

POSITION TITLE: Vice Chair
POSITION NUMBER(S):
DIVISION: Ministry of Labour
UNIT: Workers' Compensation Appeal Tribunal
CLASSIFICATION: TBD Directive 1/24 Level 5 Tribunal Member
LOCATION: Richmond (Primary)
SUPERVISOR'S TITLE: Chair
POSITION NUMBER 76871
SUPERVISOR'S CLASSIFICATION: OIC

Program

The Workers' Compensation Appeal Tribunal (WCAT) is the final level of appeal in the workers' compensation system. It is an independent tribunal that hears and decides appeals of decisions made by WorkSafeBC, about:

- workers' compensation benefits
- employer assessments
- occupational health and safety penalties
- prohibited actions.

WCAT also hears applications, such as applications to extend the time to file a late appeal, applications to reconsider a decision after it is issued, and applications for stays of proceedings. WCAT can also issue certificates to court addressing whether the parties to a court action are workers or employers under the *Workers Compensation Act*.

Parties before WCAT may be represented by lawyers, employers or workers' advisers or laypeople. Many do not have representation.

Purpose of Position

Vice chairs ensure that WCAT issues clear, timely, well-reasoned, and fair decisions on matters affecting workers and employers across British Columbia.

Vice chairs are independent. Appeals are usually decided by one vice chair acting on their own and are sometimes decided by panels of three or more vice chairs. Vice chairs review the evidence, apply the law and policy, conduct hearings (written or oral), and ensure each case is decided fairly.

Vice chairs exercise significant discretion in how they conduct appeals and are responsible for issuing clear, written decisions. Vice chairs actively manage appeals by giving directions to Registry staff, getting more information where needed, and responding to parties on specific matters.

Specific Accountabilities / Deliverables

Vice chairs decide complex and often disputed appeals. The cases can involve questions such as whether a worker's disease is related to workplace exposure, whether a traumatic injury or death happened at work, whether a psychological injury arose from bullying or harassment, or whether an employer's breach of the occupational health and safety provisions warrant an administrative penalty.

Vice chairs are responsible for:

- **Evaluating and weighing evidence:** Appeals often involve conflicting medical opinions, serious allegations, and complex legal and medical issues. Vice chairs review and assess the evidence and make clear findings of fact. They also have the authority to make inquiries and determine whether there is sufficient evidence to decide the appeal.
- **Complying with administrative law principles:** Vice chairs, with support from the WCAT Registry, manage the appeal process. They decide matters such as the method of appeal, whether evidence should be admitted, and whether to use WCAT's inquiry powers. Vice chairs regularly consider how to ensure appeals are managed in a way that is procedurally fair, recognizing parties have the right to be heard, the right to an unbiased decision-maker, and the right to a reasoned decision.
- **Conducting oral hearings:** Vice chairs must effectively facilitate oral hearings by managing proceedings in a fair, orderly, and efficient manner. This includes setting a clear structure, explaining the process to parties (often unrepresented), focusing the issues, and ensuring each party has a meaningful opportunity to be heard. Vice chairs must act, and be seen to act, impartially throughout the process. Vice chairs conduct oral hearings in person or by video. They are typically assigned up to seven oral hearings in a six-week period. Oral hearings are usually scheduled for one and a half hours, and some may require travel within the province.
- **Managing interactions with parties:** Vice chairs provide direction to Registry staff, who serve as the parties' points of contact, and manage the appeal and hearing process. Some parties may be distressed, angry, or face barriers to full participation, and many are unrepresented. Vice chairs must treat all participants with respect and courtesy and must help ensure parties treat each other with respect and courtesy. Vice chairs may also have a duty to accommodate parties who face barriers to full participation, based on protected grounds.
- **Applying law and policy:** Vice chairs interpret and apply the *Workers Compensation Act* and applicable WorkSafeBC policies to the facts of each case. They identify the relevant legal issues, apply binding policy, and exercise independent judgment where required, while ensuring decisions are consistent with the statutory framework. Vice chairs also have authority to decide constitutional questions and address matters under the *Human Rights Code*, in the context of an appeal.
- **Decision writing:** Vice chairs are required to write timely, and well-reasoned decisions in plain language. Vice chairs issue approximately 80 decisions per year, with productivity expectations adjusted for complexity. Decisions must apply the law and policy and address the parties' relevant submissions.
- **Managing a large and diverse caseload:** Full-time vice chairs carry a caseload of approximately 35 to 40 appeals, with higher volumes during busy periods. Vice chairs are responsible for meeting performance expectations for decision writing, hearings, productivity, and timeliness.
- **Ongoing learning:** Vice chairs are committed to maintaining and updating their knowledge to support quality decision-making. They participate in regular training and self-study, and may also learn through involvement in projects, committees, delivering training, reading peers' decisions or other initiatives.

- **Collegial and respectful behaviour:** Vice chairs work closely with tribunal staff and other vice chairs. They are responsible for ensuring that they interact with them in a collegial and courteous manner, supporting a collaborative and respectful work environment.

Framework for Position

WCAT vice chairs are appointed by the chair of WCAT, after consultation with the Minister of Labour. First appointments are typically for three years. The chair can also provide longer (or shorter) appointments after the first term. Many vice chairs are appointed for successive terms.

The requirements for appointment are set out in section 2(a) of the *Workers Compensation Act Appeal Regulation*.

Eligibility Criteria

Education and Experience

- A minimum undergraduate degree, preferably in law, social sciences, or a science-based field.
- At least five years of work experience, a substantial part of which should include:
 - Investigating or managing cases in an administrative law or legal setting; or
 - Decision-making, for example in a court, tribunal, First Nations band or administrative law setting; or
 - Representing clients before courts or tribunals, preferably in an administrative law, insurance, or personal injury context; or
 - An equivalent combination of education and experience.

Other Requirements

Candidates must also:

- Be Canadian citizens or permanent residents.
- Live in British Columbia by the time of the appointment
- Demonstrate integrity and good character as assessed through interviews and three reference checks.
- Be able to travel within the province and to WCAT's Richmond office, when required for hearings, training or meetings.
- Have basic knowledge of the workers' compensation system

Vice chairs must have:

- An understanding of administrative law.
- Strong analytical skills, including the ability to review evidence and apply the law and policy to that evidence.
- Excellent writing and verbal communication skills, including the ability to explain complex information in plain language.
- Strong organizational skills and the ability to comply with deadlines while effectively managing a complex and diverse caseload.
- Excellent interpersonal skills.

Competencies

Administrative law knowledge: Vice chairs must have a strong understanding of administrative law, including fairness in decision-making and the ability to assess and weigh evidence, including basic knowledge of the workers' compensation system.

Analytical skills: Vice chairs must be able to review large amounts of complex information, identify key issues, assess evidence and arguments, apply law and policy, and reach sound conclusions. Vice chairs must assess conflicting evidence impartially with neutrality, independence and an open mind. Vice chairs also need to identify where information is missing or inconsistent and conduct research to gather complete and reliable information.

Facilitation skills: Vice chairs must be able to manage and facilitate oral hearings effectively by structuring proceedings, focusing the issues, and ensuring all parties have a meaningful opportunity to be heard. They must control the hearing process, manage time and interactions, and maintain fairness, respect, and impartiality throughout.

Communication skills: Vice chairs require excellent written and verbal communication skills. This includes the ability to write well-reasoned decisions and to communicate clearly at hearings or pre-hearing conferences. Vice chairs must be able to explain complex concepts to parties in plain language.

Caseload management: Vice chairs manage a high-volume, varied caseload in a fast-paced environment. They must know how to prioritize work to address competing demands and maintain a consistent output within the time limits set by the *Workers Compensation Act*.

Interpersonal skills: Vice chairs must manage interactions with parties with empathy, respect and impartiality. Vice chairs are also expected to help create a collaborative work environment, including in high-pressure or time-sensitive situations, treating colleagues with professionalism and respect.

Cultural safety: Vice chairs must demonstrate cultural awareness, empathy and sensitivity by fostering a respectful and inclusive environment for all participants. They must remain open to different perspectives, reflect on their own assumptions, and adapt their approach to support fair and accessible proceedings. They need to recognize and respond appropriately to accommodation needs related to disability and cultural factors, and applying inclusive practices in interactions, including with Indigenous peoples and other diverse communities.

Resiliency: Vice chairs must be able to manage the psychological demands of the work in a fast-paced and demanding environment. Some parties may be distressed or frustrated and may engage with the tribunal in high-conflict ways. The subject matter of appeals may be sensitive or challenging. The outcomes of WCAT decisions can have a significant impact on the parties and vice chairs regularly make decisions that are not favourable to at least one party. Vice chairs must also observe strict confidentiality obligations and cannot discuss the work with family and friends. As a result, vice chairs must have considerable emotional resiliency.

Commitment to ongoing learning: Vice chairs must be committed to ongoing learning through training, self-study, peer review and mentoring and other opportunities like projects and committees.

Technical skills: Vice chairs should be comfortable using Microsoft 365, electronic case management systems, online research tools, and video conferencing platforms for hearings and meetings.