

Performance Assessment for Tribunal Members

33rd Annual CCAT Symposium
Vancouver, BC

Appointment of WCAT Vice Chairs

- Pursuant to section 232(2)(b) of the *Workers Compensation Act* (Act), vice chairs are appointed by the chair, after consultation with the Minister.
- Section 232(6) of the Act provides that candidates must complete a merit-based selection process in order to be appointed as a vice chair.
- The *Workers Compensation Act Appeal Regulation* sets out qualifications which must be demonstrated by applicants in order for the chair to appoint as a vice chair.

Communicating the Need for Performance Evaluation?

- The Act also requires the WCAT chair to undertake performance evaluations of tribunal members.
- Pursuant to section 234(2)(b) of the Act the WCAT chair is responsible for regularly evaluating vice chairs according to standards for:
 - Quality adjudication;
 - Productivity; and,
 - Performance.

Communicating the Need for Performance Evaluation? Continued...

- All candidates who apply for a vice chair position at WCAT are informed of this requirement of the Act during the recruitment process, and their comfort with a formal performance evaluation process is discussed at the interview stage of the recruitment process.
- The precise nature of the performance evaluation process is clearly communicated to all new vice chairs. The goal is to ensure that the process is fair, transparent and accountable.

Reappointment of Vice Chairs

- Similar to the initial appointment, section 232(4) sets out that vice chairs may be reappointed only after a “merit-based” process established or approved by the WCAT chair.
- Given the “merit-based” process requirement, as well as the requirement for regular performance evaluation, reappointments of vice chairs are based on performance and operational requirements.
- Vice chairs are reappointed by the chair following consultation with the Minister.

Framework for Performance Management

- Job descriptions
- Performance standards
- Performance measurement
- Hallmarks of quality decision-making
- Hallmarks for good oral hearing
- Code of Conduct
- System for complaint handling
- Training and ongoing development

Required Performance Competencies

- Knowledge of the workers' compensation system, legislation, and policies
- Knowledge of administrative law and its application
- Written and oral communication skills
- Sound analysis and decision-making
- Interpersonal skills
- Organizational skills
- Willingness

Benefits of Performance Evaluation

- Measure performance of vice chairs against standards that reflect desired competencies.
- Provide feedback to vice chairs and provide support for improvement.
- Establish an objective basis for reappointments.

WCAT Performance Standards

→ Quality

- Written decisions reflecting “Hallmarks of Quality Decision-Making”.
- Conduct of oral hearings consistent with WCAT practice guidelines and rules of natural justice.
- Professional, ethical and collegial conduct.

→ Efficiency

- Decision output reflecting ability to organize and prioritize caseload.

WCAT Process

- Randomly select four decisions.
- Randomly select two oral hearing recordings.
- Each decision and hearing recording, after being anonymized, is assessed by a peer team leader (other than the vice chair's team leader) against the standards.
- Vice chair, quality assurance notes any “quality issues” that have arisen during the evaluation period.
- Director of operations evaluates productivity.
- At the request of the vice chair, vice chair's own team leader provides comments.

WCAT Process Continued...

- Chair reviews the performance evaluation and makes comments.
- Vice chair is invited to provide input.
- Chair consults with the Minister.

Cautions and Concerns

- Performance evaluation should involve evaluators who are independent of appointment and re-appointment process.
- Must respect the independence of decision-makers and not evaluate “correctness” of decision.
- Important to provide opportunity for vice chair input before finalizing evaluation.
- Engage in discussion with a vice chair as soon as possible when it becomes apparent that the vice chair is having difficulties with any of the standards against which their performance will be evaluated, in order that results of the performance evaluation will not be a surprise.

Cautions and Concerns Continued...

- Be sure that degrees of differentiation set out in the evaluation process are measurable and will support the reappointment process (e.g., does not meet standard, meets standard, exceeds standard).