

# Governance and Independence Framework

Date: April 1, 2021

Version 1.3

Next Review Date: October 29, 2021



## 1. Background

The Appeals Commission for Alberta Workers' Compensation ("Appeals Commission") is an independent public body established under the *Workers' Compensation Act* ("WCA").

The Appeals Commission is the final level of appeal for workers' compensation matters in Alberta. In addition to its role as a tribunal, the Appeals Commission is mandated to facilitate two core programs in the workers' compensation system: free advocacy services through the Advisor Office and independent medical review and decision making through the Medical Panels Program. To assist the Appeals Commission and its programs in delivering their services, the Appeals Commission provides shared administrative support through a corporate services secretariat (the "Secretariat").

Operational independence and impartiality is crucial to the successful functioning of the Appeals Commission, its programs and the Secretariat.

This document sets out how the Appeals Commission, its programs and the Secretariat are administered in order to ensure independence and impartiality in adjudication, advocacy, medical panel administration and corporate services.

This document recognizes that:

- The Appeals Commission is a tribunal that provides an independent appeal process within the worker's compensation system;
- The Advisor Office provides independent representation and assistance to workers and employers involved in WCB claims and appeals of WCB decisions;
- The Medical Panels Program facilitates independent panels of physicians as needed to deal with medical issues arising in WCB claims in circumstances as set out in the WCA; and
- The Secretariat provides administrative support to the Appeals Commission and its programs, while supporting and respecting their independence.

For the purposes of clarity, in this document:

- Where a reference is made to the tribunal only, that will be indicated by "Appeals Commission (Tribunal)";
- The Appeals Commission (Tribunal), the Advisor Office, the Medical Panels Program and the Secretariat will be referred to as "branches".

## Revisions to this Document

This is a living document. It was created in advance of the April 1, 2021 legislative amendments that bring the Advisor Office and Medical Panels Program within the scope of the Appeals Commission. Changes will occur as the transition evolves.

From April 1, 2021 to March 31, 2022, this document will be reviewed on a monthly basis and amended as necessary. Thereafter, it will be reviewed annually on or around April 1.

## Review History

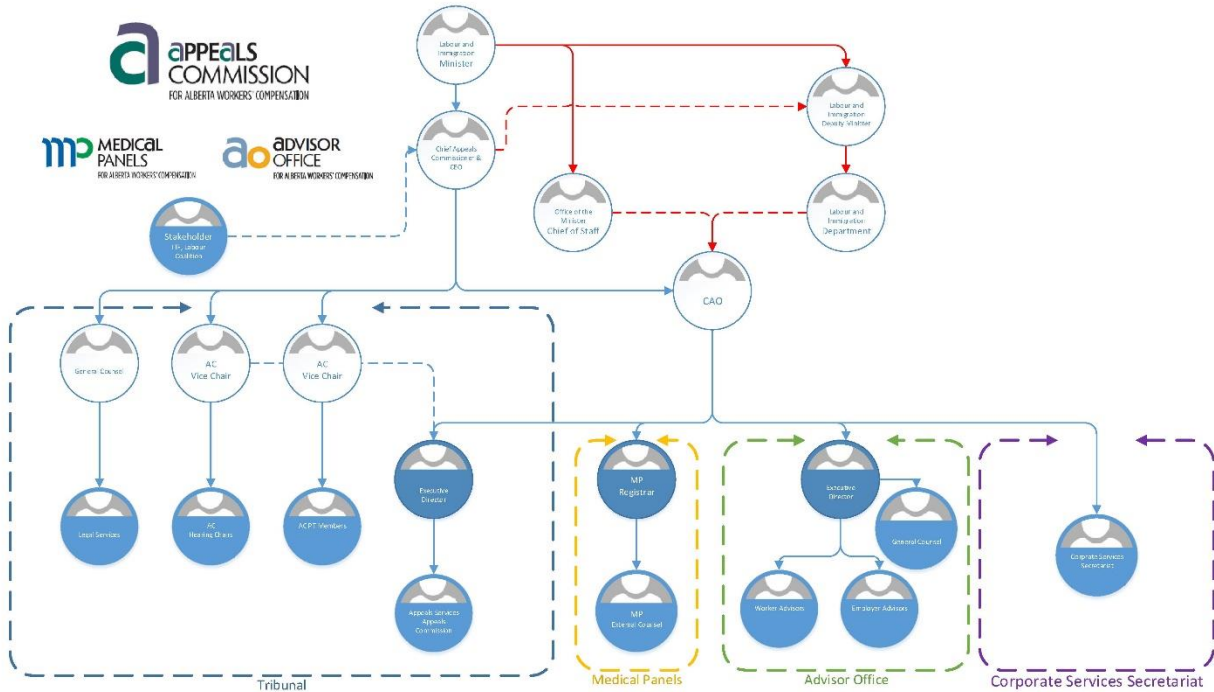
Review Date	Summary of Amendments
April 29, 2021	n/a
May 31, 2021	Section 4.2 amended to confirm that the Medical Panels Commissioner reports to the CEO.
June 30, 2021	n/a
July 30, 2021	Section 5.17 added to address situations where a team member is involved in an appeal to the Appeals Commission (Tribunal).
August 31, 2021	Section 5.18 added to address the Service Standards and Complaints Process and its application across all branches of the Appeals Commission.
September 30, 2021	n/a

## 2. Guiding Principles

Each branch of the Appeals Commission has its own purpose and mandate. However, the following principles are key in how they and their inter-relationships are governed:

- **Independence:** each branch of the Appeals Commission provides its mandated services to the expected standards of excellence, in an unbiased, impartial manner, free of any outside or cross-branch influence;
- **Service:** each branch of the Appeals Commission understands that they provide important services to Albertans and to the workers' compensation system;
- **Efficiency:** wherever possible and appropriate, the Appeals Commission, its programs and the Secretariat seek to reduce red tape and find efficiencies in how services are provided within the system.

### 3. Organizational Structure



## 4. Executive Management

### 4.1 Chief Appeals Commissioner & Chief Executive Officer (CEO)

The *Workers' Compensation Act* assigns dual functions to this role: Chief Appeals Commissioner and CEO. As Chief Appeals Commissioner, this role has legislated responsibilities related to the adjudication of appeals. As CEO, this role has responsibility for, and the authority to manage and direct, the Appeals Commission (Tribunal), its programs and the Secretariat.

This role is accountable and reports to the Minister of Labour and Immigration and is responsible for the operation and management of the Appeals Commission, its programs and the Secretariat, including administering and directing its statutory powers, duties and functions.

Regarding the administration of the Advisor Office, Medical Panels Program and the Secretariat, this role:

- Achieves results through the establishment of corporate objectives;
- Delegates authority, implements policy, establishes procedures, makes decisions, takes actions, establishes practices and develops activities to ensure that mandates are fulfilled;
- Represents and manages the organization's public image and credibility, including the public image and credibility of the programs it establishes and administers.

For greater clarity, and to support independence, as Chief Appeals Commissioner, this role does not:

- Sit on appeals where an Advisor Office representative is participating;
- Sit on appeals where a medical panel report is on file or where some issue regarding a medical panel is raised. If the Chief Appeals Commissioner is on an appeal where a medical panel issue unexpectedly arises, they will recuse.

For greater clarity, and to support independence, as CEO, this role does not:

- Directly oversee the Appeals Commission's programs and Secretariat. The CEO sets broad goals and objectives but provides significant latitude to program and Secretariat leadership as to how those are achieved.

For the purposes of this document, this role will be referred to simply as the "CEO".

### 4.2 Medical Panels Commissioner

The Medical Panels Commissioner is appointed by the Minister of Labour and Immigration. This individual is responsible for striking medical panels. This role reports to the CEO.

### 4.3 Chief Administrative Officer (CAO)

The CAO has delegated authority from the CEO and is responsible for overseeing the administration of the operational aspects of each branch of the Appeals Commission. The CAO does so in accordance with the policies, procedures, practices and activities established by the CEO to fulfil the respective mandates of the branches.

Critically, the CAO is responsible for safeguarding the independence of the Appeals Commission's branches and acts as a buffer between the CEO and the Advisor Office and Medical Panels Program. The CEO sets broad objectives and direction which the CAO operationalizes in conjunction with the programs.

The CAO provides high-level oversight for the operations and administration of the Appeals Commission (Tribunal) and the Advisor Office. The CAO is directly responsible for the day-to-day operations and administration of the Medical Panels Program and the Secretariat.

### 4.4 Vice Chairs

Vice Chairs report to the CEO and provide senior leadership at the Appeals Commission (Tribunal). All adjudicators report to one of two Vice Chairs. Vice Chairs do not supervise any non-adjudicative staff members.

### 4.5 Executive Directors

Reporting to the CAO, the Executive Directors are responsible for the day-to-day operations and administration of the Appeals Commission (Tribunal) and the Advisor Office. Most non-adjudicative staff at the Appeals Commission (Tribunal) and all staff at the Advisor Office report, directly or indirectly, to the Executive Directors.

### 4.6 Legal Counsel

There is separate Legal Counsel for the Appeals Commission (Tribunal) and Advisor Office.

The Appeals Commission (Tribunal) has a General Counsel and Legal Counsel who are responsible for all litigation, solicitor work, and general legal and advisory services required by the Appeals Commission (Tribunal) and, unless independence concerns arise, the Secretariat. In the event that independence concerns arise in respect of legal work or advice required by the Secretariat, external or government counsel will be retained.

The Advisor Office has its own General Counsel who fulfils a similar role.

Appeals Commission General Counsel and Legal Counsel provide advice exclusively to the Appeals Commission (Tribunal) and Secretariat. Advisor Office General Counsel provides legal advice exclusively to the Advisor Office.

The Medical Panels Program does not have in-house counsel but may retain external counsel if needed.

## 5. Operational Independence

### 5.1 Vision, Mission and Values

The Appeals Commission's vision, mission and values apply to the Appeals Commission (Tribunal) and the Secretariat. The Advisor Office and Medical Panels Program are expected to adhere to the Appeals Commission's overall vision, to create their own unique mission, and to establish their own definitions of the Appeals Commission's values.

### 5.2 Code of Conduct

All team members from across the Appeals Commission are expected to sign and adhere to the Appeals Commission's [Code of Conduct](#).

### 5.3 Brand Identity

The Appeals Commission's brand identity will be used for the Appeals Commission (Tribunal) and the Secretariat. The Advisor Office and Medical Panels Program will have their own unique brand identities.

### 5.4 Communications

All appeal-related communications (including medical panel communications) will continue to be carried out on the record and through established channels. Team members from across branches must not correspond with each other regarding an appeal outside of these channels. Unacceptable communications include:

- Appeal-related instant messaging across branches;
- Direct communication with adjudicators by team members from the Advisor Office or Medical Panels Program;
- Direct appeal-related communication with the Medical Panels Commissioner by team members from the Appeals Commission (Tribunal) or Advisor Office.

Certain communications are necessary to ensure the efficient and effective execution of the mandate of each branch of the Appeals Commission. Any system-related communication must be limited to management-level employees and kept at a high level, where practical.

Examples of acceptable system-related communication are as follows:

- Roundtable meetings for CEO, CAO and branch leadership to discuss areas of mutual interest and opportunities for improvement;
- Regular meetings between Vice Chairs and Advisor Office Executive Director to discuss areas of mutual interest and opportunities for improvement;
- As-needed meetings between branch leadership to discuss operational issues;
- As-needed meetings between Legal Counsel to discuss operational issues.



While some communication will occur from the CEO to all branches, the CEO will typically not communicate directly with team members of the Advisor Office or the Medical Panels Program. Most communication will be delivered through the CAO or the Advisor Office Executive Director. When the CEO deems it necessary to issue specific operational directions to either program, this will be accomplished by way of Executive Order delivered to the CAO for implementation.

## 5.5 Independence in Advocacy and Adjudication

Advisors from the Advisor Office do not receive preferential treatment from the Appeals Commission (Tribunal) in terms of appeal processes, hearing scheduling, decision timelines, appeal outcomes, hearing practices or adjudication in general. For clarity, and to support independent adjudication by the Appeals Commission (Tribunal) and strong advocacy by the Advisor Office, the following applies:

- Adjudicators will not be assessed or measured on their confirm/reverse/vary rate with respect to decisions appealed to the Appeals Commission (Tribunal);
- Advisors will not be assessed or measured on their success rate before the Appeals Commission (Tribunal).

## 5.6 Reporting

Reporting expectations for the Appeals Commission's programs and Secretariat are as follows:

CEO to Minister	Monthly written update and meetings as required.
Medical Panels Commissioner to CEO	Monthly written update and meetings as required.
CAO to CEO	Weekly meetings and written updates as required.
Tribunal and Advisor Office Executive Directors to CAO	Weekly meetings and written updates as required.
Medical Panels Registrar to CAO	Weekly meetings and written updates as required.
Secretariat to CAO	Weekly meetings and written updates as required.

## 5.7 Performance Objectives and Standards

Performance objectives and standards are set as follows:

Appeals Commission as a whole	Minister sets objectives and communicates those to CEO.
Appeals Commission (Tribunal)	CEO defines performance objectives and standards. Adjudicative standards are communicated through Vice Chairs; operational standards are communicated through CAO/ED.
Advisor Office	CEO sets broad performance objectives and standards which are communicated through CAO. ED operationalizes standards and objectives.

Medical Panels	CEO sets broad performance objectives and standards which are communicated to Medical Panels Commissioner by CEO and to staff by CAO.
Corporate Services Secretariat	CEO sets broad performance objectives and standards which are communicated and operationalized through CAO.

## 5.8 Human Resources

All branches of the Appeals Commission are subject to Government of Alberta human resource directives and policies. The CAO is the most senior *Public Service Act* employee at the organization and is responsible for compliance with Public Service Commission policies. Those policies will be applied consistently across branches. Any Appeals Commission-specific Human Resources policies and procedures will also be applied consistently across branches, whenever appropriate.

Vacant positions that are posted by way of internal expression of interest will be posted across the branches of the Appeals Commission, whenever appropriate.

## 5.9 Respectful Workplace Policy

The Appeals Commission is committed to a safe and respectful workplace. All team members at the organization are subject to the Government of Alberta's Respectful Workplace Policy.

Any issues or concerns that arise as between Appeals Commission (Tribunal) adjudicators and advisors from the Advisor Office in the context of a hearing are to be dealt with in the course of the hearing or through the Appeals Commission's service standards and complaint policy. The service standards and complaint policy is available to all parties and representatives that appear before the Appeals Commission (Tribunal).

## 5.10 Training

The branches of the Appeals Commission may participate in the same or similar training courses, some of which may be mandated by the Government of Alberta, the CEO or the CAO. The Appeals Commission (Tribunal) and the Advisor Office have team members who are responsible for identifying and coordinating training opportunities. They may collaborate on training opportunities for cost savings purposes.

Secretariat team members may attend Appeals Commission (Tribunal), Advisor Office or Medical Panels Program training, where appropriate. Appeals Commission (Tribunal), Advisor Office and Medical Panels Program team members will not share internal training.

Acknowledging the limited opportunities for external training, team members from across branches are not precluded from participating in the same external training courses; however, the expectation is that their behaviour while on those courses supports the independence of each branch of the Appeals Commission.

### **5.11 Team Building and Recognition**

There will be no cross-branch team building, conferences or social activities.

Branches will determine their own recognition programs.

On a case-by-case basis, the CEO and CAO may choose to recognize individuals or teams from across the branches of the Appeals Commission as they consider appropriate.

### **5.12 Operational Policies**

The CAO is accountable for operational policies across all branches of the Appeals Commission. General operational policies will be consistent across the organization. However, it is acknowledged that in some instances, branch-specific policies will be required.

### **5.13 Facilities**

The Appeals Commission (Tribunal), the Advisor Office, and the Medical Panels Program will not share office space. Each will be housed in a separate office space. For client service, cost savings and efficiency purposes, they may be housed in the same building.

The Secretariat will be housed with the Appeals Commission (Tribunal). All Secretariat staff will be required to sign a Confidentiality Agreement confirming that they will not share information about one branch of the Appeals Commission with any other branch.

For cost savings and efficiency purposes, it may be determined that it is appropriate for certain service providers (e.g. cleaning) to provide services across branches. For the same purposes, where appropriate, joint orders for equipment may be placed and items such as office supplies and surplus equipment may be shared. Any sharing of services or equipment will be coordinated through the Secretariat.

### **5.14 Case Management Systems**

The Appeals Commission (Tribunal), Advisor Office and Medical Panels Program will not share access to case management systems.

### **5.15 Shared Drives**

Each branch of the Appeals Commission has its own drive located on the Government of Alberta server. The drives are not accessible by anyone within the Government of Alberta (with the exception of IT support personnel). There is no shared drive access between branches.

When files or documents are shared as between the branches of the Appeals Commission, this sharing takes place by email or through file transfer protocols, as appropriate in the circumstances. Files are not shared by way of shared drives.

### **5.16 Privacy**

The Appeals Commission acknowledges that it accesses and uses confidential personal information in the course of carrying out its mandate. The Secretariat will eventually provide confidential privacy advice and support to each branch of the organization, in consultation with Legal Counsel where appropriate. In the interim, Appeals Commission (Tribunal) Legal Counsel will provide privacy advice and support to the Appeals Commission (Tribunal) and the Secretariat, and Government of Alberta privacy consultants will provide privacy advice and support to the Advisor Office and Medical Panels Program.

Whenever possible, privacy policies and procedure will be consistent across the entire organization.

### **5.17 Team Member Appeals to the Appeals Commission (Tribunal)**

The Appeals Commission acknowledges the possibility that team members from all branches may have personal involvement in a WCB claim that proceeds to an appeal at the Appeals Commission (Tribunal). Those appeals will be managed on a case-by-case basis in order to support independent and fair adjudication, as well as the privacy of the team member. Steps that may be taken by the Appeals Commission (Tribunal) in these circumstances include, but are not limited to:

- Excluding the CEO and Vice Chairs from participating in the hearing;
- Assigning panel members who are less likely to have had exposure to the team member involved in the hearing (for example, panel members based in a different city), or where necessary, seeking to appoint, on a short-term basis, panel members who have not interacted with the team member;
- Assigning the pre-hearing work on the matter to a supervisor who is less likely to have had exposure to the team member involved in the hearing (for example, a supervisor based in a different city);
- Preparing the matter using paper only, rather than storing information within network drives or a case management system;
- Not publishing the decision.

### **5.18 Service Standards and Complaints Process**

The Appeals Commission has a public-facing Service Standards and Complaints Process which applies to all branches of the Appeals Commission. Complaints are referred to the Chief Administrative Officer and directed to the appropriate branch for a response.