

Strategic Directions

Promoting the

Internal Responsibility System

In Nova Scotia

NS Department of Labour and Workforce Development

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1 Introduction

The Department of Labour and Workforce Development has included developing strategies for enhancing compliance with the internal responsibility system (IRS) in the Department's 2008-2009 Business Plan. This is also part of the Occupational Health and Safety Division's four-year plan.

The Workplace Safety and Insurance System (WSIS) has also identified the IRS as a priority for action. WSIS includes workers, employers, the agencies—Workers' Advisers Program (WAP), Workers' Compensation Appeals Tribunal (WCAT), Occupational Health and Safety Division (OHS) and the Workers' Compensation Board of Nova Scotia (WCB).

This discussion paper is the next step in designing a comprehensive IRS strategy. Your input will help the Department develop strategies to increase familiarity with the internal responsibility system. The paper provides background information on the internal responsibility system, followed by strategies that are being considered to promote and support the IRS (including regulatory strategies).

While reading this, we want to urge you to keep in mind the human cost of workplace injuries. As we discuss plans and strategies we must not forget the painful consequences that workplace injuries have for thousands of Nova Scotian families every year.

We encourage you to review this document and provide your input into the design and implementation of a strategy to effectively promote the IRS. Information on how to respond is provided at the end of the paper.

The OH&S Division would also like to thank the participants of the IRS workshops that were presented at the 25th and 26th Annual Nova Scotia Safety Council Conferences. The feedback from these sessions has been very helpful, and will be combined with the responses from this discussion document in the creation of the forthcoming IRS Promotion Strategy.

2 IRS Background

The *Occupational Health and Safety Act* was made law in the summer of 1996. Speaking of this Act, Judge Richards, the author of "The Westray Story – A Predictable Path to Disaster" wrote that,

"The act states at the outset: "The foundation of this Act is the Internal Responsibility System". If...the new *Occupational Health and Safety Act* is a wake up call to informed and dedicated training and the monitoring of safety concerns in the workplace combined with intelligent, objective and aggressive

enforcement by a responsible inspectorate, then the act may usher in a new era of worker safety and health.”¹

Since 1996, the Occupational Health and Safety Division has pursued this mission vigorously, promoting the IRS and ensuring responsible enforcement action is taken when needed. One example of these efforts is targeting the workplaces that have the highest injury rates for inspections, and highlighting IRS issues during these inspections. Other examples include public presentations on the Act that focus on its IRS foundation, or the free information materials (such as industry guides or a video library) that the Division makes available.

3 What is the Internal Responsibility System

The Internal Responsibility System (IRS) is a system, within an organization, where everyone has *direct* responsibility for health and safety as an essential part of their work. No matter where or who the person is in the organization, they can address safety in a way that fits with what they do. Every person takes initiative to improve health and safety on an on-going basis.

The IRS is the foundation of the Occupational Health and Safety Act in Nova Scotia. However, even though it is so prominent in the Legislation and so vital to health and safety, the IRS is not widely understood and applied.

4 The Key Principles of the IRS

There are a few key principles of the IRS that help to clarify it:

1. The responsibility for identifying and addressing workplace hazards belongs to the people who actually work in the workplace (workers, supervisors, managers, owners, suppliers, and service-providers).
2. The greatest responsibility for creating and maintaining a safe and healthy workplace is shared by all of these groups, to the extent of their authority and ability.
3. The IRS includes a plan for participation in safety matters and the flow of information about safety, as well as the right to refuse unsafe work.
4. The Occupational Health and Safety Division of the Department of Labour and Workforce Development plays a supportive role. It establishes and clarifies roles and responsibilities for all workplace parties. The Division assists the meeting of these responsibilities, and intervenes when the responsibilities aren't met. It doesn't assume the responsibility for creating and maintaining safe and healthy workplaces.

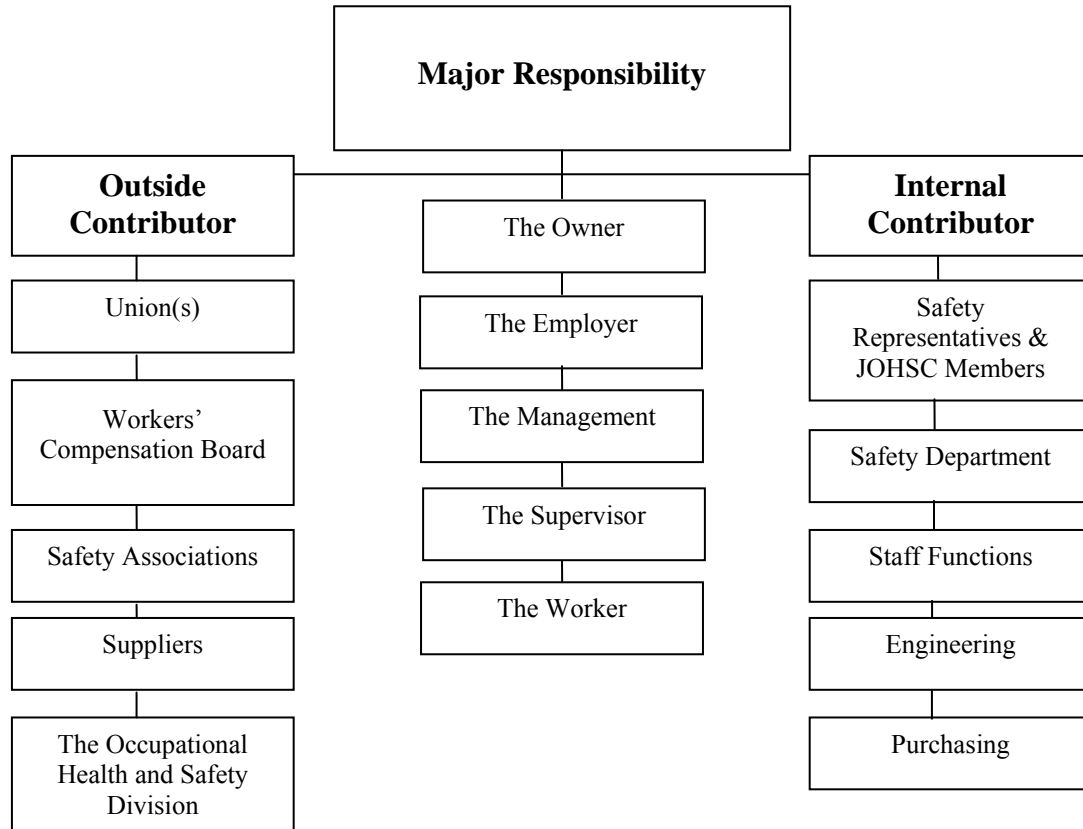
¹ “The Westray Story – A Predictable Path to Disaster” page 506-507.

Figure 1: The Internal Responsibility System

Figure 1 provides a picture of the idea behind the principles above. This figure clearly shows that the direct responsibility for safety is the responsibility of those directly involved – workers, supervisors, management, and owners. Other groups that have a role in workplace safety are shown to have contributing, rather than direct, roles.

This diagram drives home a crucial point, because a very common mistake is to shift responsibility from the individual to someone external (especially the government) or someone internal (especially the health and safety representative or the joint occupational health and safety committee).

Figure 1: Workplace Safety - Major and Contributing Safety Responsibilities



5 Why is the IRS so Important?

The IRS is so important because it recognizes that those who actively participate in a workplace are better at identifying and solving safety concerns than those outside of the business. When safety is taken seriously by individuals and companies it becomes much more personal, meaningful and respected than when it is imposed externally.

When the IRS is well-understood and accepted by employees there is a clear link to reduced medical injuries and lost time. This is why it is so important for companies and individuals to know about and apply the IRS.

6 Usage of IRS Nationally and in Nova Scotia

The internal responsibility system is a concept that underpins all occupational health and safety law in Canada. It is used to describe how OH&S Acts all across Canada should work. For example, in PEI the Workers' Compensation Board calls IRS the "philosophical foundation of the OHS Act", in Ontario the Workplace Safety and Insurance Board states that, "The *Occupational Health and Safety Act* (OHS Act) is based on the concept of IRS", and Manitoba's Department of Labour and Immigration says that, "Workplace safety and health law in Manitoba...is based on the Internal Responsibility System".

Nova Scotia is unique among Canadian provinces in that it has included the internal responsibility system within its Occupational Health and Safety Act. Among Canadian provinces, this is the strongest legislative support for the IRS. Given this legislative position, it is all the more important that Nova Scotia be the national leader in promoting the IRS philosophy.

The OHS Division employs an inspection staff that can assess how well a company's IRS is operating. The OHS Division also provides information to help companies establish healthy internal responsibility systems.

7 The Role of Joint Committees in the IRS

Joint Occupational Health and Safety Committees play a crucial function in the operation of the Internal Responsibility System. The main function of the JOHSC is to monitor that the IRS is functioning properly within the workplace. The committee should act as an advisor, consultant, and promoter for safety, rather than being responsible for actually 'doing' safety.

If the IRS is functioning well in a workplace then the vast majority of issues raised by workers are addressed by supervisors or managers. As a result, only the most troublesome safety problems are sent to the committee. This allows the JOHSC to focus its efforts where they are needed most, rather than getting bogged down by many smaller issues.

The committee should be responsible for checking and evaluating the safety efforts of the workers and management. It is the workers and supervisors who should be doing a variety of regular safety inspections, from machine guarding to musculoskeletal hazards, and the committee should be the watchdog that ensures that these efforts are being done appropriately.

In smaller workplaces the role of the committee is performed by a health and safety representative. The health and safety representative is an employee who cooperates with the employer in occupational health and safety on behalf of the other employees. Just as in a larger committee, the representative should monitor the safety efforts at the workplace and identify where there are shortcomings.

It is important to note that JOHS committees and representatives are not a part of management or the chain of command. They are not responsible for managing safety at the workplace. The JOHS committee or representative is there to ensure that the job that management is doing is a responsible and careful one. The JOHS committee or representative is a fail-safe mechanism to call to account any decline or oversight in safety diligence.

This is why JOHS committees and representatives are listed as an internal contributor to the IRS, rather than with those who have the major responsibility.

Currently Nova Scotia is one of only three provinces (PEI and Alberta are the others) who do not have any requirements or provisions for the training of Joint Occupational Health and Safety Committees.

8 The Precautionary Principle

The precautionary principle is a concept that coincides with the IRS principle that all workplace parties should be proactive in addressing safety in whatever way they can. The precautionary principle states that actions to reduce risks should not wait for scientific certainty before being adopted.

The SARS Commission in Ontario determined that “the most important lesson of SARS is the importance of the precautionary principle. SARS demonstrated over and over the importance of the principle that we cannot wait for scientific certainty before we take reasonable steps to reduce risk.” The Commission went on to recommend that “This principle should be adopted as a guiding principle throughout Ontario’s health, public health and worker safety systems.”

The precautionary principle is an important concept to use in the application of the IRS in any workplace.

9 Project Goal

The goal of “*Promoting the Internal Responsibility System*” is to increase the number of businesses actively using the IRS, and to improve the understanding of the IRS and its benefits.

This will be done using a variety of non-regulatory methods such as those described below. Regulatory solutions are also being assessed to determine if they can help

promote the IRS. Feedback from the consultation process will be important in choosing which methods are used to promote the IRS.

Like any plan, measurable evaluation criteria must be selected so that the Department can determine how well the strategy is working. These could include targeting follow-up inspections to focus on IRS, or using survey questionnaires.

10 The Plan - The Development of an IRS Promotion Strategy

Given the diversity in size and resources of the thousands of businesses in Nova Scotia, the plan to reach them with the internal responsibility system message must also be appropriately diverse. The eight approaches proposed below are put forward for consideration.

10.1 Education and Awareness

Initiatives to educate and improve awareness will be one of the largest components of the strategy. The challenge will be twofold: to make a larger percentage of workplaces aware of the IRS, and to establish the correct perception of IRS as a positive force for safety, efficiency, and profitability.

The message here will be essential. IRS can become a vague concept, and if it does it loses its usefulness. The definition and descriptions must be clear, concise and applicable. They can appear in policy statements, OH&S or JOHSC mandates, training, newsletters, and on bulletin boards alongside the OH&S Act.

Existing IRS education and awareness activities include an extensive video library, a monthly email service of OH&S news, a variety of industry specific safety guides, and presentations and courses provided by the Department and various other organizations.

The Workers' Compensation Board will be a major partner in meeting this challenge. The WCB is responsible for injury prevention education, and has expertise in helping employers and workers reduce injury and illness by providing written materials, web-based resources and coordination of awareness sessions. The Department will work with the WCB to promote best practices and make positive changes in awareness, attitude and behaviour toward the internal responsibility system.

The department will look for additional opportunities to partner wherever possible to find ways to develop and deliver the IRS message.

10.2 Partnership Development

There are many partners that have an interest in the issue and with whom the OH&S Division can combine resources to develop and deliver effective programming. This includes developing programs or products, training, advertising and more. Over the years the Occupational Health and Safety Division has partnered with many groups, including:

- Workers' Compensation Board of Nova Scotia (WCB)
- Human Resources and Social Development Canada (HRSDC)
- The Canadian Society of Safety Engineering (CSSE)
- Nova Scotia Safety Council (NSSC)
- Nova Scotia Community College (NSCC)
- Nova Scotia Construction Safety Association (NSCSA)
- Representatives of the Atlantic Provinces (RAP)
- Nova Scotia Retail Gas Association
- Forestry Safety Society of Nova Scotia (FSSNS)
- American Industrial Hygiene Association (AIHA)
- Road Builders Association of Nova Scotia (NSRBA)
- Forest Products Association of Nova Scotia (FPANS)
- The Construction Association of Nova Scotia (CANS)
- The Nova Scotia Trucking Safety Association (NSTSA)
- The Nova Scotia Department of Education

10.3 Compliance Promotion

This means establishing clear standards, providing information and services, conducting inspections and communicating risk factors and current good practice with the aim of improving performance.

This could be done with increased use of the IRS checklist as an essential part of regular inspections, as well as increased orders relating to IRS performance. Another option is to employ Compliance Promotion Specialists who can address compliance promotion for the IRS and other key areas. These methods would allow the OHS Division to effect change in workplaces using the existing provisions of the *OHS Act*.

10.4 Good Practice Definition

Guidelines to address the internal responsibility system can be developed in partnership with businesses where they do not already exist.

These guidelines could cover a variety of topics that help build up a healthy internal responsibility system. One example would be hazard assessments. Guidelines could outline how and when they should be done, who should participate in them, and what kind of tasks they should be completed for. Resource documents for completing a hazard assessment could be developed as well.

This example could be applied to guidelines for many topics including:

- Hazard Assessments
- JOHSC member training,
- Internal safety incident reporting
- Performing an IRS evaluation

10.5 Research and Measures

The OH&S Division can conduct research and use the research of other credible organizations to develop measures to track the usage of the IRS in the Province. The measures can then be used as a gauge of provincial performance and relative change as initiatives unfold.

10.6 Incentives

Workplaces that develop and implement a high-quality IRS can be rewarded using a number of incentives that could include insurance reductions or co-operative relationships with the inspectorate. The latter could take the form of the U.S. programs such as the Voluntary Protection Program (VPP) or the Safety and Health Achievement Recognition Program (SHARP). These programs recognize outstanding efforts of employers and employees who have achieved exemplary occupational safety and health.

Many jurisdictions present annual awards for high performers in health and safety. This practice could be re-instated in Nova Scotia.

Incentives can also be created such that businesses that have excellent internal responsibility system practices are given preferred treatment when bidding for government contracts.

10.7 Increased Enforcement of Current Act and Regulations

Increasing the number of occupational health and safety inspectors and inspections would create a more frequent regulatory presence in businesses across the Province. This could increase compliance with the IRS when combined with increased emphasis on IRS promotion during inspections.

10.8 Laws

Nova Scotia is the only province to specifically include IRS in its OH&S Act. However, there are no specific duties that flow directly from this inclusion. Using regulation could define a variety of concepts that would improve IRS.

The Department is considering the draft *Joint Occupational Health and Safety Committee Regulations* proposed by the OHS Advisory Council, which could form part of the strategy. These draft regulations support the IRS by strengthening the joint committees that oversee the internal responsibility system in their workplaces. The main issues addressed in the draft regulations are:

- Training for committee members in the IRS, the OHS Act and Regulations, and committee operations.
- Support for committees from the workplace.

- Rules of procedure for committees.

There are also several other ways that regulations could promote the IRS by strengthening support for joint committees. The following measures demonstrate some of the wide range of approaches that are used in other jurisdictions.

- Establishing minimum JOHSC sizes for businesses. This could ensure that committees have the resources they need to match the size of the business where they are.
- Outlining more precise roles for safety representatives and JOHSC's. This could also add greater weight to the position or committee.
- Establishing a duty for JOHSC's to conduct accident investigations, as well as setting out the requirements of these investigations.
- Creating a duty to carry out hazard assessments for safety-critical tasks.

Although regulations are important, they are only one part of the equation. In addition, any regulations must make sense, and be readily understood by employers and employees so they can effectively promote and facilitate compliance. If new regulations are created, the Division would develop programming to assist sectors and organizations to get ready for the regulations before they come into force.

11 Appendix A – Examples of OH&S Duties in a Healthy IRS

11.1 Workers

- Finding ways to reduce risk
- Taking initiative to fix unsafe conditions
- Following regulatory and employer procedures
- Letting managers know about unsafe conditions or defective equipment
- Reporting unresolved problems

11.2 Supervisors/Managers

- Finding ways to reduce risk
- Applying discretion to solve OHS problems
- Encouraging and responding to reports
- Ensuring proper qualifications and training
- Safety talks, job planning, coaching and job observation
- Disciplining and enforcing of rules and regulations
- Taking unresolved problems to senior management
- Engaging in leadership activities for OHS
- OHS performance evaluation
- Holding others accountable
- Developing, implementing programs
- Post-project/program assessment
- Staffing decisions including properly allocating resources
- Considering system wide problems

11.3 Executives/Directors

- Ensuring the development of an OHS policy and program
- Setting the broad vision of OHS performance
- Undertaking periodic "system audits" to ensure a healthy IRS
- Responding properly to reports by managers
- Ensuring that competent professionals are hired
- Allocating sufficient resources to OH&S
- Holding subordinates accountable
- Considering system wide problems

11.4 Joint Occupational Health and Safety Committees

- Acting as a resource to the other workplace parties
- Promoting the IRS
- Serving as the “system watchdog”
- Resolving issues only after other avenues have been exhausted

12 Appendix B – Response Questionnaire

Promoting the
Internal Responsibility System
In Nova Scotia

Your details

Position

Which of the following best describes yourself?

Manager/Supervisor

Employee

Self-Employed

Individual

Safety Representative/JOHSC Member

Other (please specify)

In what sector does your organization operate?

Please describe:

**Consultation and Involvement in the Internal Responsibility System
Promotion Strategy**

We welcome your responses to the following questions:

Question 1:

Should further measures be introduced to promote the internal responsibility system?

Yes No No opinion

Please give reasons for your answer:

Question 2:

Please rate your opinion of the current effectiveness of the internal responsibility system in your organization:

Poor Excellent
1 2 3 4 5 6 7 8 9 10

Please give reasons for your answer:

Question 3:

What measures would be most effective at promoting the internal responsibility system?
You may indicate more than one choice – please rank your choices if choosing more than one option:

- Education and Awareness
- Partnership Development
- Compliance Promotion
- Good Practice Definition
- Hazard Assessment Resources
- Research and Measures
- Increased Enforcement of Current Act & Reg's
- Legislation and Regulation
- Training for safety reps and JOHSC's
- Support for safety committees
- Rules of procedure for safety committees
- Other (please specify).....

Why do you favour your choice(s)?

How would this work and why would it be effective?

What would be the benefits/costs?

Question 4

Risk assessments are an important part of avoiding injuries. What methods do you feel would be the most effective to encourage their use (some examples are provided, but please add any others you like)? Please use the comments section to describe the benefits or drawbacks of the methods you have considered.

Example A

Develop a comprehensive training package to educate employers and employees on how to properly identify and assess risks and on what types of controls may be appropriate.

Example B

In cooperation with providers of Certificates of Recognition in occupational health and safety, increase the emphasis that such certifications place on risk assessments.

Your Comments:

Question 5:

What would be the most effective education and awareness initiatives to inform workplaces (both management and employees) about their responsibilities under the IRS?

Question 6:

How can the Department best ensure that workplaces understand and apply the IRS?

Question 7:

What is the best way to use the OHS inspectorate to promote IRS?

Question 8:

Should there be common standards of training/competence for all safety representatives and JOHSC members?

Yes No No opinion

If “yes” who should verify competence and how?

Who should give the training?

Your Comments

The Department of Labour and Workforce Development welcomes your comments on ***Strategic Directions: Promoting the Internal Responsibility System in Nova Scotia***. The views of stakeholders are important to the Department in its deliberations to determine the most appropriate government response to address this issue.

Specifically, the Department would appreciate your feedback, before January 9th, 2009.

Comments and questions should be sent to:

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