



What We Heard

Consultation on Chronic Stress,
Workplace Violence and Harassment
May 2024

WorkplaceNL

Health | Safety | Compensation



Table of Contents

Background1

Overview of Consultation Process2

What We Heard3

 Topic 1 - Policy Changes3

 Topic 2 - Injury Prevention5

 Other Comments6

Annex A - Consultation Participants7

Background

WorkplaceNL's policies and programs are guided by the Workplace Health, Safety and Compensation Act, 2022 (the Act). The Act defines what injuries are eligible to receive coverage under the workers' compensation system. Injuries must arise out of and in the course of employment, and may involve chance events, wilful acts, disablements, occupational disease or death. However, the Act states that injuries resulting from stress are not covered, other than stress that is a reaction to traumatic events.

Our policy, EN-18 Traumatic Mental Stress, defines what is considered a traumatic event. Examples include:

- Witnessing a fatality;
- Being the victim of an armed robbery or hostage-taking incident;
- Being subjected to physical violence; and
- Being subjected to threats of physical violence, where there is reason to believe the threat is serious.

Only injuries resulting from these types of events are eligible to receive benefits under the workers' compensation system. Benefits are not currently provided for workers who experience injuries from chronic stress.

Chronic stress is defined in other jurisdictions as the presence of a workplace stressor that is excessive in intensity or duration in comparison to the normal pressures of work. Some jurisdictions refer to this as "gradual onset stress" because it accumulates over time. Repeated incidents of harassment can be an example of this type of workplace stressor.

All jurisdictions throughout Canada provide some level of coverage for psychological injuries resulting from traumatic stress. Several jurisdictions also cover injuries from chronic stress. Most recently, Nova Scotia amended its legislation to cover chronic stress injuries effective September 1, 2024.

WorkplaceNL is reviewing chronic stress in response to a recommendation from the 2019 Statutory Review of the workers' compensation system. The recommendation asked that we review our policy with the intent and purpose of including chronic stress, particularly as it relates to workplace violence and harassment. The review was directed to be in conjunction with the violence and harassment provisions under the Occupational Health and Safety Regulations, 2012 (OHS Regulations).

Overview of Consultation Process

WorkplaceNL consulted with stakeholders and the public on adding coverage for psychological injuries resulting from chronic stress. The consultation was held from November 2023 to May 2024 and involved a two-pronged approach:

Written Submissions – We issued a press release on November 20, 2023, inviting written submissions from the public and stakeholders, followed by social media posts. We posted a consultation document to our website outlining the legislative and policy context for the review, key definitions, statistics and discussion questions.

Stakeholder Sessions – We held sessions with our primary stakeholders in April 2024. One session was held with the Newfoundland and Labrador Federation of Labour (NLFL), which included representatives from several labour unions. A separate session was held with the Newfoundland and Labrador Employers' Council (NLEC) and St. John's Board of Trade, which included several employers. Both sessions were led by a third-party facilitator and included subject matter experts from WorkplaceNL and the Occupational Health and Safety (OHS) Division of Digital Government and Service NL.

We received seven written submissions and 13 individuals participated in the sessions (see Annex A for a list of participants). This document summarizes what we heard with participants' views grouped into themes. References to "participants" include both what we heard from people who provided written submissions and attended the sessions.

We recognize the value of engaging with the public and our stakeholders to inform our review of chronic stress and we thank all of those who shared their views.

What We Heard

Topic 1 - Policy Changes

The first topic explored whether to expand WorkplaceNL's policy to include coverage of chronic stress. We posed two questions to guide this discussion:

Question 1: Should Policy EN-18 Traumatic Mental Stress be expanded to include chronic stress resulting from workplace violence and harassment? Why or why not?

Question 2: What types of cases involving workplace violence and harassment do you think should be covered and not covered?

Summary of Key Themes

All participants expressed some level of support for expanding coverage to include chronic stress, particularly as it relates to workplace violence and harassment. The themes we heard include:

Breadth of Coverage – Differing views were presented on whether to limit coverage to only workplace violence and harassment. Participants representing employers suggested coverage be limited to violence and harassment. Participants representing workers suggested extending coverage to other workplace stressors. Participants representing workers also noted workplace violence and harassment are included in the OHS Regulations because they are considered harmful to workers. They suggested these incidents be covered regardless of whether they involve traumatic events.

Discriminatory Practices – Participants representing workers discussed that excluding chronic stress from coverage is discriminatory. A recent court case in Nova Scotia was highlighted, which found excluding chronic stress from coverage infringes on the Canadian Charter of Rights and Freedoms.

System Sustainability – Participants representing employers noted the cost of doing business in this province has increased. They stated the addition of new benefits has increased costs and noted policy changes need to consider the sustainability of the system. They suggested a better understanding of costs is required before expanding coverage. Participants representing workers noted the historic trade-off on which the workers' compensation system is founded, whereby workers give up their right to sue in exchange for benefits. They stated that increased costs do not justify continuing with discriminatory practices.

Clear Definitions and Criteria – Several participants asked for clear definitions and criteria on what claims would be accepted. They suggested this be developed in consultation with stakeholders and include examples of what would be excluded from coverage. It was generally accepted that an injury should have a supporting diagnosis from the Diagnostic and Statistical Manual of Mental Disorders (DSM).



Adjudication Process – Participants representing employers suggested a transparent and efficient adjudication process would help manage claims and costs. They noted it would be inappropriate to extend existing practices given the complexity of these cases. A recommendation was made to consider a dedicated service delivery team with expertise in psychological injuries.

Predominant Cause and Pre-existing Conditions – Participants representing employers supported the model adopted in other jurisdictions where the workplace stressor must be the predominant cause of the injury. Participants representing workers suggested that workers with pre-existing conditions not be excluded from coverage and that doing so would be discriminatory.

Labour Relations Issues – Participants generally agreed that coverage of chronic stress should exclude labour relations issues, like performance management. Participants representing workers suggested only “reasonable” actions taken by an employer be excluded, as stated in some other jurisdictions.

Inherent Risk – Participants representing employers noted that certain workplaces or occupations come with a higher risk of chronic stress, including violence and harassment. They stated these risks may expose some employers to higher injury rates and costs.

Access to Health Care Services – All participants expressed concerns over timely and effective access to health care services for psychological injuries. Long wait times for appointments were noted, particularly with a psychologist or psychiatrist, and this is more challenging in rural areas. Concerns were raised about how this may affect workers’ access to benefits, recovery and return-to-work outcomes, claim duration and costs. It was recommended that WorkplaceNL enter into agreements or create a network of service providers.

Return to Work – Participants representing employers recommended that policies prioritize return-to-work initiatives to manage claim duration.

What We Heard

Topic 2 - Injury Prevention

The second topic explored options to prevent chronic stress in the workplace, particularly as it relates to workplace violence and harassment. We posed two questions to guide this discussion:

Question 1: What additional measures can the OHS Division and WorkplaceNL take to ensure employers are aware of their responsibilities under the OHS Regulations to implement a harassment prevention plan?

Question 2: What can WorkplaceNL do to further help prevent chronic stress as it relates to workplace violence and harassment?

Summary of Key Themes

All participants agreed it is essential to prevent psychological injuries from chronic stress, including workplace violence and harassment. Participants recognized WorkplaceNL's existing efforts in this area and suggested more be done, which would help manage system costs. Participants representing employers suggested prioritizing more prevention initiatives prior to expanding coverage. Other themes we heard include:

OHS Regulations – Participants representing both employers and workers supported updating the OHS Regulations to require employers to address psychological health and safety as part of their OHS programs. An employer suggested that the OHS Division request copies of harassment prevention plans during inspections.

Changing Labour Force – Participants suggested prevention efforts consider the province's changing labour force, including the entry of a younger generation and newcomers. They suggested more education on inclusion and diversity would help prevent harassment and violence.

Awareness and Education – Participants suggested it would be helpful for employers to have more education on the benefits of early intervention and how prevention can improve productivity and reduce costs. They noted there are challenges accessing training and information on certain topics. Topics of interest for training include resiliency, critical incident debriefing, fostering respectful workplaces and mental health first aid. They also suggested it would be helpful to have practical templates and resources for employers in plain language.

Small Employers – Participants representing employers discussed the unique needs of smaller businesses, many of whom do not have a dedicated human resources department or safety coordinator. They suggested these employers would benefit from resources tailored to their needs.

Website Enhancements – Participants recommended changing WorkplaceNL's website to make it easier for employers to find resources. This may include a better employer section or an improved search engine.

What We Heard

Other Comments

Participants commented on topics that did not relate to psychological injuries resulting from chronic stress, such as:

Traumatic stress coverage:

- Participants representing workers recommended broadening the definition of a “traumatic event” by considering criteria from the DSM. They stated legislation only requires “exposure” to a traumatic event, and the DSM indicates exposure can come from learning that a traumatic event occurred and being exposed to the details.
- Participants representing workers recommended removing language on pre-existing conditions from Policy EN-18, and investigating and publicly reporting on the adjudication of these claims.

Secondary psychological injuries:

- Participants representing workers noted claims for secondary psychological injuries are to be adjudicated under Policy EN-19 Arising Out of and in the Course of Employment. They recommended revising Policy EN-19 to clarify this issue.

Presumptive coverage:

- Participants representing employers suggested reviewing the impacts of the presumptive PTSD coverage added in 2019 before adding new benefits.
- Participants representing workers requested the province’s presumptive coverage be reviewed to ensure workers can access benefits when needed. They suggested approving claims for workers with PTSD, regardless of whether their case meets the definition of a traumatic event. They also suggested to accept diagnoses from more healthcare providers, and to expand presumptive coverage to include other trauma-related psychological injuries.

Enhanced collaboration:

- All participants highlighted the importance of WorkplaceNL having a collaborative relationship with its stakeholders. This may include continued consultation during policy development processes, or other routine collaboration outside of managing claims.



Annex A - Consultation Participants

The following table lists the individuals who participated in the stakeholder sessions and the organizations they represented:

Stakeholder Sessions	
Session 1 – Labour	
Participant	Organization
Travis Perry	Newfoundland and Labrador Federation of Labour
Yvette Coffey	Registered Nurses Union of Newfoundland and Labrador
Jaclyn Whalen	Registered Nurses Union of Newfoundland and Labrador
Vina Gould	Newfoundland and Labrador Association of Public Employees
Bernadette Coffey	Newfoundland and Labrador Association of Public Employees
Dawn Learning	Canadian Union of Public Employees
Session 2 – Employers	
Participant	Organization
Judy Sparkes Giannou	Newfoundland and Labrador Employers' Council, Clayton Hospitality
Andrew Pike	Newfoundland and Labrador Employers' Council
AnnMarie Boudreau	St. John's Board of Trade
Marlene Van De Wiel	MAR Investments Limited
Bonnie Matthews	Firefly Metals
Nicola Clift	Seafair Capital
Nicole Bailey	Seafair Capital

Written submissions were received from:

- J.D. Irving Limited
- Retail Council of Canada
- Newfoundland and Labrador Federation of Labour
- Newfoundland and Labrador Employers' Council
- Marlene Van De Wiel, MAR Investments Limited
- Brittany Hanlon
- Parasmanee Idamban

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