

# Chapter 2

## WorkSafeNB Phase I - Governance

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# WorkSafeNB

## Phase I - Governance

### Introduction

#### *Why we are auditing WorkSafeNB*

**2.1** In February 2017, the Minister of Post-Secondary Education, Training and Labour (Department) requested the Auditor General of New Brunswick (AGNB) conduct a value for money audit in WorkSafeNB. This request was made under subsection 12(1) of the *Auditor General Act*. A copy of the section 12 request is included in Appendix I.

**2.2** After reviewing WorkSafeNB operations and considering the concurrent work of others, including the Office of the Comptroller as well as a government appointed task force, the Auditor General decided to focus the audit work in two key areas:

1. Governance of WorkSafeNB and
2. WorkSafeNB claims management.

This chapter will report the results of the governance audit. The audit of WorkSafeNB claims management is scheduled to be tabled later in 2018.

**2.3** WorkSafeNB is a provincial Crown corporation governed by a board of directors. According to its 2017-2019 Strategic Plan, it is “*charged with overseeing the implementation and application*” of four provincial Acts governing occupational health and safety and the provincial workers’ compensation system.

The Strategic Plan provides the corporation’s mission as:

*“WorkSafeNB is a partner in building a safe and healthy work environment to the workers and employers of New Brunswick and efficiently provides quality client-centered services and fair administration of the legislation”.*

- Why we chose this topic**
- 2.4** In 2016 WorkSafeNB total assets were \$1.6 billion. Operating expenses of \$429 million against revenue of \$318 million resulted in a \$111 million deficit in 2016. New Brunswick employers fund these operations to support prevention of injuries and ensure their workers are provided adequate compensation and benefits when accidents happen.
- 2.5** The WorkSafeNB board of directors have faced increasing and conflicting pressure from WorkSafeNB stakeholders. Government has questioned the direction taken by the corporation and made decisions that could further complicate an already complex and diverse organization.
- 2.6** WorkSafeNB has a social and financial impact on New Brunswick employers and workers. We chose to examine oversight and governance practices of WorkSafeNB's operations as they affect benefits for workers, costs to employers and the sustainability of the workers' compensation system.
- Audit Objective**
- 2.7** The objective of this audit was to determine if the WorkSafeNB governance framework is structured to enable the organization to meet its mandate, goals and objectives.
- 2.8** The criteria we used in completing our audit can be found in Appendix II.
- Conclusion**
- 2.9** We have concluded that both government and board oversight practices have weakened WorkSafeNB independence and impacted board effectiveness. The board appointment process controlled by government has impeded WorkSafeNB operations, hindered board governance and ultimately increased cost. While the WorkSafeNB board of directors has adopted some governance best practices, others are yet to be fully implemented.
- Results in Brief**
- 2.10** Results in brief are presented in Exhibit 2.1.
- Recommendations**
- 2.11** A summary of our recommendations can be found in Exhibit 2.2.

*Exhibit 2.1 - Results in Brief*

## WorkSafeNB Phase I - Governance

### Why Is This Important?

- WorkSafeNB has a direct social and financial impact on injured workers, the workforce and employers throughout New Brunswick.
- Strong governance is vital given WorkSafeNB's responsibility for over \$1.6 billion in total assets while providing nearly \$400 million in annual benefits to injured workers.

### Overall Conclusions

- Government negatively impacted WorkSafeNB independence and impeded operations
- Lengthy board appointment process hindered board governance and ultimately increased cost
- WorkSafeNB executive compensation not meeting government expectations

## What We Found

### Government Diminished WorkSafeNB's Independence and Impacted Operations

- Government did not follow legislation when appointing board chair in 2015.
- 2015 board chair appointment resulted in a perceived conflict of interest
- Government delays left key positions vacant (Board chair & CEO)

### Board Practices Require Improvement

- Some board practices are improving
- Board too involved in operations rather than strategic direction
- Committees not operating efficiently
- No performance expectations or annual review for CEO
- No succession plans

### Compensation and Benefits not Aligned with Government Expectation

- CEO salary 40% higher than Provincial deputy ministers
- Higher executive vehicle allowance
- Vacation and health benefits more generous

### WorkSafeNB Strategic Plans Need Improvement

- Strategic planning process is disciplined but strategic plans are inconsistent and incomplete
- Gaps exist between strategic plan and Department expectations

Exhibit 2.2 - Summary of Recommendations

Recommendation	Auditee response	Target date for implementation
<b>Audit Objective</b> – to determine whether if WorkSafeNB governance framework is structured to enable the organization to meet its mandate, goals and objectives.		
<p><b>2.61 We recommend the Department of Post-Secondary Education, Training and Labour:</b></p> <ul style="list-style-type: none"> <li>• <b>initiate a process to ensure appointments are completed in a timely manner;</b></li> <li>• <b>comply with provincial legislation and government policy when recommending the appointment of board members under the Act; and</b></li> <li>• <b>clearly document the appointment process and provide clear rationale for appointment recommendations made to government.</b></li> </ul>	<p><i>The Department fully agrees with this recommendation.</i></p> <p><i>The Department currently adheres to government’s Agencies, Boards and Commissions (ABC) process which complies with provincial legislation and government policy to ensure timeliness when initiating Board appointments. As part of future processes, the Department will endeavor to further document and outline the rationale for the appointment process and recommendations.</i></p>	<p><i>Immediate and ongoing</i></p>
<p><b>2.66 We recommend the Department of Post-Secondary Education, Training and Labour ensure future recommendations to government for WorkSafeNB appointments do not create a conflict of interest or result in reduced independence of the corporation.</b></p>	<p><i>The Department fully agrees with this recommendation.</i></p>	<p><i>Immediate and ongoing</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.83 We recommend the Executive Council Office and the Department of Post-Secondary Education, Training and Labour co-ordinate their efforts to provide timely decisions for future WorkSafeNB appointments.</b></p>	<p><i>The Department agrees with this recommendation and will work closely with Executive Council Office to ensure improved coordination under the current ABC process.</i></p>	<p><i>Immediate and ongoing</i></p>
<p><b>2.90 We recommend the Department of Post-Secondary Education, Training and Labour clearly state its requirements and expectations in the mandate letter.</b></p>	<p><i>The requirement to issue annual mandate letters originated with the enactment of the Accountability and Continuous Improvement Act in 2014.</i></p> <p><i>Although the Department has made progress with respect to this responsibility, the Department agrees with this recommendation and will aim to more clearly outline requirements and expectations in its mandate letters.</i></p> <p><i>The Department will include strategic and operational direction along with performance expectations as required under the Accountability and Continuous Improvement Act and in collaboration with WorkSafeNB.</i></p>	<p><i>January 2019</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.98 We recommend the Department of Post-Secondary Education, Training and Labour comply with the requirements of the Accountability and Continuous Improvement Act by:</b></p> <ul style="list-style-type: none"> <li>• <b>issuing mandate letters annually; and</b></li> <li>• <b>enforcing WorkSafeNB submission of annual plan per requirements of the Act.</b></li> </ul>	<p><i>The Department fully agrees with this recommendation. The Department will work with WorkSafeNB to ensure yearly submissions of an annual plan as outlined in the Accountability and Continuous Improvement Act.</i></p>	<p><i>January 2019</i></p>
<p><b>2.103 We recommend the Department of Post-Secondary Education, Training and Labour monitor and publicly report on the progress of WorkSafeNB in meeting the requirements and expectations provided in Department mandate letters.</b></p>	<p><i>The Department fully agrees with this recommendation and will work with WorkSafeNB to develop additional mechanisms to enhance the monitoring of progress related to expectations outlined in the mandate letters.</i></p> <p><i>Consideration will be given to incorporating information in both the Department's and WorkSafeNB's annual reports.</i></p>	<p><i>Immediate and ongoing</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.124 We recommend the WorkSafeNB board of directors review its committee structures and practices to:</b></p> <ul style="list-style-type: none"> <li>• <b>select participating board members to chair committees;</b></li> <li>• <b>ensure per diem payments are made only to committee members for committee meetings;</b></li> <li>• <b>ensure membership is aligned with board needs and competencies are sufficient to address committee requirements;</b></li> <li>• <b>develop and implement competencies for committee membership; and</b></li> <li>• <b>develop and implement a plan to evaluate committee performance on an annual basis.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation. Currently, the number of committees and their Terms of References are under review by the WorkSafeNB Board of Directors. Upon completion of the review, by January 2019, the Board of Directors will:</i></p> <ol style="list-style-type: none"> <li><i>1. Select a board member to chair each committee;</i></li> <li><i>2. Ensure that per diem payments for committee meetings are made only to committee members;</i></li> <li><i>3. Ensure that membership is aligned to meet board needs and competencies are sufficient to address committee requirements. Should any committee not have the required level of competency, an external expert will be engaged to act as an independent advisor to the committee;</i></li> <li><i>4. Develop and implement the preferred competencies matrix for committee membership; and</i></li> <li><i>5. Develop and implement a plan to evaluate committee performance on an annual basis.</i></li> </ol>	<p><i>January 2019</i></p>



Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.132 We recommend the WorkSafeNB board of directors develop, document and implement a succession strategy for the President and Chief Executive Officer position.</b></p>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. By June 2019, WorkSafeNB will develop, document and implement a succession strategy for the President and CEO.</i></p>	<p><i>June 2019</i></p>
<p><b>2.137 We recommend the WorkSafeNB board of directors fully develop, regularly update and utilize a board competency matrix for, at a minimum:</b></p> <ul style="list-style-type: none"> <li>• <b>evaluating board member development requirements;</b></li> <li>• <b>identifying development opportunities for board members; and</b></li> <li>• <b>recruiting new board members to address competency and skillset needs.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation and acknowledges the value of updating and utilizing a board competency matrix in the development and recruitment of board members. By December 2018, WorkSafeNB will use a competency matrix:</i></p> <ol style="list-style-type: none"> <li><i>1. In the evaluation of board member development requirements; and</i></li> <li><i>2. In the identification of development opportunities for board members.</i></li> </ol> <p><i>Additionally, when working with the Department in the recruitment of new board members, WorkSafeNB will rely upon the results of the competency matrix in recommending candidates that will, ideally, address the preferred skill set needs while also taking into consideration the stakeholder composition of the Board of Directors.</i></p>	<p><i>December 2018</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.141 We recommend the WorkSafeNB board of directors develop performance expectations for board positions and undertake annual performance evaluations for at least the board chair.</b></p>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. WorkSafeNB will consult with board performance subject matter experts to establish performance expectations for board positions, and will undertake annual performance evaluations in line with best practice for all board members, including the Chairperson. Recommendations will be implemented following this consultation and will be effective June 2019.</i></p>	<p><i>June 2019</i></p>
<p><b>2.147 We recommend WorkSafeNB provide board information packages well in advance of board meetings and focus information presented to meet the board’s decision-making requirements using documentation such as executive summaries.</b></p>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. Board information package criterion are currently being reviewed and revised to ensure that all recommendations and relevant information, as required to make a fully informed decision, are concise and timely. Though most of the anticipated changes will be in place throughout 2018, continuous improvement efforts in this regard will be enduring.</i></p>	<p><i>December 2018</i></p>
<p><b>2.150 We recommend the WorkSafeNB board of directors develop, document and implement an orientation program for new board members and a development plan for all board members.</b></p>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. The strength of a governing body in the oversight of an organization is partially dependent on an effective orientation program and development plan for board members.</i></p> <p><i>In advance of the July 2019 board member term expirations, WorkSafeNB will enhance its existing orientation program and development plan for board members to meet or exceed corporate governance best practice.</i></p>	<p><i>July 2019</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.160 We recommend WorkSafeNB, as part of its annual planning and reporting processes:</b></p> <ul style="list-style-type: none"> <li>• <b>fully develop long-term strategic goals and objectives and define measurable targets for all key performance indicators;</b></li> <li>• <b>include the strategic requirements of the government mandate letter as part of its strategic planning process;</b></li> <li>• <b>develop an operational action plan designed to implement the long-term strategic direction of the corporation; and</b></li> <li>• <b>submit an annual plan to the Department focused on goals and objectives it intends to complete over the period of the plan, as required under the <i>Accountability and Continuous Improvement Act</i>.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendations. By January 2019, WorkSafeNB will enhance our strategic planning discipline to:</i></p> <ol style="list-style-type: none"> <li><i>1. Fully develop long-term strategic goals and objectives for WorkSafeNB – including strategic requirements established in the government mandate letter;</i></li> <li><i>2. Define measurable targets for all key performance indicators; and</i></li> <li><i>3. Develop operational plans designed to implement the long-term strategic direction of WorkSafeNB.</i></li> </ol> <p><i>WorkSafeNB’s strategic plans, operational plans and annual plans will demonstrate alignment with the direction provided by the Department under the Accountability and Continuous Improvement Act.</i></p>	<p><i>January 2019</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.167 We recommend the WorkSafeNB board of directors:</b></p> <ul style="list-style-type: none"> <li>• <b>establish a CEO performance agreement that ties CEO performance to the corporation’s strategy and results; and</b></li> <li>• <b>conduct an annual CEO performance evaluation against the documented expectations.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. The current annual evaluation process for the President and CEO will be enhanced as follows:</i></p> <ol style="list-style-type: none"> <li><i>1. Effective December 2018, the Board of Directors will establish an enhanced President and CEO performance agreement for the subsequent year that is tied to the WorkSafeNB strategy and desired results; and</i></li> <li><i>2. By February of each year, the Board of Directors will continue to conduct an annual performance evaluation against the documented expectations, enhanced as outlined in the Auditor General’s recommendations.</i></li> </ol>	<p><i>February 2019</i></p>
<p><b>2.186 We recommend WorkSafeNB:</b></p> <ul style="list-style-type: none"> <li>• <b>include comparable New Brunswick public sector entities when undertaking compensation market comparisons in order to meet mandate letter requirements; and</b></li> <li>• <b>maintain clearly documented rationale for decisions not in alignment with the Department’s mandate letters.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General’s recommendation. A planned five-year review of the compensation market comparison, as conducted by a third party, will take place throughout 2019 for implementation in 2020. In advance of this analysis, WorkSafeNB will consult with the Department on the mandate letter requirements related to market comparisons to ensure alignment.</i></p> <p><i>Should any recommendation stemming from the compensation analysis vary from parameters established within the Department’s mandate letter, a fulsome discussion will occur with the Department and be documented accordingly.</i></p>	<p><i>December 2020</i></p>

Exhibit 2.2 - Summary of Recommendations (continued)

Recommendation	Auditee response	Target date for implementation
<p><b>2.207 We recommend the WorkSafeNB board of directors ensure current travel expense policy is enforced and revise it to:</b></p> <ul style="list-style-type: none"> <li>• <b>clearly define acceptable board and employee travel expense practices; and</b></li> <li>• <b>align with public service Part I policy where applicable to board and employee travel.</b></li> </ul>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation and will ensure the current travel expense policy is enforced and revised to clearly define acceptable travel expense practice.</i></p> <p><i>Given that the adoption of the Government of New Brunswick's Part 1 Travel Expense Policy may apply to the Board of Directors, staff and injured workers, any change management process would be extensive. WorkSafeNB will consult stakeholders about the potential impact of such proposed changes. Consultation is anticipated to be complete by March 2019.</i></p>	<p><i>March 2019</i></p>
<p><b>2.210 We recommend WorkSafeNB provide full public disclosure of board and executive compensation and expense information.</b></p>	<p><i>WorkSafeNB agrees with the Auditor General's recommendation. Full disclosure of the executive compensation has been implemented, effective March 2018, and full disclosure of the Board of Directors compensation has been implemented, effective April 2018. In the future, WorkSafeNB executive and Board of Directors compensation will be disclosed on an annual basis.</i></p>	<p><i>Complete as of April 2018</i></p>

## Background

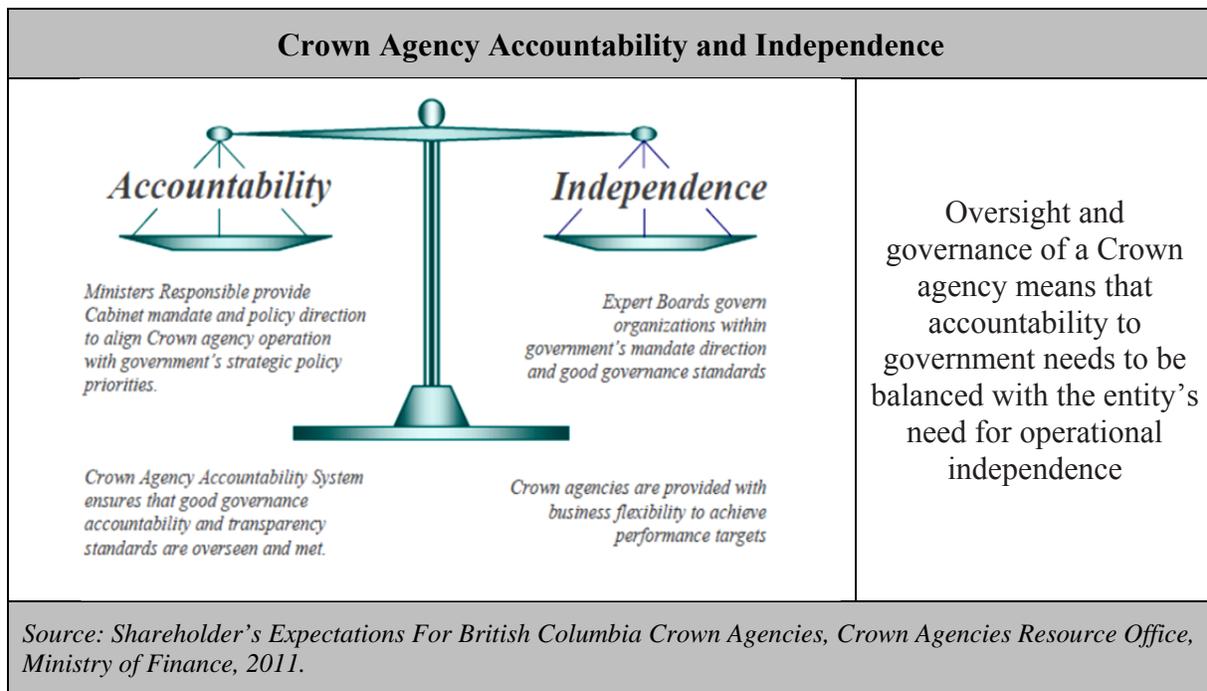
### WorkSafeNB

2.12 WorkSafeNB<sup>1</sup> is a Part IV Crown corporation included in the *Public Service Labour Relations Act*. Governing authority for the WorkSafeNB board of directors (the board) is established under the *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act* (Act).

### Governance of Crown Agencies

2.13 “Governance refers to the structures and processes for overseeing the direction and management of a corporation so that it carries out its mandate and objectives effectively.”<sup>2</sup> Exhibit 2.3 depicts the required balance in Crown agency accountability and independence.

Exhibit 2.3 - Crown Agency Accountability and Independence



<sup>1</sup> “WorkSafeNB” is a registered trademark of the Workplace Health, Safety and Compensation Commission.

<sup>2</sup> Office of the Auditor General of New Brunswick. *Atlantic Provinces Joint Audit of Atlantic Lottery Corporation*. Volume II. October 2016.

**2.14** Crown corporations, such as WorkSafeNB, must be accountable and transparent to ensure its policies and actions meet government expectations. This must be balanced against the corporation's requirement to be independent in discharging its mandated responsibilities.<sup>3</sup>

**2.15** The organization chart presented in Exhibit 2.4 provides an overview of WorkSafeNB structure. WorkSafeNB employs over 450 personnel and provides regional services from four main locations:

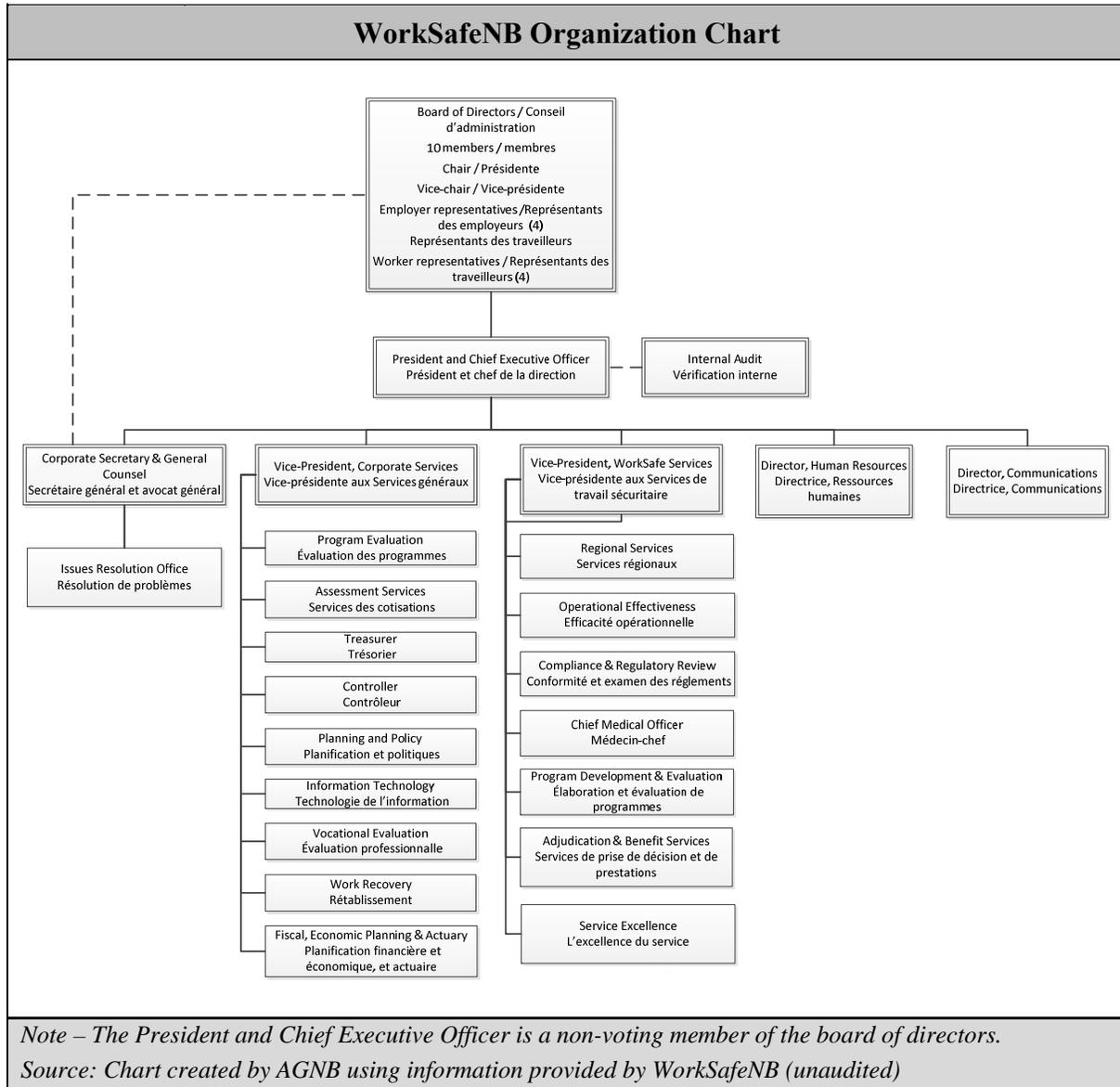
- Saint John
- Dieppe
- Bathurst
- Grand Falls

Appendix III provides a map of regional service locations.

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<sup>3</sup> Office of the Auditor General of New Brunswick. *Atlantic Provinces Joint Audit of Atlantic Lottery Corporation*. Volume II. October 2016.

Exhibit 2.4 - WorkSafeNB Organization Chart



**WorkSafeNB Board  
Represents Key System  
Stakeholders**

**2.16** The Act establishes board composition and is meant to provide equal representation to WorkSafeNB’s primary stakeholders; workers and employers. As noted in Exhibit 2.4, the board is comprised of 10 members not including the President and Chief Executive Officer:

- four members representing workers;
- four members representing employers;
- a chair; and
- vice-chair.

Both the chair and vice-chair are required by legislation to be independent, meaning the individuals do not represent employers or workers.

The President and Chief Executive Officer is a non-voting member of the board of directors.

**2.17** The Minister of the Department of Post-Secondary Education, Training and Labour (Department) is assigned responsibility for the administration of the Act “*except in respect of those powers and responsibilities that this Act confers or imposes on the Commission*”, such as:

- advancing “*the principle that every worker is entitled to a safe and healthy work environment*”;
- proposing “*legislation and practices to promote workers’ health, safety and compensation*”; and
- “*plan for the future of the workers’ compensation system*”.

**WorkSafeNB Required  
to Submit Reports to the  
Minister of Post-  
Secondary Education,  
Training and Labour**

**2.18** Government proclaimed the *Accountability and Continuous Improvement Act* on August 15, 2014. It applies to all Crown entities and prescribes mandate and reporting requirements between the entity and the responsible minister. As such, it required the minister of the Department to provide a mandate letter to the WorkSafeNB board chair and required WorkSafeNB to provide regular performance reports to the Department.

**WorkSafeNB is Responsible for the Workers' Compensation System in New Brunswick**

**2.19** WorkSafeNB is responsible for administering the workers' compensation system in New Brunswick. Workers compensation in Canada began in 1910 when Justice William Meredith advocated for a no-fault insurance scheme in which "*workers' relinquish their right to sue in exchange for compensation benefits*".<sup>4</sup> For more information on the Meredith Report see Appendix IV.

**2.20** WorkSafeNB provides compensation in various forms to a worker and dependents, as the case may be, when "*personal injury or death is caused to a worker by accident arising out of and in the course of his employment*".<sup>5</sup> The benefits available to injured workers' and/or dependents in the Province are established in the *Worker's Compensation Act* and delivered through WorkSafeNB policies as approved by the WorkSafeNB board of directors.

**Occupational Health and Safety**

**2.21** WorkSafeNB is also responsible for occupational health and safety programs and regulatory enforcement as required under the *Occupational Health and Safety Act*.

**Accident Fund**

**2.22** The board maintains an accident fund defined in the Act as a "*fund providing for the payment of compensation, outlays and expenses under Part I of the Workers' Compensation Act and administrative costs under this Act and the Occupational Health and Safety Act*". The accident fund is meant to cover the liabilities and administrative costs of the organization in order for WorkSafeNB to meet its mandate.

**2.23** WorkSafeNB uses a funding ratio to track sustainability of the system. According to WorkSafeNB annual reports, this ratio of assets to liabilities is targeted at 110%.

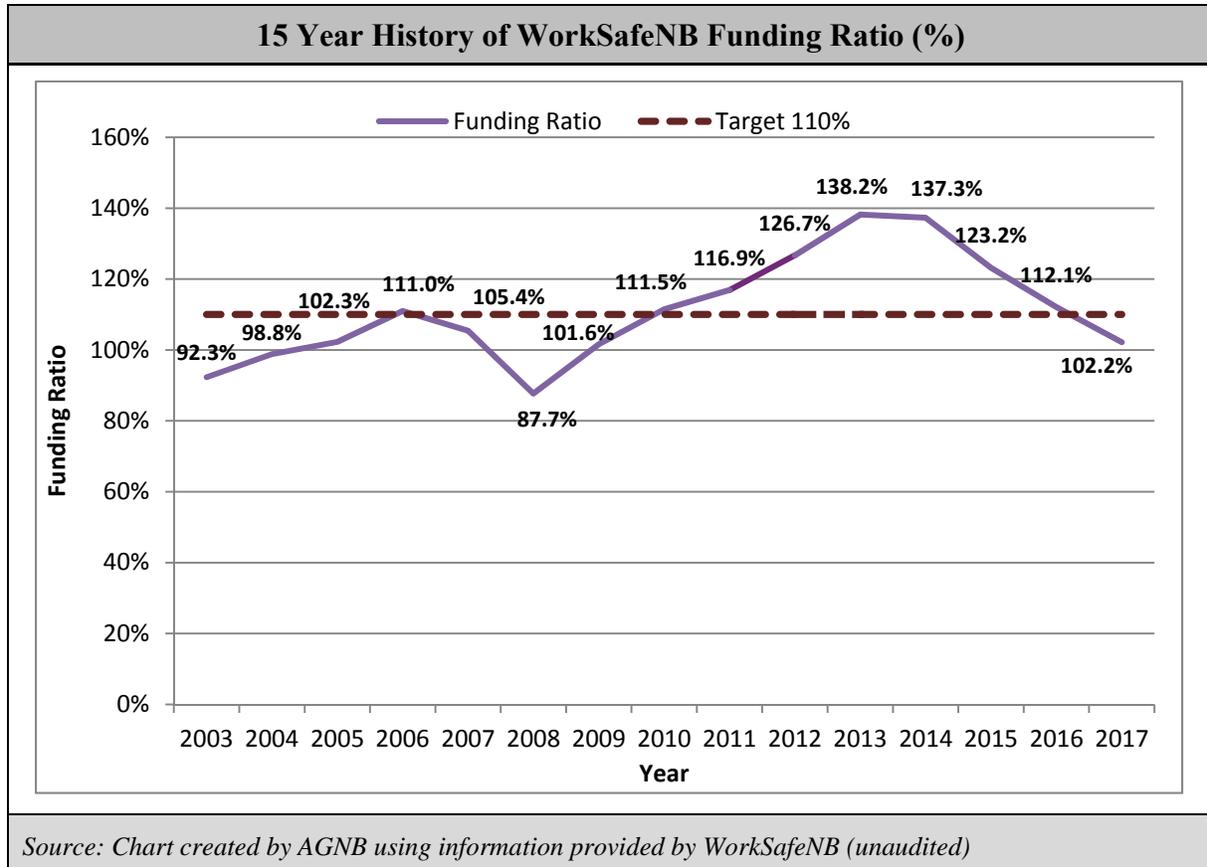
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<sup>4</sup> Association of Workers' Compensation Boards of Canada (*website*). "*About Workers' Compensation*".

<sup>5</sup> Province of New Brunswick. *Workers' Compensation Act*, Chapter W-13., S7(1).

**2.24** Exhibit 2.5 presents a 15 year history of the actual funding ratio against the 110% target.

Exhibit 2.5 - 15 Year History of WorkSafeNB Funding Ratio (%)



**2.25** WorkSafeNB personnel indicated legislation requires the ratio presented in Exhibit 2.5 to be 100%. If the ratio drops below 100%, as it did in 2008, for instance, WorkSafeNB has five years to correct the situation.

**WorkSafeNB is Funded by Employers**

**2.26** With specific exceptions permitted under the *Workers' Compensation Act*, all employers with 3 or more employees in New Brunswick are legislated to participate in workers' compensation and contribute to the accident fund. It is New Brunswick employers who fund WorkSafeNB.

**2.27** Employers are divided into two broad categories:

1. Assessed employers are charged a premium estimated to cover current and future costs for accidents occurring in a given year as well as WorkSafeNB operating costs. These premiums contribute to the accident fund.

2. Self-insured employers pay the actual cost of compensation benefits provided by WorkSafeNB to their workers as well as a proportionate share of WorkSafeNB operation and administration costs. The Province of New Brunswick is the main self-insured employer.

***Employer Assessment Rates***

**2.28** WorkSafeNB calculates employer assessment rates once per year based on estimates of current and future compensation benefit costs. According to WorkSafeNB policy, “*WorkSafeNB will ensure that premiums, raised by assessment rates, will be sufficient to cover the estimated total revenue requirement for the assessment year.*”

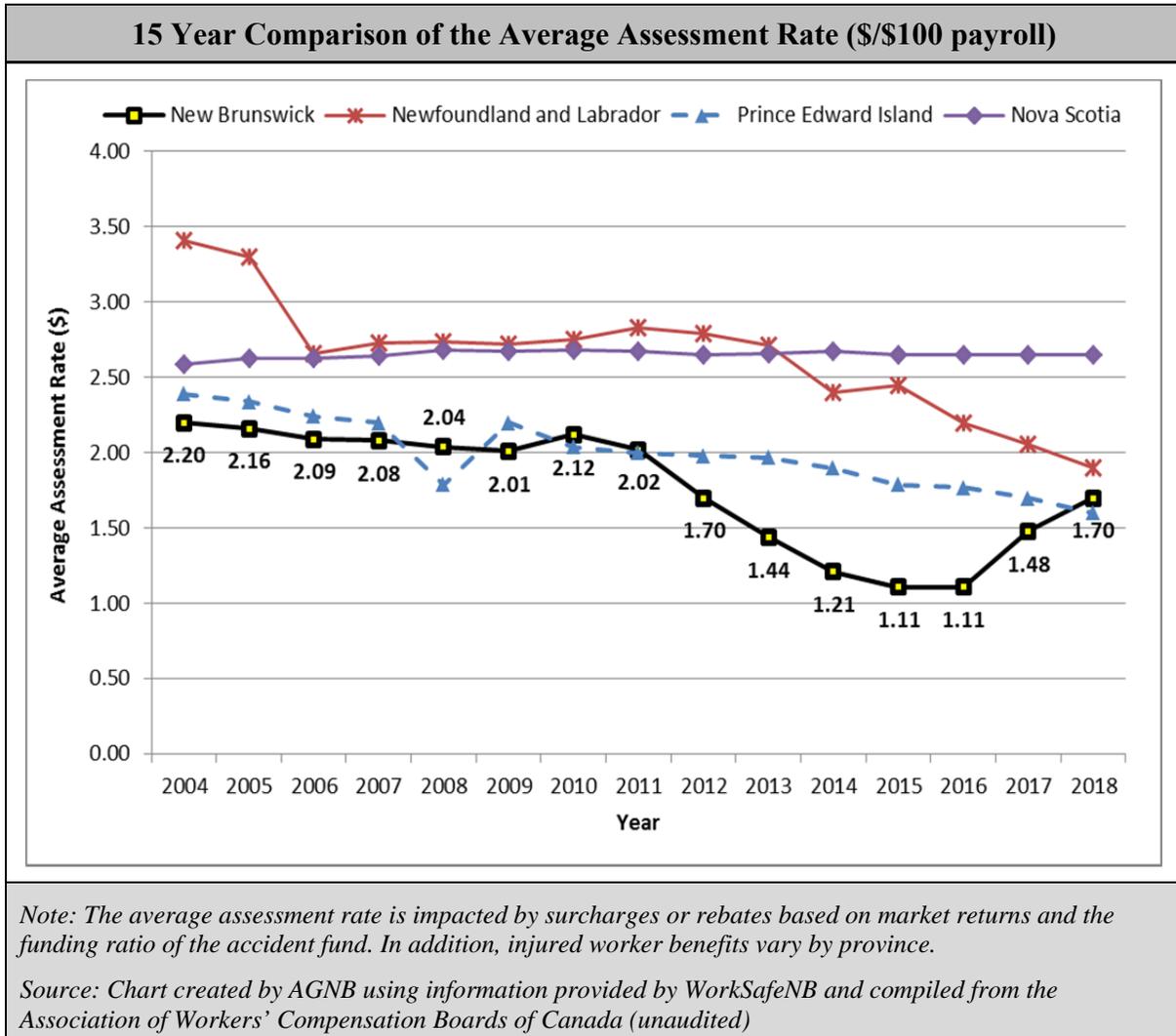
***Provisional Average Assessment Rate***

**2.29** While employers across different industries and classifications have different assessment rates applied by WorkSafeNB, the provisional average assessment rate is often cited in statistics and used to show trends in the rates New Brunswick employers pay.

**2.30** WorkSafeNB policy defines the provisional average assessment rate as “*the overall required revenue for the assessment year per \$100 of assessable payroll*”. In other words, it is the total revenue WorkSafeNB will need to collect from employers to cover WorkSafeNB costs for every \$100 employers pay to employees. For 2017, this rate was calculated at \$1.48 per \$100 of payroll.

2.31 Exhibit 2.6 presents a 15-year comparative history of the provisional average assessment rate for Workers' Compensation Boards in the Atlantic Provinces.

Exhibit 2.6 - 15 Year Comparison of the Average Assessment Rate (\$/\$100 payroll)



**WorkSafeNB Average Assessment Rate lower than other Atlantic Provinces**

2.32 Exhibit 2.6 highlights changes to the provisional average assessment rate since 2004. The WorkSafeNB rate has typically been lower than the other regional organizations. While the WorkSafeNB rate began increasing in 2017, it has not reached the peak that occurred in 2004 and remains lower than two of its three regional counterparts.

***Injured Workers are Key Stakeholders***

**2.33** Injured workers and their families are key stakeholders of WorkSafeNB. Workers injured in workplace accidents and their families are vulnerable and can suffer significant hardship if adequate compensation benefits are not provided. These benefits take many forms from income replacement to health care services and annuities.

***Claims Quantity, Cost and Duration are Key Determinants in Overall Compensation System Cost***

**2.34** Increases and decreases in the overall cost of providing compensation benefits to injured workers drives assessment rate changes. Key determinants such as the number of injured worker claims, the cost per claim, and the duration of claims will impact this rate.

**2.35** Balancing the needs of injured workers against the cost of providing the benefits and services required is a primary concern for the WorkSafeNB board of directors as the main governing body overseeing the province's workers' compensation system.

***Period of Change for WorkSafeNB***

**2.36** During the period of our audit, 2015 through 2017, WorkSafeNB faced considerable change. Amendments to the Act resulted in the creation of an independent Workers Compensations Appeals Tribunal. The powers provided to the new appeals tribunal represented a significant challenge to the policy setting practices of the WorkSafeNB board of directors.

***Audit Scope***

**2.37** The scope of this chapter focuses on governance and oversight practices by the WorkSafeNB board of directors and the Department of Post-Secondary Education, Training and Labour.

**2.38** Our audit approach included documentation review, analysis, surveys and interviews. Observations, findings and conclusions were formed based on:

- examination of legislation, policy and reports relevant to our work;
- review of documentation provided by various sources including WorkSafeNB and the Department;
- responses to our survey of board members;
- interviews with current and former board members, senior executives and personnel at WorkSafeNB and the Department; and,
- analysis and sample testing as applicable to our work.

**2.39** Our audit did not include specific work related to the *Firefighters' Compensation Act*, the *Silicosis Compensation Act* or the *Blind Workers' Compensation Act*.

**2.40** Our audit was performed in accordance with Canadian Standard for Assurance Engagements (CSAE) 3001 established by the Chartered Professional Accountants of Canada, and accordingly, we carried out such tests and other procedures as we considered necessary in the circumstances. Other information about the audit can be found in Appendix V.

## Key Observations and Findings

**2.41** Exhibit 2.7 presents the key observations and findings from our work.

Exhibit 2.7 - Key Observations and Findings

Paragraph	Key Observations and Findings
2.42	<b><u>Government Oversight of WorkSafeNB – Non-compliant Appointment and Delays Impact WorkSafeNB Operations.</u></b>
2.46	Board operations impeded by government delay in appointment of board chair and vice-chair.
2.52	Board chair appointment was not compliant with legislation.
2.54	Full time board chair employed by Department but paid by WorkSafeNB.
2.58	Government did not follow policy in appointing board chair.
2.62	Board chair appointment resulted in a perceived conflict of interest and impacted WorkSafeNB's independence from government.
2.70	Government declined WorkSafeNB board's recommendation to reappoint its CEO to a second term.
2.72	CEO appointment delay cost WorkSafeNB approximately \$150,000, including paid leave of former CEO.
2.73	WorkSafeNB spent over \$96,000 in the first recruitment attempt for CEO position.
2.76	WorkSafeNB spent over \$33,000 in additional expenses for a second CEO recruitment effort and has waited over 3 months for government approval of recommendation.
2.78	WorkSafeNB without a permanent CEO for nearly 17 months, impacting WorkSafeNB operations.
2.79	Inappropriate board involvement in operations.

2.87	Department issued mandate letters to WorkSafeNB that included ambiguous requirements and could increase cost to employers.
2.91	Department not compliant with <i>Accountability and Continuous Improvement Act</i> .
2.95	Minister approved annual plan from WorkSafeNB that did not comply with <i>Accountability and Continuous Improvement Act</i> .
2.100	Department is not monitoring WorkSafeNB performance in meeting mandate letter requirements and expectations.
2.104	<b><u>Board governance practices require improvement.</u></b>
2.110	The board has developed governance policy and is currently implementing additional best practices.
2.111	Board governance practices require improvement.
2.115	Weaknesses exist in WorkSafeNB board committee practices.
2.116	No competencies have been developed for committee membership.
2.118	Committees are not operating in an efficient manner.
2.122	Board does not evaluate the performance of WorkSafeNB committees.
2.125	WorkSafeNB board has not developed a board or CEO succession plan.
2.127	Board appointments not always staggered to ensure board continuity.
2.134	Implementation of board competency matrix is incomplete.
2.138	The WorkSafeNB board has weak self-evaluation practices.
2.142	Board records to support decision rationale require improvement.
2.145	Quantity and timeliness of board information packages require improvement.
2.148	The board has no documented orientation or development plans.
2.151	<b><u>Strategic Planning and Risk Management - processes are good but strategic plans could be improved.</u></b>
2.153	Strategic plans are inconsistent and incomplete.
2.155	Gaps exist between WorkSafeNB strategic plans and Department's mandate letter expectations.
2.157	Board monitoring of WorkSafeNB performance targets requires improvement.
2.161	CEO performance evaluation is inadequate, with no documented performance expectations linked to WorkSafeNB strategies.
2.168	<b><u>WorkSafeNB Compensation and Expenses do not align with the provincial public service.</u></b>
2.172	No significant issues with board per diem payments in 2015 and 2016.

2.173	Board chair costs have risen significantly since 2014.
2.176	WorkSafeNB did not include New Brunswick public service organizations in a 2014 compensation benchmarking exercise.
2.181	WorkSafeNB management benefited from new compensation model.
2.185	WorkSafeNB compensation model does not meet Department's mandate letter expectations.
2.187	WorkSafeNB executive compensation exceeds Part I of the New Brunswick public service.
2.193	WorkSafeNB benefits are more generous than Part I of the New Brunswick public service.
2.201	WorkSafeNB senior executive meal claims not always compliant with policy.
2.208	Disclosure of WorkSafeNB salaries and expenses.

**Government Oversight of WorkSafeNB**

**2.42** The *Workplace Health, Safety and Compensation Commission and Workers' Compensation Appeals Tribunal Act* (the Act) legislates direct oversight of WorkSafeNB operations to the board of directors (board) and administrative oversight of the Act to the Minister of the Department of Post-Secondary Education, Training and Labour (Department).

**Government Appoints Board Members**

**2.43** While significant amendments have been made to the Act since January 2014, including its name, terms of board members and the creation of an external appeals tribunal, Section 8(1) remains the same, stating:

*“The affairs of the Commission shall be administered by a board of directors consisting of the following persons who shall be appointed by the Lieutenant-Governor in Council”*

**2.44** This means all members of the board are appointed by government. We reviewed key government appointments between 2015 and 2017 to WorkSafeNB, expecting to find the appointments complied with the Act and applicable policies and considered recommendations from the board.

**Government  
Appointment of Board  
Chair Hinders  
WorkSafeNB  
Governance,  
Independence and  
Operations**

- 2.45** Instead, we found a number of significant issues regarding government’s handling of the board chair appointment process in 2015, including:
- the length of time to appoint the chair impeded board governance;
  - the appointment of a full-time chair was not compliant with the Act;
  - the appointment did not follow government policy; and
  - the appointment impacted WorkSafeNB independence from government and represented a perceived conflict of interest.

In addition, we believe the appointment process used by government does not respect the fourth Meredith principle found in Appendix IV regarding independent administration, meaning “*that the organizations who administer workers’ compensation insurance are separate from government.*”

**Board Operations  
Impeded by Government  
Delay in Appointment of  
Board Chair and Vice-  
Chair**

- 2.46** Our analysis of board appointments, review of board minutes, and interviews with WorkSafeNB board members and senior managers found that government delays in appointing a chair or vice chair for almost four months beginning in late 2014 resulted in the board being unable to operate effectively.

- 2.47** Under the *Workplace Health, Safety and Compensation Commission Act* section 9(10) in effect until April 2015, the board required the presence of either the chair or vice-chair to establish a quorum for decision-making purposes.

- 2.48** The board vice-chair position was vacated in late September 2014 and the chair position became vacant in November of 2014. WorkSafeNB senior management indicated the Department, who makes the formal request to government through Memoranda to the Executive Council (MEC), knew the term expiry date well in advance.

**Government  
Appointment took Four  
Months, Impeding Board  
Operations**

- 2.49** The Department MECs for both the board chair and vice-chair appointments in 2015 were dated March 17<sup>th</sup> and 18<sup>th</sup> respectively, nearly four months after the prior chair’s term expired.

**2.50** This delay in making critical position appointments temporarily hampered the board’s decision making ability over a period of nearly four months. We believe it is important for government to make timely decisions that do not impede board operations and performance.

**2.51** We expected the board chair appointment to be permanent, comply with existing legislation and follow government’s own appointment policy.

***Board Chair  
Appointment not  
Compliant with the Act***

**2.52** Our analysis of government documentation found the 2015 chair appointment did not comply with the Act. While Section 8(2) of the Act states “...members of the board of directors shall serve as part-time members...” we found the 2015 appointment of a senior Department civil servant was actually full time.

***Appointment of a Full-  
Time Board Chair***

**2.53** Documentation we reviewed indicated this appointment would be full-time. We reviewed the documentation provided to identify why a full-time board chair was needed. It indicated the appointment was meant to:

- represent the public interest;
- ensure workers’ compensation founding principles are met;
- re-establish the balance between injured worker rights and employer’s financial interest; and
- ensure accountability is maintained.

In our view, none of these requirements clearly justified the need for a full time chair.

***Full-time Chair  
Compensation Borne by  
WorkSafeNB***

**2.54** Our work found the board chair spends four days a week at WorkSafeNB and is paid a full-time salary and associated benefits. For the first year of the appointment term this was paid by the Department, but as a result of a letter sent to WorkSafeNB by the Deputy Minister dated March 22, 2016, WorkSafeNB began reimbursing the Department for all costs associated with this position.

**2.55** We asked WorkSafeNB management, the board chair and senior officials currently with the Department why a full time civil servant was appointed and WorkSafeNB was paying a full-time salary. We did not receive a complete, consistent response.

**2.56** However, the March 2016 letter from the Deputy Minister stated:

*“As a result of the requirement for the Department to eliminate one of the Assistant Deputy Minister positions of the Department, I am writing to seek the consideration of the WorkSafe Board to assist the Department to maintain the current assignment of...”*

***Costs of Board Chair Transferred to WorkSafeNB***

**2.57** The result of this letter was to transfer all costs associated with the eliminated position to New Brunswick employers. While costs have been transferred, we noted the chair remains a paid employee of the Province.

***Government did not Follow Policy in Appointing Chair***

**2.58** The 2015 board chair vacancy was posted under the Agencies, Boards and Commissions (ABC) policy of government. However, government decided not to select from the applicant list and appointed the board chair directly. Documentation we reviewed did not provide specific rationale for this decision.

**2.59** We believe government appointments should be timely, open and transparent. We further believe boards should be part of the process, in order to ensure competencies required by a board are included in the recruitment process. This is important to ensure strong, capable boards are overseeing Crown corporations.

**2.60** Crown boards are meant to operate at arms-length from government to, among other things, minimize political interference and allow the board to function as needed to achieve the results and outcomes necessary to meet their legislated mandates.

***Recommendation***

**2.61 We recommend the Department of Post-Secondary Education, Training and Labour:**

- **initiate a process to ensure appointments are completed in a timely manner;**
- **comply with provincial legislation and government policy when recommending the appointment of board members under the Act; and**
- **clearly document the appointment process and provide clear rationale for appointment recommendations made to government.**

***Board Chair  
Appointment Resulted in  
a Perceived Conflict of  
Interest***

**2.62** We believe the appointment of a senior civil servant to the board chair position of a Crown corporation, while still employed by the Crown corporation's governing department, represents a perceived conflict of interest.<sup>6</sup>

***Board Chair not  
Independent***

**2.63** We further believe the initial appointment of a Department employee to the board chair position in 2015 represented a threat to WorkSafeNB's independence. It was possible the Department could influence WorkSafeNB operations through the board chair.

**2.64** Documentation we reviewed supporting the 2015 board chair appointment highlighted a conflict of interest risk as well. The senior civil servant recommended by the Department had been actively involved in addressing injured worker concerns on behalf of government and providing advice to senior government officials.

**2.65** Independence from government is important to a board making decisions and overseeing an organization funded by New Brunswick employers. Any perception of a conflict of interest undermines the credibility of the appointment and the position.

***Recommendation***

**2.66** **We recommend the Department of Post-Secondary Education, Training and Labour ensure future recommendations to government for WorkSafeNB appointments do not create a conflict of interest or result in reduced independence of the corporation.**

**2.67** All board members we interviewed expressed confidence and satisfaction with the current chair.<sup>7</sup> They indicated the chair was instrumental in furthering important initiatives, such as increased stakeholder engagement. Our findings related to shortcomings in the appointment process are not intended to be a criticism of any individual board

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<sup>6</sup> "A conflict of interest involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities." - OECD Recommendation of the Council on Guidelines for Managing Conflict of Interest in the Public Service. June 2003.

<sup>7</sup> When we use "current chair" or "current board chair" in this chapter we are referring to the board chair appointed by government in 2015.

member.

***WorkSafeNB CEO Term Expired in February 2017***

**2.68** In an April 2016 meeting the board approved a motion recommending Cabinet reappoint the then CEO for a second five-year term beginning February 28, 2017.

***Board Recommended Extension of CEO to Cabinet***

**2.69** In a letter dated May 3, 2016 referencing the authority of the board to appoint a CEO under section 10(2) of the Act, the board chair cited a unanimous resolution and requested approval from the Minister to reappoint the existing CEO to a second, five-year term effective February 28, 2017.

***Government Declined Board Recommendation to Reappoint CEO***

**2.70** It appears government declined this request as a second letter was sent by the chair to the Minister dated July 20, 2016 questioning the government decision to decline the reappointment of the CEO to a second term, as recommended by the board. The letter cited a Memorandum of Understanding created under the *Accountability and Continuous Improvement Act* and signed by a prior Minister and the chair confirming the board's role in appointing the CEO. It further stated:

*"...the most significant decision any board can make is the hiring of its CEO, and in this case, that decision was removed from the Board for reasons that remain unclear."*

**2.71** A final letter from the Minister to the chair over four months after the original request, dated September 13, 2016 provided some reasoning for the decision, stating *"...the importance of the mandate of WorkSafeNB, the direction at present is to have an open competition...which will ensure accountability and transparency in the appointment process..."*

***Appointment Delay Cost WorkSafeNB Approximately \$150,000, Including Paid Leave of Former CEO***

**2.72** On October 28, 2016 the CEO appointed a WorkSafeNB Vice-President Acting CEO, effective October 31, 2016, *"...until such time as a permanent appointment to the position has been made"*. In agreement with the board, the CEO took administrative leave from November 1, 2016 until expiry of his contract on February 26, 2017. The estimated cost of this leave including legal fees and acting pay for a number of WorkSafeNB personnel to cover affected positions was approximately \$150,000.

***WorkSafeNB Spends over \$96,000 in Consultant Fees for Initial CEO Recruitment Attempt***

**2.73** The board undertook a full recruitment effort using an external consultant at a contracted cost of \$75,000 with additional expenses totaling \$21,000 to find a new CEO beginning in November 2016. This initial recruitment process took approximately five months, resulting in a hiring recommendation from the board to the Department.

***Board Recommendation for CEO Requires Government Approval***

**2.74** Subsection 10(2) of the Act states “*the appointment of the president and Chief Executive Officer of the Commission shall be made by the board of directors with the approval of the Lieutenant-Governor in Council*”. While the board has authority to appoint their own CEO they remain dependent on government approval of the appointment before they can actually hire the recommended candidate. Government remains in control of the process.

**2.75** WorkSafeNB senior personnel indicated this request for approval was made in late March 2017. However, in early May 2017 the recommended candidate accepted another position and the board was forced to undertake a second recruitment.

***WorkSafeNB Spends Over \$33,000 More in Second Recruitment Effort***

**2.76** The board undertook a second, five month recruitment at additional expenses totaling over \$33,000, ending in a recommendation to government in November 2017. The total consultant cost of the entire CEO recruitment process was \$129,000. Subsequent to our audit work we noted government approved the recommended candidate with an appointment dated February 14, 2018, over three months after the recommendation was made.

***Weak WorkSafeNB Appointment Documentation***

**2.77** We asked WorkSafeNB for documentation related to these appointment recommendations such as letters to the Department requesting appointment approval and communications from government with reasons for declining candidates but they could provide nothing of this nature. According to WorkSafeNB, government did not provide specific reasons for declining other recommended candidates.

***WorkSafeNB Without a Permanent CEO for 17 Months***

**2.78** Overall, WorkSafeNB operated without a permanent CEO from October 31, 2016 to March 25, 2018, a span of nearly 17 months. We believe this is primarily due to lengthy recruitment and appointment processes involving WorkSafeNB, the Department of Post-Secondary Education Training and Labour, the Executive Council Office and

Cabinet.

***Inappropriate Board Involvement in Operations***

**2.79** In our interviews with board members, the chair and WorkSafeNB personnel, we were informed the board was more involved in the corporate operations since 2015. The board chair was often looking into specific operational initiatives to ensure implementation was progressing. This is the role of the CEO of the corporation, not the board.

**2.80** However, we recognize the board was in a difficult situation during this period, having little success appointing a new CEO in a timely manner due to the failed initial recruitment and the delay in receiving approval from government for the current appointment.

***Delays in CEO Appointment Impacted WorkSafeNB Operations***

**2.81** We believe these delays impacted WorkSafeNB operations. We were told by WorkSafeNB personnel that significant decisions, such as making changes to the organizational structure, were delayed until a permanent CEO was found.

**2.82** We believe timely government appointments are critical to ensure both the board and senior managers are able to respond to challenges as they arise and operate the corporation in an efficient and effective manner.

***Recommendation***

**2.83** **We recommend the Executive Council Office and the Department of Post-Secondary Education, Training and Labour co-ordinate their efforts to provide timely decisions for future WorkSafeNB appointments.**

***WorkSafeNB Included under the Accountability and Continuous Improvement Act***

**2.84** The *Accountability and Continuous Improvement Act* (ACI Act) came into force August 15, 2014, resulting in increased accountability and reporting requirements for WorkSafeNB.

***Department Required to Issue Annual Mandate Letters to WorkSafeNB***

**2.85** The ACI Act required the Department to issue a mandate letter to WorkSafeNB that included both:

- strategic and operational direction; and
- performance expectations of WorkSafeNB.

The ACI Act also requires the mandate letter to be approved by Executive Council before it is provided to a Crown body.

**2.86** We reviewed the mandate letters issued by the Department. The direction provided in the September 2017 mandate letter included, among other things:

- “Consider the development of a “*whole person*” approach to claims management, including consideration of the mental health aspect associated with the injury / long-term disability.”
- “Continue to implement a performance excellence program to align with government’s direction on continuous improvement.”
- “Provide timely compensation benefits, medical aid, rehabilitation and safe return-to-work services to injured workers.”
- “Ensure all options are considered to minimize rate increases in 2018.”

***Department Mandate Letter Included Ambiguous Expectations and could Increase Costs to Employers***

**2.87** We believe much of WorkSafeNB’s legislated mandate is represented in the mandate letter. However, we noted certain expectations related to significant matters are ambiguous, such as “*consideration of the whole person approach*”. Whole person care can be defined as “*The extent to which a provider elicits and considers the physical, emotional and social aspects of a patient’s health and considers the community context in the patient’s care.*”<sup>8</sup> We believe this could exert pressure on the board to respond when they may have had no prior intention to implement the whole person approach.

**2.88** Significant decisions of this nature, regardless of intent, impose costs on WorkSafeNB borne by New Brunswick employers. We believe these decisions need to be weighed carefully by the board and implemented in a practical, cost effective manner.

**2.89** We believe mandate letters should provide strategic direction, when required, in a clear and concise manner. Expected actions should lead to results which can be

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<sup>8</sup> “Canadian Experts’ Views on the Importance of Attributes within Professional and Community-oriented Primary Healthcare Models.” Lévesque, J.-F., J. Haggerty, F. Burge, M.-D. Beaulieu, D. Gass, R. Pineault and D. Santor. 2011. Healthcare Policy. Vol 7 (Special Issue): 21-30.

evaluated and measured by the WorkSafeNB board and the Department.

***Recommendation***

**2.90 We recommend the Department of Post-Secondary Education, Training and Labour clearly state its requirements and expectations in the mandate letter.**

***Department not Compliant with Accountability and Continuous Improvement Act***

**2.91** We expected the Department to comply with the ACI Act in issuing the mandate letters. Our review found the following:

- Department mandate letters were not issued annually as required by legislation; and
- the Department did not enforce WorkSafeNB reporting requirements under the Act.

**2.92** Section 3(1) of the ACI Act requires the responsible minister to prepare annually a mandate letter. The first mandate letter issued by the Department, effective April 1, 2015 through March 31, 2016 was signed by the Minister and board chair in May of 2015, approximately 9 months after the ACI Act came into effect.

***Department did not issue Annual Mandate Letters***

**2.93** The second mandate letter was signed by the Minister September 21, 2017, over 17 months after the end date of the first letter. The letter indicated it was effective between June 2017 and December 31, 2018, a span of 19 months. In our opinion, these letters did not meet the annual requirement of the ACI Act.

***Annual Plans Required under the Accountability and Continuous Improvement Act***

**2.94** Section 3(5) of the ACI Act requires that “A mandate letter shall be provided to the Crown body by the responsible minister before the Crown body prepares its annual plan.”

***Minister Approved an Annual Plan that did not Comply with the Accountability and Continuous Improvement Act***

**2.95** While the second mandate letter from the Department was effective in June 2017, the annual plan submitted by WorkSafeNB in response to this letter covered a period from January 2017 to December 2019. This plan would have been developed by WorkSafeNB well before receipt of the mandate letter. While it did not comply with the reporting requirements under the ACI Act, it was approved by the Minister in a September 26, 2017 letter to WorkSafeNB.

**2.96** In our view, the practice of issuing mandate letters

under the ACI Act represents good practice by government. However, these letters need to be issued in a manner that aligns with the planning cycle of the Crown corporations.

**2.97** We believe the Department needs to comply and enforce compliance with the ACI Act to increase effectiveness of accountability and performance reporting as intended by the Province's legislators.

***Recommendation***

**2.98 We recommend the Department of Post-Secondary Education, Training and Labour comply with the requirements of the *Accountability and Continuous Improvement Act* by:**

- **issuing mandate letters annually; and**
- **enforcing WorkSafeNB submission of annual plan per requirements of the Act.**

**2.99** Overall, we expected the Department would monitor the corporation's progress in meeting the requirements and expectations of their mandate letter. We interviewed key Department personnel and asked what process was in place to ensure WorkSafeNB was progressing against the expectations in the mandate letter.

***Department Not Monitoring WorkSafeNB Performance in Meeting Mandate Letter Requirements and Expectations***

**2.100** Department personnel we spoke to indicated the Department does not actively monitor or evaluate WorkSafeNB progress against the mandate letter requirements. We were told the Minister may meet with the board twice per year and discuss progress but the Department does not measure how well WorkSafeNB meets the expectations or provide documented feedback to the board.

**2.101** We noted the board submitted an unsolicited progress report to the Department in December 2017, highlighting their progress against many of the expectations in the mandate letter, but had received no feedback on this document from the Department by the end of our audit.

**2.102** We believe it is important for responsible departments to monitor and provide feedback to the Crown bodies on their performance. There is little purpose to creating mandate letters and other performance directives if no monitoring and reporting on performance is intended.

**Recommendation**

**2.103** We recommend the Department of Post-Secondary Education, Training and Labour monitor and publicly report on the progress of WorkSafeNB in meeting the requirements and expectations provided in Department mandate letters.

**WorkSafeNB Board Practices**

**2.104** We reviewed the structures and practices used by the WorkSafeNB board to oversee the operations of the corporation. We expected the board to follow established board best practices and maintain the composition and competency of the board and its committees to fulfill its governance responsibilities.

**2.105** The board is required under legislation to represent key stakeholder organizations by ensuring worker and employer groups are equally represented on the board. We reviewed composition and other key characteristics against other jurisdictions in Canada prior to evaluating the best practices of the WorkSafeNB board.

**2.106** Exhibit 2.8 provides a jurisdictional comparison of workers' compensation board structures and characteristics across Atlantic Canada.

Exhibit 2.8 - Jurisdictional Comparison of Workers' Compensation Board Structures and Characteristics

<b>Jurisdictional Comparison of Workers' Compensation Board Structures and Characteristics</b>					
	<b>NB</b>	<b>NL</b>	<b>PEI</b>	<b>NS</b>	<b>AGNB Comments</b>
<b>Board Members /Directors</b>	11 or more	10	9	10	NB has one of the larger boards in Atlantic Canada.
<b>Board Composition</b>	Chair Vice-chair Worker and employer representatives President & CEO	Chair Vice-chair Worker and employer Representatives President & CEO	Chair Vice-chair Worker and employer Representatives	Chair Vice-chair Worker and employer Representatives	Board composition generally consistent with other boards. <i>Five other boards have members from the general public.</i>
<b>Voting Rights</b> <sup>1</sup>	Chair can vote to break a tie. Vice Chair can vote.	Chair and Vice Chair can vote.	Chair can vote to break a tie. Vice Chair can vote.	Chair can vote to break a tie. Vice Chair cannot vote.	President/CEO cannot vote in NB.
<b>Board Members</b>	Part time	Part time	Part time	Part time	Majority of jurisdictions have part time positions. <i>Ontario, Quebec and Saskatchewan have full time Chair.</i>
<b>Appointed by Lieutenant Governor (LG) / Government</b>	Yes	Yes	Yes	Yes	Manitoba, Saskatchewan, BC and Yukon require some form of consultation with workers and employers.
<b>Board Member Terms: (Years)</b> <sup>2</sup>	Up to 4	Not referenced in act	3	5 for Chair and Vice Chair, 4 for members	All jurisdictions allow appointments for additional terms. <i>NB limits to 2 terms.</i>
<p><i>Note:</i></p> <p>1- WorkSafeNB indicated there is no restriction on the voting rights of the chair under the legislation.</p> <p>2- Terms for WorkSafeNB board members were changed through legislative amendments in 2016.</p> <p>Source: Association of Workers' Compensation Boards of Canada – current to December 31, 2016 (unaudited)</p>					

**2.107** Exhibit 2.8 illustrates the similarities and differences between workers' compensation boards across Atlantic Canada. While differences exist, many of the boards are structured in a very similar manner and appointments are made by government.

**Overview of Board Best Practices**

**2.108** We reviewed several sources of board best practices and assessed the degree to which WorkSafeNB board practices compare to key areas of performance.

**2.109** Exhibit 2.9 presents an overview of key best practices we reviewed as part of the audit work.

*Exhibit 2.9 - WorkSafeNB Board Practices*

<b>WorkSafeNB Board Practices</b>	
<b>Board Practice Evaluated</b>	<b>AGNB Finding</b>
Regularly updated board governance policy	Met Expectation
Code of conduct & organization ethics	Met Expectation
Conflict of interest policy	Met Expectation
Board member position descriptions	Met Expectation
Board committee structure and practices	Needs Improvement
Board competency matrix	Needs Improvement
Board and CEO recruitment and succession planning	Needs Improvement
Board performance self-evaluation	Needs Improvement
Board records and decision rationale	Needs Improvement
Board information packages (quality, quantity and timeliness)	Needs Improvement
Board orientation	Needs Improvement
Board development planning	Needs Improvement
<i>Sources for governance best practices are included in Appendix II</i>	

***Board has Developed Governance Policy and other Best Practices***

**2.110** As highlighted in Exhibit 2.9, in our review of board practices between 2015 and 2017, we found the board has developed and implemented some key best practices, including:

- a regularly updated governance policy including code of conduct and conflict of interest guidelines;
- recruitment and interview process for CEO position; and
- board member position descriptions.

***Board Governance Practices Require Improvement***

**2.111** While the board has been improving its governance practices, we identified a number of key areas where we believe further improvement is required.

**WorkSafeNB Board  
Committees**

**2.112** The WorkSafeNB board is supported by three committees identified in their governance policy as the:

- Financial Services Evaluation Committee;
- WorkSafe Services Evaluation Committee; and
- Fatality Review Committee.

**2.113** We focused on the Financial Services Evaluation and WorkSafe Services Evaluation committees due to the regular nature of their function and direct impact on WorkSafeNB operations.

**2.114** The roles of these committees are outlined in the WorkSafeNB governance policy:

*“The purpose of the Financial Services Evaluation Committee is to enable the Board of Directors to fulfill its governance responsibilities regarding the financial services policies, activities, and reporting under the WHSCC & WCAT Act, WC Act, OHS Act and FC Act. The members of this committee will also fulfill the responsibilities of an audit committee.”<sup>9</sup>*

*“The purpose of the WorkSafe Services Evaluation Committee is to enable the Board of Directors to fulfill its governance responsibilities by evaluating prevention, compensation, and rehabilitation programs and activities.”<sup>10</sup>*

**Weaknesses in Board  
Committees**

**2.115** Our audit identified weaknesses in the operation of the WorkSafeNB board committees, including:

- no competencies identified for committee members;
- committees are not efficient; and
- no evaluations of committee performance.

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<sup>9</sup> WorkSafeNB Policy 41-002 – Governance Statement – Appendices A and B

<sup>10</sup> Ibid.

***No Competencies  
Developed for Board  
Committee Members***

**2.116** We expected the board to have separate documented competency requirements for committee members. We found while their governance statement did have board of director member profiles, no competencies had been specifically developed for the committees.

**2.117** Committees carry out relatively specialized functions and require the members to possess the skills necessary to effectively undertake committee responsibilities. Competency requirements are therefore important to ensure committee members have the necessary experience and skills to fulfill the committee's mandate.

***WorkSafeNB Board  
Committees are  
Inefficient***

**2.118** We expected committees would be chaired by an appointed board member and attended by only the number of board appointees required to do the work of the committee. The committee chair would then report back to the board of directors and make recommendations as required. We found committees are always chaired by the board chairperson and attendance at board committee meetings often included non-committee members of the board.

**2.119** Having most if not all board members present for a committee meeting defeats the purpose and is less efficient, since the material could simply be discussed once during a regular board meeting.

**2.120** During our interviews with board members, some indicated that non-committee members attended committee meetings:

- in order to allow them to get more detail on the materials;
- to allow new board members to gain more knowledge of both WorkSafeNB operations and the functions of the committee;
- to decrease time spent on committee issues at the regular board meeting; and
- because they were already in town for the regular board meetings.

***Non-committee Board  
Members paid per Diems***

**2.121** When we reviewed per diem charges by board members, we found instances where the board members were paid to attend committee meetings when they were not on the committee. We expected only committee members would be paid to attend committee meetings. While these amounts were not large in relation to the operations of WorkSafeNB, they do represent costs that could have been avoided.

***Board does not Evaluate  
Committee Performance***

**2.122** We also expected the board would regularly evaluate the performance of the committees. We found the board did not evaluate committee performance during the period examined.

**2.123** Evaluating committee performance provides the board of directors with confidence in the ability of committee members to carry out their responsibilities effectively and efficiently. It also allows the board to target board member development in areas such as financial management in order to increase confidence in committee work. We believe this would decrease the need for all board members to attend committee meetings.

***Recommendation***

**2.124** We recommend the WorkSafeNB board of directors review its committee structures and practices to:

- **select participating board members to chair committees;**
- **ensure per diem payments are made only to committee members for committee meetings;**
- **ensure membership is aligned with board needs and competencies are sufficient to address committee requirements;**
- **develop and implement competencies for committee membership; and**
- **develop and implement a plan to evaluate committee performance on an annual basis.**

***No Board or CEO  
Succession Plan***

**2.125** We expected WorkSafeNB to have documented succession plans for both board members and the CEO position. However, we found no such succession plans existed for these positions.

**2.126** For example, in 2014 and part of 2015, the board chair and vice chair position were both vacant at the same time.

Consequently, the board could not form a quorum in order to conduct business for a period of nearly four months. During interviews we conducted, we were told this significantly impacted the board's ability to function, and delayed important decisions of the board.

***Board Appointments not Always Staggered***

**2.127** We noted that board appointments are not always staggered, resulting in a number of board members potentially leaving at the same time. Both the board chair and vice-chair, for instance, were appointed for the same timeframe in 2015. If both had vacated at the end of that term, the board would have been unable to establish a quorum, as was the case in late 2014.

**2.128** We also noted four board members have a term expiry in July 2019. While these may be renewed it is poor practice to have many members with the same term end dates. We did note that amendments to the Act in 2016 under subsection 9(8.1) now allows a board member to “...remain in office, despite the expiry of the member's term, until the member resigns or is reappointed or replaced”.

**2.129** Failing to stagger terms can negatively affect continuity of operations and impact the board's ability to govern effectively. Multiple board vacancies over a short period can significantly reduce overall experience and knowledge at the board level, resulting in rebuilding effort and inefficient board oversight.

**2.130** We believe a succession strategy would reduce uncertainty with board appointments and reduce the risk that multiple members vacating their positions at the same time.

***Recommendations***

**2.131** We recommend the WorkSafeNB board of directors and the Department of Post-Secondary Education, Training and Labour jointly develop, document and implement a succession strategy to ensure:

- timely recruitment of all board positions, including the chair and vice-chair and,
- effective staggering of board member terms.

**2.132** We recommend the WorkSafeNB board of directors develop, document and implement a succession strategy for the President and Chief Executive Officer position.

***2017 Memorandum of Understanding Included Skills Matrix***

**2.133** We reviewed the governance policy developed by the board and the Memorandum of Understanding (MOU) signed by the Department and WorkSafeNB, describing each organization's roles and responsibilities. We noted a skills matrix for board members had been developed and attached to the MOU in 2017.

***Implementation of Board Competency Matrix Incomplete***

**2.134** Since the skills matrix was part of the MOU in mid-2017, we expected it would be used to evaluate what was required in new member appointments that occurred after that time. However, when we reviewed the appointments we found no evidence the new board member qualifications were based on the board's required skills and competencies.

**2.135** When we asked WorkSafeNB personnel if the matrix was used for the 2017 appointments they indicated it was recently established and would be used in future appointments.

**2.136** We were pleased with the recent development of a skills matrix by the board and the Department. We believe the board should further develop, enhance and utilize this information for future board appointments.

***Recommendation***

**2.137 We recommend the WorkSafeNB board of directors fully develop, regularly update and utilize a board competency matrix for, at a minimum:**

- **evaluating board member development requirements;**
- **identifying development opportunities for board members; and**
- **recruiting new board members to address competency and skillset needs.**

***Weak Board Self-Evaluation Practices***

**2.138** We expected the board to complete both an overall self-evaluation and member evaluations regularly, but found the board did not complete:

- any overall self-evaluations during the period 2014 to 2016;
- evaluations of the chair and vice-chair; and
- individual board member evaluations.

**2.139** While we found no completed board self-evaluation during our audit period, we noted the board had begun a

self-evaluation process in late 2017.

**2.140** Individual performance evaluations would highlight areas where members require further development. This information could then be used by the board to focus future development efforts for members and improve overall board competency.

***Recommendation***

**2.141 We recommend the WorkSafeNB board of directors develop performance expectations for board positions and undertake annual performance evaluations for at least the board chair.**

***Board Records and Decision Rationale Support Require Improvement***

**2.142** We examined various minutes of board and committee meetings held from 2015 through 2017. We expected key decisions and their rationale to be documented in board minutes or a record of decisions. We found:

- the board does not keep a separate record of decisions; and
- the minutes were not always detailed and did not contain rationale behind the decisions made.

**2.143** While the board keeps records of motions and final decisions in the minutes of board meetings, they typically did not provide details including clear rationale for the decision made. The board itself drew attention to this in a December 2016 meeting. We did note improvement in the 2017 minutes over those of previous years. It appears the board had taken steps to improve the minutes prior to the conclusion of our audit.

**2.144** We believe it is important to keep accurate and sufficiently detailed records to allow an organization to properly document key decisions and provide support for the decisions made by the board.

***Quantity and Timeliness of Board Information Packages Requires Improvement***

**2.145** While the information packages we reviewed appeared to be comprehensive, board members we interviewed indicated the overall quantity and timeliness of the information was sometimes problematic. Members indicated they might get a week to review up to 700 pages of detailed information.

**2.146** Allowing the board members sufficient time to properly prepare for meetings improves the quality of the decision making process and allows meetings to operate more

efficiently.

***Recommendation***

**2.147 We recommend WorkSafeNB provide board information packages well in advance of board meetings and focus information presented to meet the board’s decision-making requirements using documentation such as executive summaries.**

***No Documented Board Orientation or Development Plans***

**2.148** While we believe WorkSafeNB provides a good orientation session for new board members, we found it was not a well-defined process. It could be improved by formalizing the process with a documented orientation program.

**2.149** We also found that WorkSafeNB does not have development plans for assisting board members in obtaining training tailored to their individual needs. This is especially important for new members and those sitting on committees.

***Recommendation***

**2.150 We recommend the WorkSafeNB board of directors develop, document and implement an orientation program for new board members and a development plan for all board members.**

***Strategic Planning and Risk Management***

**2.151** We expected the board to undertake a strategic planning process and monitor the organization’s performance in relation to its mandate, goals and objectives.

***Board Monitors Strategy and Risk Annually***

**2.152** We observed that the board updates its strategic plan on an annual basis. This is a multi-day endeavor which includes an organization performance review and a review of the corporate risk environment. The result is an updated multi-year strategic plan and corporate risk register.

***Strategic Plans are Inconsistent and Incomplete***

**2.153** While the overall planning process appeared to be well-defined in policy and disciplined in practice, we found the board changed strategies, especially its strategic goals, frequently. At times, the corporation did not appear prepared to fully implement new goals and measure results of strategies effectively. This resulted in strategic plans that were inconsistent and incomplete.

**2.154** We noted the Department’s mandate letter explicitly states that the responsibilities outlined within are to be included as part of the WorkSafeNB strategic plan. For this reason we expected the strategic plan to address the mandate letter requirements to provide goals, objectives,

key performance measures and targets.

***Gaps Exist Between  
WorkSafeNB Strategic  
Plan and Department  
Mandate Letter***

**2.155** Our analysis showed gaps in the WorkSafeNB strategic plan where requirements of the mandate had not been addressed. Further, the mandate letter directs WorkSafeNB to submit an annual plan for publication on the Department's website. We noted the board submitted its multi-year strategy in place of an annual plan. In our view, the annual plan should be separate and distinct from the multi-year strategy.

**2.156** It is important that WorkSafeNB be accountable for the entirety of its mandate in order to demonstrate alignment with the direction provided by Department under the ACI Act.

***Board Monitoring of  
WorkSafeNB  
Performance Targets  
Requires Improvement***

**2.157** The multi-year strategic plans do contain goals and objectives communicating the strategic direction of the organization. We expected WorkSafeNB to report on key performance indicators in order to demonstrate progress toward their strategic goals and objectives.

**2.158** WorkSafeNB produces quarterly accountability reports to publicly report on performance. Our analysis showed the strategic goals have performance measures, but not all performance measures have targets. Further, targets are not always well-defined and clearly communicated.

**2.159** Without clearly defined and communicated targets, it is difficult to assess whether WorkSafeNB was successful in achieving its strategic objectives during the reporting period.

***Recommendation***

**2.160** We recommend WorkSafeNB, as part of its annual planning and reporting processes:

- **fully develop long-term strategic goals and objectives and define measurable targets for all key performance indicators;**
- **include the strategic requirements of the government mandate letter as part of its strategic planning process;**
- **develop an operational action plan designed to implement the long-term strategic direction of the corporation; and**
- **submit an annual plan to the Department focused on goals and objectives it intends to complete over the period of the plan, as required under the *Accountability and Continuous Improvement Act*.**

***Inadequate CEO Performance Evaluation Process***

**2.161** While we expected the board to have developed a well-defined and documented process for evaluating CEO performance, we found this was not the case.

***No CEO Performance Expectations***

**2.162** The CEO position is the critical link between the board's oversight activities and the operations of WorkSafeNB. We found no evidence the board had established performance expectations for the CEO position against which performance could be evaluated in a fair and objective manner.

**2.163** We further expected the board to hold the CEO accountable for implementing the corporate strategy. Progress toward meeting strategic goals and objectives should be part of the CEO performance appraisal.

***Weak CEO Performance Evaluation***

**2.164** The only evidence we were provided of a CEO performance evaluation by the board was incomplete, based only in opinion and not linked to the goals and objectives of the corporation.

**2.165** We believe the CEO performance evaluation is a critical function for boards. It is imperative the CEO clearly understands the expectations of the board in order to drive operations to meet them.

**2.166** A key component of a strategic control system is ensuring alignment with the strategic plan throughout the organization. In our view, linking CEO performance to the

strategy will ensure it is made a priority.

**Recommendation**

**2.167 We recommend the WorkSafeNB board of directors:**

- **establish a CEO performance agreement that ties CEO performance to the corporation’s strategy and results; and**
- **conduct an annual CEO performance evaluation against the documented expectations.**

**WorkSafeNB  
Compensation and  
Expenses**

**2.168** The 2015-2016 mandate letter provided to WorkSafeNB by the Department included an expectation “that WorkSafeNB will provide compensation and benefits to its management and non-union staff consistent with that offered for similar work in Parts I, II and III”. The 2017 letter removed references to Parts II and III. This means government wanted WorkSafeNB compensation and benefits to be comparable to Part I of the provincial public service.

**2.169** We reviewed the WorkSafeNB compensation and benefits model, particularly as it relates to the board and senior WorkSafeNB executives. We interviewed human resources personnel from WorkSafeNB and Treasury Board.

**2.170** Board compensation is paid on a per diem basis for all board activities including:

- board and committee meeting attendance;
- preparation for board and committee meetings; and
- travel to the location of the board or committee meetings.

**Board Compensation  
Unchanged since 1994**

**2.171** We examined the per diems paid to board members. We expected that the rate paid to members for their service would be reviewed periodically and adjusted if necessary. We found the current per diem of \$200 for board members and \$400 for the board chair has not been changed since 1994.

**No Significant Issues  
with Board per Diem  
Payments in 2015 and  
2016**

**2.172** We tested board per diems for 2015 and 2016 as part of our audit procedures to determine if payments were made per policy. Other than the committee per diem finding noted above, we found no significant issues with per diem

payments to board members.

***Board Chair Costs have Risen Significantly since 2014***

**2.173** We did note that due to the full time nature of the current board chair’s compensation, the annual cost for this position increased to about \$150,000, triple the 2014 amounts.

***WorkSafeNB Compensation System Reviewed in 2014***

**2.174** In 2014, a consultant was hired to assist WorkSafeNB in reviewing the existing compensation model and better align the corporation’s compensation with a comparable market.

**2.175** We reviewed the results of this work to determine if the new model was comparable to Part I of the provincial public service as stipulated by the mandate letters.

***New Brunswick Public Service not Included in Compensation Benchmarking***

**2.176** We found that WorkSafeNB did not include Parts I, II, or III of the provincial public service as part of the market used by WorkSafeNB to benchmark appropriate compensation for positions within the organization.

**2.177** The board approved an equally weighted combination of two markets:

- an Atlantic Canada market including both private sector participants and the broader public sector; and a
- Canada-wide market of broader public sector entities.

**2.178** When we reviewed the two comparator markets in documentation provided by WorkSafeNB, we noted only two references to Part IV government of New Brunswick Crown Corporations: the “*Atlantic Lottery Corporation*” and the “*NB Power Holding Corporation*”. There were no other New Brunswick public sector organizations included in the information provided.

**2.179** We asked WorkSafeNB why they had not included the New Brunswick public sector and they provided no clear reason, other than to indicate it was not part of the consultant’s market survey.

**2.180** We also asked if WorkSafeNB had contacted government to obtain compensation information and ensure the process was consistent with the broader New Brunswick public service processes. WorkSafeNB personnel indicated they had not contacted government during this process.

***Market Benchmarking  
Benefited Management  
and Professional  
Positions***

**2.181** Our review of the process and discussions with WorkSafeNB personnel revealed the market selected to benchmark compensation would increase compensation for professionals and managers and decrease compensation for administrative personnel.

**2.182** Overall, WorkSafeNB indicated implementation of the 2014 model would result in a net decrease across non-bargaining positions due to significant decreases in administrative salaries. WorkSafeNB could not provide an exact amount of potential savings from payroll decreases.

**2.183** The board decided to implement the 2014 model but delay impacts to current staff, who would see decreases in pay, until the position was vacated and new staff hired. Consequently, any savings from the model would be realized when existing personnel left positions. The amount of potential savings would also be impacted by any new positions or changes to existing positions.

***Board Approved  
Implementation of New  
Compensation Model***

**2.184** The board approved implementation of this new compensation model during an April 21, 2015 meeting with implementation retroactive to January 1, 2015. The estimated increase in compensation totaled \$385,000 at that time.

***Board Decision on  
Compensation Model did  
not meet Mandate Letter  
Expectation***

**2.185** As noted above, the mandate letter issued by the Department and effective April 1, 2015 expected the board to ensure non-bargaining compensation at WorkSafeNB is consistent with the provincial public service. The documentation we reviewed showed WorkSafeNB senior leaders and the board were aware of this before making their final decision regarding the compensation model. We saw no reference to consideration of the mandate letter expectations in board minutes related to this decision.

***Recommendation***

**2.186 We recommend WorkSafeNB:**

- **include comparable New Brunswick public sector entities when undertaking compensation market comparisons in order to meet mandate letter requirements; and**
- **maintain clearly documented rationale for decisions not in alignment with the Department's mandate letters.**

**WorkSafeNB Executive Compensation Exceeds NB Public Sector**

**2.187** As noted above, Department mandate letters included an expectation that WorkSafeNB non-union and management compensation would be consistent with the public service. When we compared WorkSafeNB compensation for senior executives to Part I of the provincial public service we found WorkSafeNB executives are paid more.

**2.188** Exhibit 2.10 provides comparison of executive salary scales between WorkSafeNB and the provincial public service, Part I at April 1, 2017. The public sector Part I positions we chose for this exhibit would have similar authority levels to the WorkSafeNB positions.

*Exhibit 2.10 - WorkSafeNB to Provincial Public Service Part I Pay Scale Comparison (\$)*

<b>WorkSafeNB to Provincial Public Service Part I Pay Scale Comparison (\$)</b>				
<b>Position</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>
WorkSafeNB CEO	\$222,278	\$235,352	\$248,428	\$261,503
Deputy Minister II	159,120	167,076	175,422	184,184
<b>Difference</b>	<b>\$ 63,158</b>	<b>\$ 68,276</b>	<b>\$ 73,006</b>	<b>\$ 77,319</b>
<b>Difference %</b>	<b>40%</b>	<b>41%</b>	<b>42%</b>	<b>42%</b>
WorkSafeNB VP	\$152,131	\$161,079	\$170,028	\$178,977
Public service band 12	128,726	130,234	131,820	133,380
<b>Difference</b>	<b>\$ 23,405</b>	<b>\$ 30,845</b>	<b>\$ 38,208</b>	<b>\$ 45,597</b>
<b>Difference %</b>	<b>18%</b>	<b>24%</b>	<b>29%</b>	<b>34%</b>
Notes:				
1- WorkSafeNB salary scales effective January 1, 2017. Province of NB salary scales effective April 2017.				
2- Government pay scales have more incremental steps than WorkSafeNB. We used the top four steps in the applicable government scale above to match the WorkSafeNB four step scales.				
Sources: WorkSafeNB and Government of New Brunswick (unaudited)				

**2.189** Exhibit 2.10 highlights the differences between the executive leadership at WorkSafeNB and Part I of the provincial public service.

**WorkSafeNB Annual Increase are not Merit Based**

**2.190** WorkSafeNB management told us annual pay increases are not merit based (tied to performance). The increases are awarded annually unless a significant lack of performance is identified and this rarely occurs. WorkSafeNB employees will typically progress from step 1 to step 4 in three years. For the executives noted above, this amounts to an 18% increase in salary in addition to annual cost of living

increases to the scale.

**2.191** In addition to our review on compensation, we compared WorkSafeNB benefits for executives and those provided to the provincial public service Part I.

**2.192** Exhibit 2.11 presents this comparison, focusing only on the benefits that are appreciatively different.

*Exhibit 2.11 - WorkSafeNB to Provincial Public Service Part I Benefits Comparison*

<b>WorkSafeNB to Provincial Public Service Part I Benefits Comparison</b>		
<b>Benefit Type</b>	<b>WorkSafeNB</b>	<b>Public Service</b>
Vehicle allowance	CEO - \$1,000 per month Vice-President - \$600 per month	Deputy Minister – approximately \$559. <i>See Note 1 below.</i>
Vacation entitlement	Up to 30 days per year after 19 years of service	Up to 25 days per year after 20 years of service
Sick leave	Accrues at 1.5 days per month to a maximum of 240 days	Accrues at 1.25 days per month to a maximum of 240 days
Health & dental	90% employer paid premiums	Health – 75% employer paid premiums Dental – 50% employer paid premiums
Group life	100% employer paid (2 x salary)	100% employer paid (1 x salary)
Note: 1- Deputy Ministers have options for vehicle allowance. 2- There are differences in the provision of some benefits such as health and dental under the specific plans. Sources: WorkSafeNB and Government of New Brunswick (Treasury Board)		

***Benefits Differ from NB Public Sector***

**2.193** Exhibit 2.11 highlights key differences in benefits between Part I of the public service and WorkSafeNB. Note the benefits shown are generally available to non-bargaining employees in both organizations with the exception of vehicle allowances, as noted.

**2.194** We believe the board should ensure the most cost-effective decisions are made when considering compensation and benefits for WorkSafeNB personnel. Further, we believe:

- the provincial public sector should be included in the market benchmarking exercises undertaken during compensation reviews;
- the mandate letter requirements and expectations should be considered prior to making decisions of this nature; and

- the board should maintain adequate records as rationale for taking actions that do not meet the mandate letter expectations.

***Board and Executive  
Travel Expenses***

**2.195** Since WorkSafeNB is funded by NB employers we believe the board and executive management should operate in a frugal and transparent manner. While travel expense claims are not a significant expenditure for WorkSafeNB, it is important for the board and executive management to demonstrate their commitment to controlling costs in all areas, including their expenses.

**2.196** As part of our audit work we examined board and executive travel expenses for 2015 and 2016 to determine if:

- actual expenses claimed were compliant with WorkSafeNB policies; and
- WorkSafeNB policies were consistent with the provincial public service Part I policies.

**2.197** We sampled a total of 39 board and senior management travel expense claims in 2015 and 2016 totaling \$58,000 in expenses and representing 25% of the total claims paid to these groups in those years. Our sample was based on high dollar value claims only and the results apply only to those claims tested.

***Meal per Diem Rates are  
part of WorkSafeNB  
Policies***

**2.198** Meal per diem rates are part of WorkSafeNB board and executive expenses policy. As such, we expected to find the per diems were regularly claimed by both board and executive staff.

***Meal per Diems not  
Mandatory under  
WorkSafeNB Policy***

**2.199** We found though, the policy allows claims of reasonable meal expenses in lieu of using the per diem rates. Our sample testing found:

- Board members used per diems only 34% of the time in 2015 and 44% of the time in 2016.
- Executives used per diems only 10% of the time in 2015 but 61% of the time in 2016.

**2.200** However, WorkSafeNB has not defined “reasonable” in their policy. When we requested a definition from WorkSafeNB personnel they could provide nothing. Without a definition of this term there is no consistent limit on receipt-based meal purchases at WorkSafeNB.

***Group Meal Claims by Senior Staff without Detailed Receipts***

**2.201** WorkSafeNB policy allows a senior staff member to pay for meals of other less senior personnel and claim reimbursement for that amount. It is expected the senior member will submit a detailed receipt itemizing what was claimed and listing the names of the other personnel. We found the following:

- In 2015 senior executives claimed meals for multiple staff 12 times but provided the required receipts only in 6 instances (50%).
- In 2016 senior executives claimed meals for multiple staff 10 times and provided the required receipts in 8 instances (80%).

***Alcohol Claimed***

**2.202** In addition to our other findings around meal claims we found two instances where alcohol was reimbursed despite being specifically disallowed under WorkSafeNB policy.

***Generous Mileage Rates when Compared to Provincial Policy***

**2.203** We compared the mileage rates in WorkSafeNB to provincial policy and found the mileage rate structure is more generous. For comparison purposes, the current kilometric rates in provincial policy AD-2801 are contrasted to WorkSafeNB rates in the table below:

<b>Kilometric level/fiscal year</b>	<b>Provincial Rate</b>	<b>WorkSafeNB Rate</b>
Each of first 8,000 km/year	\$0.41	
Each of next 8,000 km/year	\$0.38	
Each km in excess of 16,000 km/year	\$0.33	
Each of first 5,000 km per year		\$0.53
Each km in excess of 5,000 km/year		\$0.48

***Rental Vehicles Rarely Used***

**2.204** WorkSafeNB policy does not require personnel to use a rental vehicle but does provide an appendix to the policy with a vehicle rental to mileage calculator. This is meant to allow personnel to determine which is cheaper. In the claims we sampled board members did not use rental vehicles in either year. Our sample included limited use of rental vehicles by two senior executives in 2015 and by one in 2016.

***\$10,000 in 2016 Board Chair Mileage Charges***

**2.205** We believe the use of the least expensive option should be considered in lieu of mileage claims. For example, in the current contract between the Department and the board chair, WorkSafeNB reimburses the chair's daily mileage between Fredericton and Saint John four days per week.

According to WorkSafeNB records this amounted to approximately \$10,000 in 2016. We believe a more economical alternative should have been considered by the Department in this instance.

***Inconsistent Board and Executive Expense Practices – Policy Requires Improvement***

**2.206** Overall, WorkSafeNB could improve travel expense practices in the areas discussed above. It should enforce compliance with the corporation’s policy where applicable, further develop policy where needed to address weaknesses and consider better aligning its policies with Part I practices.

***Recommendation***

**2.207 We recommend the WorkSafeNB board of directors ensure current travel expense policy is enforced and revise it to:**

- **clearly define acceptable board and employee travel expense practices; and**
- **align with public service Part I policy where applicable to board and employee travel.**

***Disclosure of WorkSafeNB Compensation and Expenses***

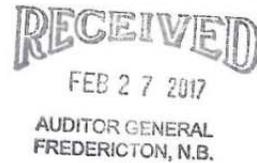
**2.208** We examined the WorkSafeNB annual public disclosure of board compensation and expenses as presented on their website. We expected to find annual reporting by board member of expenses and compensation, similar to the practices of the provincial government and other Crown corporations.

**2.209** WorkSafeNB published incomplete information on board member and CEO compensation and travel expenses for 2017 in October 2017. Subsequent to our audit period, on March 13, 2018 and again on April 26, 2018, WorkSafeNB published additional 2017 compensation and travel expense information.

***Recommendation***

**2.210 We recommend WorkSafeNB provide full public disclosure of board and executive compensation and expense information.**

## Appendix I – Section 12 Request Letter



February 22, 2017

Ms. Kim MacPherson  
Auditor General of New Brunswick  
520 King Street, 6th floor, Suite 650  
P.O. Box 758  
Fredericton, NB E3B 5B4

Ms. MacPherson:

I understand that you had a recent meeting with Ms. Dorine Pirie, Chairperson of WorkSafeNB and Mr. Tim Petersen, Acting President and CEO, regarding a value-for-money audit.

In 2007-2008, the Independent Review Panel recommended that the "Government of New Brunswick direct the Auditor General to conduct a value-for-money audit of the WHSCC every five years to ensure public accountability of the Commission rather than mandatory periodic reviews by an independent commission". The Board at the time fully supported this recommendation.

Considering the recent significant increases in workers' compensation assessment rates and the concern of further increases due to claiming patterns and duration of claims, as well as the impact to employers and to the provision of efficient and effective services to injured workers, looking at all facets of the organization is crucial.

As such, I would request that the Auditor General move forward as quickly as possible with a comprehensive value-for-money audit of WorkSafeNB, including the Workers' Rehabilitation Center in Grand Bay.

Thank you for considering this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donald Arseneault".

Donald Arseneault  
Minister

c.c. Dorine Pirie, Chairperson, WorkSafeNB  
Tim Petersen, Acting President and CEO, WorkSafeNB

DN/10662

Minister/Ministre  
Post-Secondary Education, Training and Labour/Education postsecondaire, Formation et Travail  
P.O. Box/C.P. 6000 Fredericton New Brunswick/Nouveau-Brunswick E3B 5H1 Canada

[www.gnb.ca](http://www.gnb.ca)



## Appendix II – Audit Objective and Criteria

The objective and criteria for our audit of WorkSafeNB governance are presented below.

Both the WorkSafeNB board chair and the acting President and Chief Executive Officer reviewed and agreed with the objective and associated criteria.

Objective	To determine if the WorkSafeNB governance framework is structured to enable the organization to meet its mandate, goals and objectives.
Criterion 1	Post-Secondary Education, Training and Labour should provide a clear mandate to WorkSafeNB and monitor WorkSafeNB's progress in meeting its requirements.
Criterion 2	The WorkSafeNB Board of Directors should follow governance best practices in fulfilling its mandated duties.
Criterion 3	The WorkSafeNB Board should monitor the organization's performance in relation to its mandate and key goals and objectives.
Criterion 4	Expenses paid to board members and management should be consistent with GNB policy and executive compensation should be based on appropriate comparator groups.

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Source of criteria: Developed by AGNB based on review of legislation and policies, governance best practices and reports by other jurisdictions' Auditors General

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Sources of governance best practices included:

- Canadian Institute of Chartered Accountants (2010). *20 Questions Directors of Not-For-Profit Organizations Should Ask about Board Recruitment, development and assessment.*
- Canadian Institute of Chartered Accountants (2007). *20 Questions Directors Should Ask about Crown Corporation Governance.*
- Canadian Audit and Accountability Foundation (2015). *Practice Guide to Auditing Oversight*
- Australian National Audit Office (2014). *Public Sector Governance: Strengthening Performance through Good Governance.*
- Office of the Auditor General of British Columbia (2009). *Guidelines: Information use by the Boards of Public Sector Organizations.*
- National Audit Office (United Kingdom 2012). *Corporate governance in central government departments: Code of good practice 2011 Compliance checklist.*
- BC Board Resourcing and Development Office (2005) *Best Practice Guidelines BC Governance and Disclosure Guidelines for Governing Boards of Public Sector Organizations.*

## Appendix III – WorkSafeNB Regional Offices



### WorkSafeNB Regional Offices

<p><b>NORTHWEST</b></p> <p>166 Broadway Blvd. Suite 300 Grand Falls, NB</p>	<p><b>NORTHEAST</b></p> <p>Place Bathurst Mall 1300 St. Peter Ave. Suite 220 Bathurst, NB</p>	<p><b>SOUTHWEST</b></p> <p>1 Portland St. Saint John, NB</p>	<p><b>SOUTHEAST</b></p> <p>30 Englehart St. Suite F Dieppe, NB</p>
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**Toll-Free: 1 800 222-9775**

**[www.worksafenb.ca](http://www.worksafenb.ca)**

**Fax: 1 888 629-4722**

Source: WorkSafeNB

## Appendix IV – The Meredith Principles

The following excerpt was taken directly from “About Workers Compensation” – Association of Workers’ Compensation Boards of Canada (website).

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Workers’ compensation in Canada had its beginnings in the province of Ontario. In 1910, Mr. Justice William Meredith was appointed to a Royal Commission to study workers’ compensation. His final report, known as the Meredith Report was produced in 1913.

The Meredith Report outlined a trade-off in which workers’ relinquish their right to sue in exchange for compensation benefits. Meredith advocated for no-fault insurance, collective liability, independent administration, and exclusive jurisdiction. The system exists at arms-length from the government and is shielded from political influence, allowing only limited powers to the Minister responsible.

### *What are the Meredith Principles?*

They can be expressed in different ways. However, there are five basic concepts that underlie most workers’ compensation legislation in Canada today.

---

1. No-fault compensation, which means workers are paid benefits regardless of how the injury occurred. The worker and employer waive the right to sue. There is no argument over responsibility or liability for an injury.
  2. Security of benefits, which means a fund is established to guarantee funds exist to pay benefits.
  3. Collective liability, which means that covered employers, on the whole, share liability for workplace injury insurance. The total cost of the compensation system is shared by all employers. All employers contribute to a common fund. Financial liability becomes their collective responsibility.
  4. Independent administration, which means that the organizations who administer workers’ compensation insurance are separate from government.
  5. Exclusive jurisdiction, which means only workers’ compensation organizations provide workers’ compensation insurance. All compensation claims are directed solely to the compensation board. The board is the decision-maker and final authority for all claims.
- 

These principles are a historic compromise in which employers fund the workers’ compensation system, and injured workers in turn surrender their right to sue their employer for their injury.

These principles are the foundation upon which the majority of Canadian workers’ compensation legislation is built.

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## Appendix V – About the Audit

This independent assurance report was prepared by the Office of the Auditor General of New Brunswick (AGNB) on WorkSafeNB Governance Practices. Our responsibility was to provide objective information, advice, and assurance to assist the Legislative Assembly in its scrutiny of WorkSafeNB governance practices.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance.

AGNB applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Code of Professional Conduct of Chartered Professional Accountants of New Brunswick and the Code of Professional Conduct of the Office of the Auditor General of New Brunswick. Both the Code of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

- confirmation of management’s responsibility for the subject under audit;
- acknowledgement of the suitability of the criteria used in the audit;
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided; and
- confirmation that the findings in this report are factually based.

Period covered by the audit:

The audit covered the period between January 1, 2015 and December 31, 2017. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the starting date of the audit.

### Date of Report

We obtained sufficient and appropriate audit evidence on which to base our conclusion on May 17, 2018, in Fredericton, New Brunswick.