

Mandate and Roles Document

Fair Practices Office,
Minister and
Deputy Minister of Labour

March 8, 2019

Fair Practices Office, Minister and Department of Labour

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Table of Contents

1. PREAMBLE	4
2. DEFINITIONS	4
3. AGENCY MANDATE	4
3.1 Mandate	4
3.2 Legislation and Regulations	5
a. Enabling	5
b. Applicable	5
3.3 Independence	5
4. ACCOUNTABILITY ROLES AND RESPONSIBILITIES	6
4.1 The Government of Alberta	6
Accountabilities	6
Responsibilities	6
4.2 Minister of Labour	6
Accountabilities	6
Responsibilities	6
4.3 Deputy Minister ("DM") of Labour	7
Accountabilities	7
Responsibilities	7
4.4 Fair Practices Commissioner ("FPC")	8
Accountabilities	8
Responsibilities	8
4.5 The Fair Practices Office ("FPO")	9
Accountabilities	9
Responsibilities	10
5. RECRUITMENT AND APPOINTMENT	10
5.1 Recruitment and Assessment of the FPC	10
5.2 Termination	11
6. COMMUNICATIONS WITH MINISTER, PUBLIC AND OTHERS	11
6.1 Communications with the Minister	11
6.2 Communications with the Public	12
6.3 Communications with Other Stakeholders	12
6.4 Freedom of Information and Privacy ("FOIP")	12
7. THE CODE OF CONDUCT	12

8. ADMINISTRATION OF THE MANDATE AND ROLES DOCUMENT (MRD).....12
 8.1 Review of the MRD12
 8.2 Transparency.....12
 8.3 Periodic Agency Review.....13
9. OTHER13
 9.1 Conflicts with an Act or Regulation of Alberta13
10. APPROVALS14

Fair Practices Office, Minister and Department of Labour

Mandate and Roles Document

1. PREAMBLE

This Mandate and Roles Document (MRD) for the Fair Practices Office (FPO) has been developed collaboratively between the Minister of Labour, the Department of Labour (Department) and the FPO to reflect a common understanding of each signatory's respective roles and responsibilities.

The FPO is an independent entity. It was established following the 2016/2017 multi-stakeholder review of Alberta's workers' compensation system and recommended in the final report entitled *Working Together Report and Recommendations of the Alberta Workers' Compensation Board Review Panel* released in June 2017. The FPO derives its authority from the *Workers' Compensation Act*. The FPO's authority includes the ability to review complaints of administrative fairness, make recommendations to workers' compensation system partners, help injured workers and employers navigate inside and outside the system and offer advice and advocacy for workers and small/medium employers when appealing a decision.

This office is independent from all other entities in the workers' compensation system, including the Workers' Compensation Board of Alberta ("WCB"), the Appeals Commission for Alberta's Workers' Compensation ("Appeals Commission"), the Medical Panels Office ("MPO") and the Department.

2. DEFINITIONS

"Commissioner" ("FPC") means the Fair Practices Commissioner, head of the FPO.

"Deputy Minister" ("DM") means the Executive Head of the Department.

"Fair Practices Office" ("FPO") means the agency responsible for the administration of the Fair Practices Office Regulation.

"Government" means the Government of Alberta.

"Minister" means the Minister responsible for *Workers' Compensation Act* and the Fair Practices Office Regulation.

3. AGENCY MANDATE

3.1 Mandate

The FPO is established by Section 23.1(1) of the *Workers' Compensation Act*. Specific powers and duties under the Act include:

- reviewing complaints regarding administrative fairness and the processes used to reach decisions for any matter under the Act;
- reviewing complaints regarding alleged breaches of the WCB Code of Rights and Conduct;

- making recommendations relating to any matter under the Act or the WCB Code of Rights and Conduct, the Appeals Commission or the MPO;
- establishing programs directed at providing independent advice, assistance and advocacy to employers, and to workers and their dependants during review and appeals;
- establishing procedures to assist workers, workers' dependants or employers to navigate the workers' compensation system, including procedures respecting the direction of workers, workers' dependants or employers to appropriate community resources; and
- preparing systems assurance reports monitoring the workers' compensation system, including information on trends in complaints and issues handled by the FPO.

3.2 Legislation and Regulations

a. Enabling:

The FPO has responsibilities under the following statutes and regulations:

- *Workers' Compensation Act*, RSA 2000, Chapter W-15;
- *MLA Compensation Act*, RSA 2000, Chapter M-19;
- *Blind Workers' Compensation Act*, RSA 2000, Chapter B-4;
- *Special Payment Act*, RSA 2000, Chapter S-17;
- *Workers' Compensation Regulation*, Alberta Regulation 325/2002;
- *Medical Panels Regulation*, Alberta Regulation 21/2018;
- *Firefighters' Primary Site Cancer Regulation*, Alberta Regulation 102/2003;
- *Fair Practices Office Regulation*, Alberta Regulation 211/2018; and
- *Government Employees Compensation Act*, RSC 1985, Chapter G-5.

b. Applicable:

- *Alberta Human Rights Act*, RSA 2000, Chapter 25.5;
- *Alberta Public Agencies Governance Act*, SA 2009, Chapter 31.5;
- *Auditor General Act*, RSA 2000, Chapter A-46;
- *Business Corporations Act*, RSA 2000, Chapter B-9, s. 171;
- *Financial Administration Act*, RSA 2000, Chapter F-12, ss. 1, 6, 77 and 80;
- *Freedom of Information and Protection of Privacy Act*, RSA 2000, Chapter F-25;
- *Government Accountability Act*, RSA 2000, Chapter G-7;
- *Government Organization Act*, RSA 2000, Chapter G-10;
- *Occupational Health and Safety Act*, RSA 2000, Chapter O-2, s. 39;
- *Ombudsman Act*, RSA 2000, Chapter O-8;
- *Public Interest Disclosure (Whistleblower Protection) Act*, SA 2012, Chapter P-39.5;
- *Public Service Act*, Chapter, RSA 2000, Chapter P-42; and
- *Reform of Agencies, Boards and Commissions Compensation Act*, Chapter/Regulation: R-8.5 2016.

3.3 Independence

Nothing in this MRD shall interfere with the FPO's proper exercise of any statutory powers of decision. The FPO is independent in carrying out its mandate. The FPO's neutrality, impartiality and transparency are critical to maintaining public trust and confidence in its operations and decisions.

While the FPO operates at arms-length from government, it remains accountable to the Minister. The FPO will administer resources in accordance with the *Financial Administration Act*, the *Public Service Act* and government operational/administrative directives, policies and procedures. This is critical to maintaining public confidence and trust in the prudent use of government resources.

4. ACCOUNTABILITY ROLES AND RESPONSIBILITIES

This section describes the accountabilities, roles and responsibilities of the Government of Alberta and the individuals who contribute to the effective performance of the FPO in fulfilling its mandate.

4.1 The Government of Alberta

Accountabilities

The Government of Alberta is accountable to the Premier and the citizens of Alberta.

Responsibilities

The Government of Alberta is responsible for the legislative and regulatory framework in which the FPO operates.

4.2 Minister of Labour

Accountabilities

The Minister is determined under Section 16 of the *Government Organization Act* as the Minister responsible for the *Workers' Compensation Act*. The Minister may delegate certain activities under this document to the DM or other staff in the Department. The Minister is accountable to the Legislative Assembly and the public for the activities and performance of the FPO.

Responsibilities

The key responsibilities and actions of the Minister include:

- a. reports to the legislature on the business and affairs of the FPO and answers questions in the legislature about the FPO;
- b. recommends the appointment of the FPC and/or the Deputy FPC following a selection process (described below) and based on the Minister's assessment that the appointees have the appropriate knowledge, skills, experience and values to assist the FPO in achieving its objectives and performing its functions;
- c. informs the FPO of Government of Alberta policies and direction that might affect the work of the FPO;
- d. participates in determining the strategic direction and outcomes for the FPO;
- e. monitors the operations and performance of the FPO to ensure that it is fulfilling its mandate in compliance with government policies and strategic direction;
- f. meets regularly with the FPC on matters relating to the FPO outcomes and goals;

- g. sets the expectations for the content to be included in the annual report submitted by the FPO in accordance with Section 23.3(1)(a) of the Act and notifies the FPO if the Minister requires additional reporting;
- h. in accordance with Section 6(3) of the FPO Regulation, receives and reviews final reports including recommendations following reviews completed under Section 23.2(1);
- i. meets from time to time with the FPC with respect to significant events concerning the FPO and to discuss matters of mutual concern;
- j. consults with the FPC with regard to proposed changes to the *Workers' Compensation Act* or other legislation affecting the FPO or the administration of the workers' compensation system in Alberta;
- k. conducts a review of the mandate and operations of the FPO, at least every seven years, in accordance with Section 19 of the *Alberta Public Agencies Governance Act*; and
- l. administers the "Code of Conduct" with respect to the FPC.

4.3 Deputy Minister ("DM") of Labour

Accountabilities

The DM is the senior public servant in the Department and has a dual accountability and reporting relationship to the Minister and to the DM of Executive Council.

Responsibilities

The DM supports the Minister in fulfilling the Minister's collective and individual responsibilities as Minister and accountability to the legislature. The DM is responsible for:

- ensuring sound public service advice on policy development and implementation, within the Ministry of Labour and with respect to the Government of Alberta's overall policy and legislative agenda;
- effective departmental management;
- providing advice on management of the Minister's entire portfolio; and
- fulfillment of authorities that have been assigned to the DM or other Department officials either by the Minister or directly through legislation.

The Department, under the leadership of the DM is responsible for supporting the FPO in the following areas:

- a. providing information and advice to the FPC about government public policy priorities expectations and directives that may affect the work of the FPO;
- b. communicating with the FPO with regard to required legislative and regulation amendments;
- c. meeting regularly with the FPC on matters relating to the FPO mission and mandate, including but not limited to:
 - providing clarity between the Department and FPO to support an effective working relationship, including both on policy items and operational/administrative matters;
 - ensuring the FPO keeps the Department apprised of activities that may cross into areas that have government protocols or prescribed actions. This includes but is not limited to consultation and setting significant policy; and

- identifying expectations regarding the FPO reporting on outcomes achieved (i.e. measures of success);
- d. working with the FPC to meet reasonable resource requirements for the FPO to fulfill its obligations.
 - In providing supports to the FPO, such as human resources, finance, IT and facilities, the Department recognizes these issues may affect the FPO's operations as an independent body and will work with the FPO to minimize effects upon the FPO independence;
- e. working through the Department in the following areas when there are mutual considerations, including:
 - communications;
 - budget, forecast, Standing Committee on Public Accounts;
 - emergency planning and response;
 - recruitment and appointments (herein later described); and
 - how the Department is providing supports (such as human resources and finance) to the FPO;
- f. monitoring the operations and performance of the FPO to ensure that it is fulfilling its mandate in compliance with Government of Alberta policies;
- g. informing the FPO of government policies and direction affecting the work of the FPO;
- h. providing orientation for the FPC to the role, responsibilities, relationship with the Minister and the Department;
- i. providing financial, accommodations and facilities supports to the FPO; and
- j. collaborating with the FPC and WCB regarding the budget allocation for the FPO, which is paid out of the WCB Accident Fund.

4.4 Fair Practices Commissioner ("FPC")

Accountabilities

The FPC is appointed by the Lieutenant Governor in Council, through an Order in Council on the recommendation of the Minister and is accountable to the Minister. The FPC may be appointed for a maximum term of three years and is eligible for reappointment for additional terms of not more than three years each.

Responsibilities

As set out in the *Workers' Compensation Act*, the FPC shall:

- a. review and make recommendations in accordance with FPO Regulation to WCB, the Appeals Commission or the MPO relating to:
 - any matter under the Act for the purposes of determining administrative fairness and processes used to reach decisions; and
 - a breach of the WCB Code of Rights and Conduct.
- b. in the form satisfactory to the Minister, submit a report to the Minister annually and also submit other reports at any other times that the Minister directs containing the information requested by the Minister; and
- c. meet with the WCB at least annually and at another times that the Minister directs or that the FPC requests.

As set out in the FPO Regulation:

- d. the FPC shall establish procedures respecting:
 - the conduct of a review or informal resolution of a complaint made by a worker, the worker's dependant or an employer;
 - the conduct of a review or informal resolution of a matter referred by WCB or the Appeals Commission;
 - the conduct of a review or informal resolution on the FPC's own motion;
 - the assistance of workers, workers' dependants, or employers in navigating the workers' compensation system, including procedures respecting any direction to an appropriate resource, person or organization for assistance; and
 - the preparation of systems assurance reports for the Minister in respect of the workers' compensation system, including reports of the activities of the FPO and complaints received by the FPO;
- e. the FPC may establish any other procedures that the FPC considers necessary; and
- f. the FPC may delegate duties and powers to a Deputy FPC, if a Deputy is appointed.

Other responsibilities:

- g. building and maintaining strong working relationships with workers' compensation system partners;
- h. hosting and leading regular meetings with counterparts in WCB, Appeals Commission, MPO and the Department;
- i. meeting regularly with the DM, to discuss emerging issues and administrative matters relating to the FPO;
- j. building and maintaining strong relationships with external stakeholders including, but not limited to, injured workers and their families, labour organizations, industry representatives and employers; and
- k. establishing the Code of Conduct for FPC to be compliance with the *Alberta Public Agency Governance Act*.

Management of the FPO:

- l. the day-to-day management of the FPO, in accordance with the *Financial Administration Act*, the *Public Service Act* and government operational/administrative directives, policies and procedures;
- m. providing positive and proactive leadership and direction for the FPO;
- n. operating the FPO within the mandate and budget approved by the Minister;
- o. ensuring the FPO operates in accordance with applicable government financial and human resource policies;
- p. establishing appropriate systems for the general administration and financial management and control of the FPO;
- q. preparing an annual business plan and annual report for the FPO;
- r. providing the Minister with regular updates on the FPO operations;
- s. inform the Minister and DM of emergent issues, public consultations regarding policy changes and reporting on progress on achieving FPO outcomes;
- t. communicating any changes or updates to the Government of Alberta direction to FPO staff;
- u. reviewing and approving the programs and operating policies of the FPO; and
- v. approving the annual operating and capital budgets of the FPO.

4.5 The Fair Practices Office (“FPO”)

Accountabilities

The FPO is made up of Government of Alberta employees who report to the FPC. The FPO is responsible for delivering on the mandate outlined in the *Workers’ Compensation Act* and implements the strategic direction approved by the FPC.

Responsibilities

The FPO is responsible for:

- a. developing and implementing the approved policies and procedures for the following functions:
 - triage of intakes and inquiries into the FPO;
 - navigational supports for employers and injured workers including referrals to other government and community support programs and services;
 - reviews of complaints on administrative fairness (procedural and behavioural);
 - informal and formal resolution of complaints filed with the FPO;
 - issue and track recommendations made by the FPC;
 - appeals advice, assistance and advocacy services for injured workers and their dependants;
 - appeals advice, assistance and advocacy services for small/medium sized employers; and
 - reviewing trends in complaints and inquiries to the FPO to prepare reports on the overall workers’ compensation system.
- b. acting as the secretariat for the regular meetings with WCB, Appeals Commission, MPO and the Department, ensuring meeting materials are publicly available;
- c. forecasting and tracking the FPO budget in accordance with government policy and processes;
- d. adhering to the Alberta Public Service Code of Conduct; and
- e. monitoring the performance of the FPO through conducting regular reviews and evaluations on programs and procedures.

5. RECRUITMENT AND APPOINTMENT

The Government of Alberta uses a transparent, non-partisan and competency-based process for any recruitment and appointment to public agencies. Within this competency-based approach, efforts are made to ensure the boards of Alberta’s public agencies represent the diversity of Alberta’s population. In addition, there are specific processes and forms that must be used for appointments going to Cabinet.

5.1 Recruitment and Assessment of FPC

The recruitment process for the FPC will be led by the Department on behalf of the Minister, in consultation with FPO as appropriate, and follow the guidelines as set out by the Government of Alberta.

Recruitment

When a vacancy occurs for the FPC position, the FPO may advise as to the competencies that need to be recruited, and the Department will develop a recruitment plan that indicates:

- the competencies that need to be recruited;
- the proposed advertising plan for the recruitment (at a minimum will be posted on ePAAS); and
- the proposed position profile and job posting.

When the vacancy for the FPC is upcoming, the Department will develop a permission to recruit package with a competency matrix, selection criteria, critical path, the proposed advertising plan for the recruitment (at a minimum will be posted on the Government of Alberta's electronic Public Agency Appointments System (ePAAS)), proposed position profile and job posting. The process will include:

- a. the engagement of the Government of Alberta's Executive Search to assist and coordinate the recruitment process;
- b. instituting a national and or province-wide call for applications comprised of published advertisements, notification to stakeholder groups and notification by the Minister to MLAs;
- c. establishing an interview panel;
- d. screening of potential candidates and developing a short list;
- e. seeking interview approval;
- f. the interview panel interviews short-listed candidates;
- g. seeking nominee approval;
- h. preparing the Cabinet package;
- i. forwarding a Minister's Recommendation for Order in Council seeking an appointment by the Lieutenant Governor in Council; and
- j. notifying the FPO and incumbent of the result of the recruitment.

Assessment

The assessment process is based on public agency assessment principles, using competencies and related performance indicators.

Regularly the Minister and the FPC will complete a performance review to ensure they have a common understanding of the FPC's performance.

Information from the assessment will be used to:

- assist with succession planning;
- identify additional skills to help fulfill the FPO's mandate;
- identify any legislative, regulatory or policy gaps;
- assist with appointment and reappointment decisions, and;
- provide the Minister with confidence in the performance and direction of the FPO.

5.2 Termination

The Minister may recommend to Cabinet the termination of the appointment of the FPC for reasons including but not limited to:

- a. significant breach of an obligation under the Code of Conduct;
- b. theft;

- c. fraud;
- d. criminal charges; and
- e. other reasons deemed warranted including those set out in the contract of employment.

6. COMMUNICATIONS WITH MINISTER, PUBLIC AND OTHERS

6.1 Communications with the Minister

There will be ongoing interaction between FPO and Department staff as needed to facilitate the work of each body. In addition:

- a. the Minister and the FPC will meet two times per year or as needed; and
- b. the FPC and the DM will meet at least once per quarter or as needed.

6.2 Communications with the Public

The FPC shall determine how the FPO interacts with the public and establish policies that clearly identify roles and responsibilities in the areas of communication with the public.

6.3 Communications with Other Stakeholders

The FPC shall determine how the FPO interacts with stakeholders and establish policies that clearly identify roles and responsibilities in the areas of communication with stakeholders.

6.4 Freedom of Information and Privacy (FOIP)

The FPO acknowledges that it is subject to the *Freedom of Information and Protection of Privacy Act*. The FPO is responsible for retaining and using any records received, obtained or produced during the exercise of its power, functions and duties in accordance with the Records Management Regulation under the *Government Organization Act*.

7. THE CODE OF CONDUCT

The Code of Conduct provides a framework to guide ethical conduct and reflects the key values of the FPO and the public it services.

The process for administering the Code of Conduct is referred to in the Code itself. The Code is available on the Public Agency Secretariat (PAS) website at www.alberta.ca/public-agency-secretariat.aspx.

8. ADMINISTRATION OF THE MANDATE AND ROLES DOCUMENT

8.1 Review of the MRD

The MRD shall be in effect for up to three years. It must be renewed or revised by the expiry date. The MRD may be amended at any time. Any amendment must be signed by all parties.

8.2 Transparency

Copies of the MRD will be filed with the Minister of Labour, the FPO, the Department and PAS. In support of the principle of transparency, this document will also be easily available to the public on the FPO website at www.fpoalberta.ca/ or through the Government of Alberta on the PAS website at www.alberta.ca/public-agency-mandates.aspx.

8.3 Periodic Agency Review

The responsible Minister must, at least every seven years, review the mandate and operations of every public agency, including the FPO.

Statutory review is included in the *Workers' Compensation Act*. As per Section 159 of the Act, an independent panel must be appointed to review all matters under workers' compensation legislation including the FPO. The first panel must be appointed by February 1, 2021, with subsequent reviews occurring every five years after.

9. OTHER

9.1 Conflict with an Act or Regulation of Alberta

In the event that any provision in the MRD conflicts with an Act or Regulation of Alberta, the provision will be considered to be of no force or effect, and will not invalidate the remainder of this document.

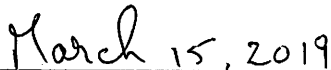
10. APPROVALS

We, the undersigned, agree to the terms and conditions described in this MRD and commit to seeing that the intent of the document is carried out.



Harold Robinson

Commissioner, Fair Practices Office

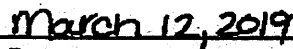


Date



Jeff Parr

Deputy Minister of Labour



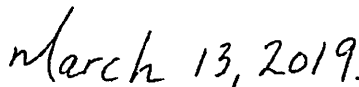
Date



Honourable Christina Gray

Minister of Labour

Responsible for Democratic Renewal



Date