce the legal obligation or to continue the investigation;
- relates to the third party's employment or educational history;
- describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or credit worthiness;
- consists of personal recommendations or evaluations, character references or personnel evaluations; or
- indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations.

A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if:

- the third party has consented to or requested the disclosure;
- there are compelling circumstances affecting anyone's health and safety;
- an enactment of Yukon or Canada authorizes the disclosure;
- the disclosure is for a research or statistical purpose;
- the information is about the third party's position, functions, or salary range as an officer, employee or member of the Board;
- the disclosure reveals financial and other details of a contract to supply goods or services to the Board; or
- the information is about expenses incurred by the third party while travelling at the expense of the Board.

In determining whether to release personal information, all relevant circumstances must be considered, including whether:

- the third party will be exposed unfairly to financial or other harm;

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- the personal information is unlikely to be accurate or reliable;
- the personal information has been supplied in confidence;
- the disclosure may unfairly damage the reputation of any person referred to in the personal information;
- the personal information is relevant to a fair determination of the applicant's rights;
- the disclosure is desirable for the purpose of subjecting the activities of the Board to public scrutiny; or
- the disclosure is likely to promote public health and safety.

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