



Workers Health & Safety Centre Submission
Responding to Ontario Ministry of Labour Public Consultations
Thursday, August 11, 2016

Ministry of Labour Proposal to “Mandate Construction Hazard Awareness Training”

The Workers Health & Safety Centre (WHSC) has served as Ontario’s government-designated, labour-endorsed, training centre for some 30 years. Ours is a proud record. To begin this submission, it is important to note, WHSC does not speak for the labour movement in this province. However, given our unique experience and role in Ontario’s health and safety system, we believe it is incumbent upon us to weigh in on a matter so pertinent to the mandate of our organization — namely, the Ministry’s proposal for mandatory entry-level training for construction workers. Before weighing in on the actual proposal though, it is equally important to remember how we came to be deliberating on this standard in the first place.

From tragedy to recommended training priorities

The Toronto work site tragedy of December 24, 2009 was perhaps the most dramatic instance of worker suffering in recent memory. As many celebrated Christmas Eve, four workers were killed and one was seriously injured when a construction swing stage snapped in half and plummeted 13 storeys to the ground. Ontario’s labour movement demanded changes to help prevent similar tragedies.

In response, the Ontario government appointed an Expert Advisory Panel to conduct a comprehensive review of the province’s occupational health and safety prevention and enforcement system. Chaired by former senior civil servant, Tony Dean, the 10-member Panel was comprised of experienced health and safety experts from labour, employers and the academic community. Among other things, the Panel recommended mandatory training to fill existing gaps in the legislation. Responsibility for establishing training standards would be transferred to an also recommended new Prevention Office operating within the Ministry of Labour. This training was to include:

- ✓ Entry level awareness training for workers and supervisors
- ✓ Entry level training for construction workers
- ✓ Fall protection training for workers working at heights
- ✓ Training for worker health and safety representatives employed in smaller workplaces.

The Expert Panel determined the need for all this training to be so great they recommended all four types of training should be treated as a priority and put in place within one year of their report and these recommendations. The then-Minister of Labour, Peter Fonseca accepted the report in its entirety and promised on behalf of the government to deliver on all its recommendations.

Unacceptable delay and a minimalist approach

More than five and a half years later, workers and supervisors are now offered mandatory online information instead of quality training and a much-delayed working at heights standard that will only apply to all construction workers who work at heights next spring. No meaningful discussions have begun on a standard for worker representatives in smaller workplaces. Finally, after 18 months of stakeholder working group meetings on mandatory entry level training for construction workers, the Chief Prevention Officer (CPO) has unilaterally decided the training should be “awareness” only. And still we are only at a public consultations stage. No standards or training programs have actually been drafted and ready for use.

It should also be pointed out, a training standard for working at heights and construction workers were only to be the first in a long line of standards. The Expert Panel recommended stakeholders in other sectors should be engaged by the Prevention Office to determine mandatory training for their respective sectors. As well, they recommended consultations on other high-hazard activities in need of mandatory training. To date, neither of these subjects has been broached.

A seriously flawed proposal

As a result, WHSC has very significant concerns about the consultation document put forward by the Prevention Office and the process for arriving at it. To be specific, we offer the following observations.

- The delay in bringing forward a training standard to properly address the training needs of workers entering the construction industry is unconscionable. Our frustration with the glacial pace at which promised training standards are progressing has been no secret. We have attempted on many occasions to engage the Prevention Office and encourage a faster pace. On every occasion we have offered our services to assist, pointing out we have already developed a good deal of the training recommended by the Expert Panel.
- Thus, we strongly disagree with a proposed two-year window to comply with the training standard once it is in place. If this proposed timeline is adopted, construction workers will have waited eight to perhaps ten years for promised training.
- Declaring recommended mandatory entry-level training for construction workers to be “awareness” only is a thin cover for rejecting a recommended, two-day duration for the training program in question and unilaterally replacing it with a proposed, one-day duration. The original two-day duration was a consensus recommendation from both labour and employer industry representatives to the working group struck to develop a proposed standard. This was a

considered position, arrived at over 18 months of discussion, made by those knowledgeable and experienced in what it would take to deliver a meaningful entry level training program for workers in their industry. We cannot support the summary dismissal of these industry leaders.

- The sheer number of learning outcomes that must be covered by the Prevention Office-proposed program will ensure this program is nothing more than an information dump and a considerable one at that. The proposal suggests in 6.5 hours learners must “demonstrate a comprehensive understanding of all learning outcomes” and the evaluator or instructor must be able to “ensure” this understanding. This objective will be impossible to attain in the time allotted.
- Proposed learning objectives cover all of the following topics: rights and responsibilities of all workplace parties under the *Occupational Health and Safety Act* and construction regulations; hazard identification, assessment and control methods; all categories of hazards that threaten worker health; housekeeping and access and egress issues; slips, trips and falls; ladders and work platforms; confined space hazards; hazards associated with electricity and energy; working at heights; mobile equipment and vehicles; material handling; and excavations and trenches. These are no small issues. Under the existing proposed timeline each will be glossed over in a half hour or less, given their number. It should be noted Quebec construction workers benefit from a mandatory program covering similar issues, only their program is 30 hours in duration. Developers of this standard understood proper demonstration and evaluation of learning takes time.
- In contrast, the Prevention Office proposal disingenuously sets out adult learning principles for the program. Among other things it talks about “relating learning to training participants’ own experiences” and “engaging training participants using a variety of activities that allow opportunities for participation, feedback and interaction.” Of course the corollary to this is the instructor observes learning by participant interaction. Seasoned WHSC instructors tell us this kind of evaluation is challenging enough with the Working at Heights training standard which requires far fewer learning objectives in the same time being advanced for entry level training covering all significant hazards in the construction industry.
- Like the Working at Heights training standard, this current proposal downloads responsibility for securing required training to the workers themselves. We objected to this in the Working at Heights standard and we object to this again. The current proposal says employers need only ensure workers complete the required training. Nowhere is there any requirement for employers to provide the training. This will leave non-union workers especially to secure the training on their time and at their own expense. This downloading of responsibility for training to workers contravenes the spirit and intent of the *Act*, which makes it clear worker training should be an employer duty.

- For workers on worksites employing 20 or more workers the proposal allows an employer-developed program which “would not require review or approval by the CPO.” In these instances, the JHSC must be consulted about the program. If the CPO was familiar with the history and experience of WHMIS training requirements needing only JHSC consultation, then he would know this proviso is all but meaningless in non-union workplaces and in this economy almost equally difficult to enforce in unionized workplaces. The level of occupational disease in Ontario regardless of sector tells us WHMIS training and its requirement for JHSC consultation only has been a huge failure. All workers should be entitled to an MOL-approved training program, both properly designed and delivered.
- It should be noted in the proposal the learning outcomes for worker occupational health are limited to but one set of outcomes. Given the number of workers who have suffered a recognized occupational illness and those who have suffered illness which should have been recognized, occupational health must be given greater emphasis in all training programs. By the Ministry’s own acknowledgement occupational disease is the leading cause of death among Ontario workers.
- Reporting requirements for training providers as set out in the proposal are much too onerous. Like those for Working at Heights we suggest this is a duplication of effort. We believe greater efficiencies can be achieved in this respect and would welcome an open and frank discussion on how to better achieve our mutual goal of accountability.
- Should this proposal for construction worker training becoming the actual mandatory standard it will set a dangerous precedent. Workers and their representatives in all other sectors anticipate the training promised to them. However, should the current proposal pass unchanged it is doubtful workers in other sectors will be able to secure better. Thus, all workers will have suffered a great disservice.
- Finally, we note in the proposal the acknowledgement of all who participated in the working group and all who assisted the working group as a resource, including the WHSC. This acknowledgement we believe is deliberately misleading. Those not involved in the process would take from this all who are listed support the proposal and its content. Clearly, we have serious concerns with this proposal. Going forward, we would ask the Prevention Office to refrain from these kind of misleading tactics.

Thank you for taking the time to read this submission. Should the Prevention Office or other Ministry leadership wish to discuss these concerns we would welcome the opportunity. We believe Ontario construction workers deserve better. Regardless of what the Ministry determines, we remain dedicated to working with our constituents and clients in the construction industry to develop and deliver the highest quality training for workers, their representatives, supervisors and employers – the kind of training we work to also ensure for those employed in all other sectors of Ontario’s economy.