The Liversidge *e*-Letter

An *Executive Briefing* on Emerging Workplace Safety and Insurance Issues

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The WSIB:
An Historic Transformation

WSIB CEO David Marshall speaks at policy conference

On May 27, 2014 WSIB CEO David Marshall spoke at the annual conference of the **Construction Employers Council on WSIB Health and Safety and Prevention** ["CEC"]. The Coalition, formed in 2009, represents much of Ontario's construction sector, which has one of the highest average premium rates and contributes over $1 billion a year to the WSIB. I had the pleasure of hearing this presentation and a similar April 1, 2014 speech delivered to the **C.D. Howe Institute** (the C.D. Howe speech is presented here). The following narrative is a fascinating story and a "must read" for anyone even remotely interested in the future of the Ontario WSIB. While entitled "***An Historic Transformation***" I prefer to see it as an historic mid-point – a fascinating account of the *start* of a transformation. The next 4-5 years will be the pivotal ones. In what is now a long history of serial transformations (take a look at the December 1, 2008 issue of **The Liversidge *e*-Letter**, "***It's déjà vu (all over again)***" for a chronicling of administrative change at the Board over more than a quarter century), the one lesson that is clear is this - as hard as it may be starting change, that is really the easy part – ***the real challenge is seeing it through***. So far, no regime has been able to do that. In the February 6, 2014 issue of **The Liversidge *e*-Letter**, I summarized the ebb and flow of change at the WSIB this way:

> To some degree, we have seen parts of this movie before, several times in fact, since 1983: a crisis crests with a firm resolve for change; change is implemented; progress is noted; hopes and expectations rise; time passes; priorities change; performance drops; expectations and hope fade; and a new crisis eventually emerges . . . *and the process repeats*.

As I have said in these pages before, this one is a little different. ***After this attempt, there's no more chances***. On February 6th I said:

> So, while it is too early to predict success, if success *is* eventually realized, then the work and remarkable stewardship over the past few years will be largely responsible. ***I will though predict this*** – if this kick-at-the-can fails, then that's it. *There will be no more future chances*. That will mark the end of this 100 year experiment. The need for a workers' compensation system of course will continue. ***<u>It just won't be this one</u>.***

THE WSIB:
AN HISTORIC TRANSFORMATION
David Marshall, WSIB President and CEO

About the WSIB – and the changing world of work

Speaking of the long-term, 2014 marks the 100th anniversary of the WSIB's founding.

It's been a century-long learning curve for what is today one of the largest insurance organizations in North America. The WSIB provides workplace injury insurance for five million workers and over 290,000 employers in Ontario.

What we do – directly and indirectly – impacts the majority of businesses in this province and the lives of millions of Ontario's workers.

As you will see from my remarks today – if you don't already know it – how the WSIB is managed, and how well it does its job, matters greatly.

Our role originates with an historic compromise reached 100 years ago, and incorporated in legislation which survives to this day.

Workers injured at work are to receive medical and wage compensation without having to go through the expense and uncertainty of suing their employers for damages.

Employers must join a compulsory collective liability insurance plan which administers the benefits. In return, employers are protected from being sued and suffering potentially heavy losses.

Now, from this simple compromise arises the complex reality of running the insurance scheme – and the realities of administering a major financial institution.

While the WSIB does not have to pursue profits like a private insurance company, it has another obligation which may be equally or perhaps more demanding: It has to run the insurance scheme for the benefit of both workers and employers.

Not an easy task when each party comes at the value proposition from opposite sides. One demanding more benefits, and the other less cost.

On average, each year, the WSIB receives 200,000 claims from workers who have been injured, or contracted a disease as a result of their work. That's 200,000 workers getting injured every year and applying for benefits – a population the size of the city of Windsor, Ontario.

And the benefits of WSIB insurance are substantial: They are comparable to, or better than, the best benefits provided by any injured worker scheme in North America.

A worker injured at work gets paid medical care that's five times greater than what OHIP would cover for an Ontario citizen not injured at work. They get wage replacement for up to 85% of lost wages until they are able to get back to work and this continues to age 65 if needed. And after that a retirement benefit becomes payable, also paid for by WSIB.

With tens of thousands of workers receiving these benefits every year, the costs are not trivial.

My actuaries will tell you that to pay the benefit liability for those workers who have already been injured, we will eventually have to pay out a total of $51B.

That's without counting the cost of a single new injury in the future.

And yes, that's $51 billion, not million.

Nor do our financial obligations end with providing direct benefits to workers. We are also obliged, by legislation, to pay the government almost $250M a year to cover the cost of programs outside of WSIB. For example, we pay for administering the occupational health and safety act conducted by the Ministry of Labour, the various health and safety associations and various offices such as the Office of the Worker Advisor and the Office of the Employer Advisor. To put it simply, the influence of WSIB spreads far and wide across the province.

To pay for all this, we collect over $4B a year in premium revenue from employers who are covered by the WSIB. It is important to remember that employers bear the full cost. There are no tax dollars involved, and our finances are kept separate from the books of the province.

We also manage a very large investment fund which is no small challenge in itself.

So you may well ask, "*What's at stake here*?"

To remain a viable system of this magnitude and reach means that every dollar must be wisely spent.

Managed poorly, the system quickly becomes an unbearable burden on employers, and brings the real risk that workers' benefits or employment capacity – or both – would have to be cut.

But managed well, it is an enviable system which can provide substantial benefits to workers at a reasonable cost.

***So what is our record?* In some ways it is a tale of two very different realities: before 2010, and after.**

In 2009, the Auditor General of Ontario reported that our costs had so outstripped our revenues that we had accumulated an unfunded liability which was threatening to collapse the system…

…and that unless urgent steps were taken, the government would have to add our financial deficit to the general liability of the province.

At the time, the Auditor General cited our financial statements as showing an unfunded liability of $12B.

The prospect of dropping another $12B onto the province's books understandably dismayed the then-Minister of Finance. Your organization, the CD Howe Institute, wrote an insightful report around the same time called "The Hole in Ontario's Budget", which estimated the unfunded liability of the WSIB at closer to $19B than the $12B we were reporting, and called for urgent action.

The practical impacts of carrying such a large unfunded liability were and are horrendous. In the first place, it puts workers' benefits at risk. Second it places an annual interest burden on employers amounting to hundreds of millions of dollars a year. And finally it moves to future generations and future new businesses in Ontario the cost of past deficits which they had no part in creating and acts as a significant damper on productivity and job creation.

And the bad news kept coming.

The tipping point

Queen's Park, at our request, commissioned a Funding Review by Dr. Harry Arthurs to settle once and for all whether we should, or should not, be fully funded. Dr. Arthurs concluded that we should be.

Furthermore, the WSIB was, in his words, at a "tipping point". He said there was a real risk that we would be unable to meet our obligations to injured workers.

This was a wake-up call indeed.

And for good measure, at about the same time, the Canadian Federation of Independent Business issued a scorecard which rated Ontario as the worst performing compensation board in Canada.

This is the landscape my team and I faced when I took office in January of 2010.

And where, you might ask, could we turn to for help?

Workers didn't want us to fix the unfunded liability because they were convinced that it was a ruse to cut their benefits. This, even though Dr. Arthurs pointed out that the exact opposite was true.

Employers didn't want us to fix it because they didn't want to fork over $12B or more – and to an organization which in their opinion had royally screwed up the system in the first place.

Meanwhile the government did want us to fix the problem – but didn't want us upsetting either workers or employers.

Well, there's nothing like a clear and present danger to focus the mind. And believe me, we got focused pretty fast.

For a very brief moment we toyed with some financial engineering schemes. Say, floating a sizeable bond, guaranteed by premium revenue.

But very soon reality set in: If the WSIB was going to be saved it would have to be done the old-fashioned way – through fundamental changes to the business.

Through a diligent understanding of what our strategy needed to be, and through relentless execution.

The way forward

As we went through a grueling analysis – questioning every single thing we did – the way forward became clear.

The first thing we noticed was that expenses had exploded in the 10 years between 1999 and 2009, benefit costs went up by over 50 per cent – from $2.0B to $3.2B a year.

While at the same time injury claims had actually dropped by 40 per cent. The math just didn't add up. Why was this happening?

We couldn't find any evidence that injuries were getting more serious, which might have explained the escalation. We did find that the duration of workers' claims was getting longer and longer, and this more than anything was driving up costs. But why was this happening? The economy was not shrinking during this decade – in fact payroll was going up. So why were workers not getting back to work and becoming so dependent on benefits from WSIB to the tune of an extra $1B a year?

We concluded that there must be something fundamentally wrong with our business model.

And, indeed there was.

The answer was there all the time, hiding, so to speak, in plain sight.

To put it simply, we were passive players.

We got sent the bills for hundreds of millions of dollars for medical and therapy care for injured workers and we…just paid them. Without any regard to results.

We wrote benefit cheques for workers and played a passive role in whether the worker got back to work or not.

We were focused on process and not on results.

And we didn't pay attention to basic market signals that should have told us something was wrong. For a normal organization, when expense is greater than revenue it's a signal that something is going wrong. In our case, we spent the money we had collected in premiums, and when we didn't collect enough to pay expenses we raided our investment fund and cashed in investments to pay the balance.

There's little surprise then, that we were heading for a financial cliff at a jaunty pace.

The Auditor General observed that between 2006 and 2009 our unfunded liability had gone from $6B to $12B, doubling in just three years. And in case you were wondering, the stock market meltdown of 2008 contributed only $1B to that increase. Our underlying business was deteriorating at a rapid pace.

Return to Work

We concluded pretty quickly that we didn't have a revenue problem so much as we had a serious expense problem.

We were spending billions of dollars of employers' premium money without paying attention to results. We had to totally re-engineer our business and stop being passive players.

As anyone who has tried it will know, changing course is not easy to do. There are entrenched – even cherished – ideas about how the old way is the way it should always be.

We had to challenge certain assumptions that had taken root.

For example, for many years in clinical circles, the belief existed that injured workers require lengthy, passive rehabilitation before they would be ready to return to work.

Yet in 2006, the American College of Occupational and Environmental Medicine issued a ground-breaking study that concluded this belief was wrong.

It said: "Strong evidence suggests that activity hastens occupational recovery, while inactivity delays it."

Clinical researchers were also reporting that workers who were not back at work suffered depression, and were prone to developing chronic physical impairments.

Finally we learned that if a worker does not return to work within 90 days of their injury – the chances that they would ever return to work drop by 50 per cent.

We realized with clarity and urgency that if we were going to deliver value for our stakeholders and reduce costs, we would have to help workers recover and get back to work as early and safely as possible.

We were doing no one any favours – in fact we were doing harm - by allowing the system to drag out this process.

So we undertook a complete transformation of our approach.

We abandoned our generalist approach to processing claims. We divided up our work into specialized teams so that decisions could be made faster and with more expertise – we called it our New Service Delivery Model.

Next, we formed a small Strategy team and hired a Chief Statistician to analyse our data. He found that some 100,000 claims we receive each year contribute a minimal amount of cost.

So we wrote computer programs to adjudicate simple claims automatically and consistently, allowing us to focus on more complex cases. Today, 90 per cent of our claims are adjudicated within two weeks – many within 24 hours.

This gives us a head start on the 90 day clock to help workers back to work. Our statistician also told us which types of injuries were most likely to take longer to recover and need the most attention.

Workers with back or shoulder injuries for example.

So we focused on the three types of injuries that posed the biggest risk to returning to work, assigned them priority attention and created special programs of care.

In terms of medical care, we set standards for recovery times based on research results. We have moved away from fee per visit for things like physiotherapy, chiropractic, and so on…

…and started paying for expected recovery times for our workers. The incentive in our fee structure now is not to drag out the process and bill us per visit – but to get results.

We ran a competitive tender for surgical services. Today we contract with hospitals across Ontario. We get an MRI or needed back or shoulder surgery with the best surgeons and physicians in the province, all as early as within five days of identifying the need.

So step one: Make decisions faster, pay for outcomes not process, organize the value chain.

Step two: Help injured workers return to work.

We had outsourced a sort of advisory service for injured workers who were looking for work. We were getting about a 35 per cent success rate with that and it was costing about $200M a year.

Poor outcomes – poor value.

So we took matters into our own hands. We hired 300 return to work specialists and had them go right to employer premises and negotiate return to work for injured workers.

In 2013 our staff made 26,000 visits to employer premises on behalf of workers. Yes – that's 26,000 on-site visits, not phone calls or emails.

Results up, costs down

The results have been both immediate and dramatic.

Total medical costs, which had been soaring up to 2009 have – since 2010 – not only not gone up but have actually come down each year since. And this despite the fact that we are spending more per individual worker in order to get better results.

As well, since 2009 annual benefit costs have come down by three quarters of a billion dollars a year despite the fact that we have not reduced the daily benefit support to injured workers.

Bear in mind also that we are still approving the same percentage of incoming claims as we have for at least the past decade – so our results are not based on denying more claims.

Instead, we have fundamentally cut the length of time that workers are off work and therefore needing benefits. Today 92 per cent of all workers who have been injured and lost time from work are back to work within one year of their injury at full wages.

We now have the lowest cost of new claims and the best return to work results for workers of any province in Canada. And that's value added.

In terms of financial viability, we promised our stakeholders we would take a balanced approach. So while we were re-engineering our business, we also increased premiums – by a relatively modest 2% for each of 2011 and 2012 and 2.5% in 2013.

And we did not need an increase for 2014. In fact, if not for the unfunded liability, we would have the lowest premium rates in North America.

Return to sustainability

Financially we have stopped the bleeding and we are on the road to recovery. Employers have also helped by continuing to reduce the number of injuries in the workplace. In 2011, after ten years of losing some $900M a year, we showed a small surplus from operations.

We showed a $1B surplus in 2012 – and in 2013 we are heading for a surplus that is many times greater than that.

We no longer cash in our investments to pay for day-to-day operating expenses. In fact, we now transfer money back into the investment fund. Since 2011 we have not touched a penny of our investment fund to pay expenses and that has allowed it to grow at a compound rate.

In terms of our benefit liability to workers, we have made sure that it is as prudent as possible. Since 2010 we reduced our discount rate to better reflect market realities – this added $3B to our liability. We took a provision for long latency occupational diseases like cancer and this added $1.5B to our liability and we also added about $1B to recognize that life expectancy has increased. The impact of these and other provisions was to increase our liability by almost $6B since 2010. When we say we are becoming fully funded we know that this is not based on an overly optimistic view of our liability.

The overall result has been that while our liability has grown, our investment fund has also grown thanks to the outstanding performance of our investment team and the fact that we have not drawn down any money from it. The fund has grown from $14B at the start of 2010 to just over $20B today.

After adding to it to strengthen it, we have since reduced the unfunded liability through operating surpluses by over $2B since 2012 – and there is a further drop that will also be announced shortly when we publish our full year results for 2013.

We are well on our way to meeting the new funding levels imposed by the government to ensure that we do eventually become fully funded.

And here's the benefit for Ontario as a whole: thanks to our program reforms – together with employer efforts to make our workplaces healthier and safer…

…there were roughly two million fewer productive days lost in 2012 than just three years before as a result of improvements made by WSIB.

This translates into more than $900M a year in added productivity. It's a near-billion dollar "productivity dividend" injected straight back into Ontario's GDP.

Now, I've focused so far on some of the bigger, more visible, operational and strategic changes we have made. But success depends on a lot more than just getting the big things right.

Along the way we've also been blessed by a confluence of just the right people. I do have a wonderful management team supporting me.

And finally no story of our recovery can be complete without talking about the role of our Chair, Elizabeth Witmer. Elizabeth has brought an unprecedented track record in public service, a keen mind and an uncompromising demand for probity and excellence to our team.

She has rebuilt our board into a competency-based board and regularly spans the province meeting with injured workers and employers, and bringing back feedback about what is working and what is not.

A long journey ahead

In short, the WSIB is in a far better place today than we have been in a generation or more.

Now, none of this is to say that we're out of the woods yet. Far from it.

But we have made a good start. There's still a lot of work to do to become fully funded by 2027 as required by law. This means focus and execution for over a decade or more.

We face the near-constant churn of changing times, changing governments, CEOs, Chairs, Boards, and so on.

But we have rediscovered our place in a very different world from the one in which we were founded a hundred years ago.

And that, my friends, is progress.

Thank you.

The current executive team of Chair Witmer and CEO Marshall are extraordinary

While never shy to criticize, I have neither shied away from sending earned praise the way of the current WSIB executive group – especially towards the formidable team of WSIB President David Marshall and Chair Elizabeth Witmer. This is what I said on February 6, 2014:

> **If it holds . . . the transformation under the joint stewardship of Witmer and Marshall will be unprecedented.**

But, as both the Chair and the President have made ever so clear the job is just starting. It is not done. *Here's something to ponder.* One of the reasons the Board has never quite been able to see change through is likely linked, at least to some degree, to the lack of executive continuity at the helm of the WSIB. People in the top slots move on just when change gets going. Five year terms – six at the outside – are the norm. I have said this before, "*The practice of five year executive terms in a changing world looking ahead 20 years or more is laden with peril.*"

Mr. Marshall's term is up in January 2015. While I have no idea if he wants to stay on for another term, based on simple history I know this – if he doesn't the risk of the Board changing direction yet again, increases. This time more than any other the Board must stay the course. A five year term just isn't enough time. ***David Marshall should be asked to see this through.***