

Insurance Corporation of British Columbia – 2021 Revenue Requirements Application
Project No. 1599153

MoveUP Information Request No. 1

1.0 TOPIC: *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2021 BCSC 348

Reference: Exhibit B-1, Application, page 7E-2:

5. As part of product reform initiatives, payment for pain and suffering for a minor injury claim is limited to \$5,627 effective April 1, 2020.¹ This limit does not affect the amount of wage loss, medical treatments, and other benefits that customers are eligible to receive. The minor injury limit is intended to curb the amount of time and allocated costs (medical, investigative, and legal expenses) that are associated with the litigation of minor injury claims.

6. Another key component of RAAP product reform was the expansion of the jurisdiction of the Civil Resolution Tribunal (CRT), an independent alternative dispute mechanism, for fair and fast resolution of claims disputes without the need to involve a lawyer (although a customer may choose to have a lawyer represent them). As of April 1, 2019, the CRT can help resolve motor vehicle injury disputes of up to \$50,000. The range of issues that may be brought before the CRT includes:

- The classification of an injury as minor.
- Whether a claimant is entitled to receive the Accident Benefits claimed.
- Who is at fault for a motor vehicle accident.
- Settlement amounts for all motor vehicle injury claims up to \$50,000.

7. The expansion of the jurisdiction of the CRT was expected to reduce the incidence of bodily injury (BI) claims going through the traditional legal process and to help reduce the amount ICBC spends on legal fees and expenses, which will result in a reduction in overall claims costs. As is discussed in Section C.3, to date, very few cases involving motor vehicle accident related injury claims have gone before the CRT. As is noted in Section E, product reform has also had a favourable impact on the Legal Representation Conversion Rate.

And reference: Exhibit B-1, Application, page 2A-2:

C LEGISLATIVE CHANGES FOR MODIFIED TORT CLAIMS

7. As discussed in the 2019 Revenue Requirements Application (RRA), Chapter 2, Legislative and Regulatory Framework amendments to the *Insurance (Vehicle) Act*,

(IVA) and the *Civil Resolution Tribunal Act, (CRTA)* received royal assent on May 17, 2018.

8. On April 1, 2019, Trial Lawyers Association of British Columbia filed a civil claim seeking declarations that the amendments to both the IVA and the CRTA in respect of the minor injury definition and the jurisdiction of the Civil Resolution Tribunal were unconstitutional. These are two key components of the product reform changes that came into effect on April 1, 2019 under ICBC's Rate Affordability Action Plan.

9. From August 10 to August 14, 2020, a summary trial application was heard before the Chief Justice of the BCSC specifically related to the jurisdiction of the Civil Resolution Tribunal.

10. If the judgment to the constitutional challenge of ICBC's Rate Affordability Action Plan product reform is unfavourable, it is expected that there will be a significant increase in the number of claims requiring litigation. This will, in turn, increase the claims costs and the amount of work to be completed by defence counsel and the number of resource hours required to handle the increase in the number of litigated claims

And reference *ICBC: Court rules government efforts to limit trials in minor injury claims is unconstitutional*, Vancouver Sun, March 4 2021

1.1 Please file a copy of the judgment in *Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2021 BCSC 348, posted at <https://www.bccourts.ca/jdb-txt/sc/21/03/2021BCSC0348.htm>

1.2 Please file a copy of the referenced newspaper article.

1.3 Please confirm that by way of remedy, the Court provided as follows:

[414] I will therefore accede to the plaintiffs' request, in part, and grant an order declaring that ss. 133(1) (b) and (c) of the CRTA are unconstitutional and of no force or effect. I also declare that s. 16.1 is unconstitutional and should be read down insofar as it applies to accident claims, except for determination of accident benefits under s. 133(1)(a).

Comment: The reference to this pending decision in Exhibit B-1 confirms that ICBC has contemplated the possibility and potential impact of an adverse ruling.

1.4 According to the Corporation's best current estimation, to what extent would this decision affect

a) the legal representation rate

- b) the cost of resolving personal injury claims
- c) the internal logic and overall design of the Corporation's basic insurance program
- d) the operational logistics of the Corporation's basic insurance program
- e) staffing and training requirements
- f) its revenue requirements in the current policy year
- g) its anticipated revenue requirements in the next two policy years
- h) the time required to bring the Corporation's MCT back to an acceptable level

1.5 With reference to the newspaper article, is the Corporation able to advise whether the Attorney General intends to:

- a) appeal the decision, and
- b) apply for a stay of the remedies provided in the decision

2.0 TOPIC: "ICBC PREPARES FOR ADVANCED CARE" and WORKPLACE CULTURE

Reference: Exhibit B-1, Application, page 1-5:

13. In addition to external outreach, ICBC's internal readiness campaign is focussed on shifting the culture within ICBC to promote leadership, engagement, and recognition to empower employees to provide the customer services required in a care-focused model. Employees will transition over time to the new Enhanced Care delivery model as older tort based claims are settled and more Enhanced Care claims are reported. The main departments within ICBC impacted by the delivery of the new model will be those involved in claims recovery, injuries and material damage, in addition to the distribution channel to support the brokers' transition to the new model.

2.1 Please file any surveys or studies of ICBC's internal culture that have been completed in the past two years.

Reference: page 7A-1 footnote 1:

1 Public reporting includes the [Service Plan](#) and the [Annual Service Plan Report](#).

Reference: page 7A-2:

6. Each year, ICBC's corporate strategy is reported in the Service Plan covering a three-year period. The Service Plan is prepared under the direction of ICBC's Board of Directors. Corporate performance measures and associated metrics are identified for each of the four strategic goals, and are set out in this plan for the years ahead.

Reference: page 7A3-4:

B.2 CORPORATE PERFORMANCE MEASURES IN THE SERVICE PLAN

12. The corporate performance measures provided in the Service Plan are aligned to each strategic goal and are discussed below. In particular:

- **To Make Insurance Affordable** - ICBC will measure affordability using a jurisdictional comparison of year-over-year rate changes; percentage of claims payments that goes to customers; and average cost for a vehicle related claims (excluding glass-only claims).
- **To be Customer Driven** - ICBC will measure both customer service performance and the on-time delivery of defined digital capabilities to pursue the goal to be Customer Driven. Customer service performance is based on the percentage of satisfied customers for each major transaction type: insurance product purchase and renewals, driver licensing, and claims services.
- **To be Smart and Efficient** - This includes two performance measures for measuring operational efficiency: one for claims handling operations and one for other operational efficiency.
- **To be Future Focused** - This includes the Employee Opinion Survey and the delivery of a Future Mobility strategy. The Employee Opinion Survey includes five indices that aligns ICBC's culture to drive a better customer experience and strengthens the skills and capabilities of our people to enable them to be successful including: (1) aligned, (2) enabled, (3) motivated, (4) accountable and (5) leadership.

C PROPOSED CHANGES TO BCUC PERFORMANCE MEASURES

13. In this Section, ICBC will discuss its plan for future reporting to the BCUC. ICBC intends to align its current BCUC performance measures with those Service Plan measures that support the new corporate strategy and are expected to be in place over the long-term. ICBC will continue to report on most of the existing suite of BCUC performance measures and is proposing only limited changes. ICBC believes that these

proposals will continue to provide information to BCUC that will assist in its regulation of the Basic insurance part of ICBC’s business.

2.2 Please file the Service Plan linked to page 7A-1 footnote 1, reproduced above.

Reference: *Insurance Corporation of British Columbia 2020/21 – 2022/23 SERVICE PLAN* page 15 - 16:

Performance Measure(s)	2018/19 Actuals	2019/20 Forecast	2020/21 Target	2021/22 Target	2022/23 Target
4.1a ICBC is seen as a valued partner					
A future mobility strategy is developed with identified plans for key partnerships	N/A	N/A	Customer and partner feedback	Under Development	Under Development
4.1b ICBC’s workplace practices attract, engage and retain people to deliver service to our customers					
Employee Opinion Survey results ¹					
Aligned	82	82	82	Index scores will be maintained.	Index scores will be maintained.
Enabled	73	76	82		
Motivated	72	75	81		
Accountable	90	90	90		
Leadership ²	76	79	n/a		

¹ Data Source: Employee Opinion Survey (EOS) conducted by an independent firm. ICBC will continue to evolve our employee measures to reflect strategic goals.

² The leadership index can only be updated in a full survey year. **Score Legend:** 80-100 = extremely positive. 60-79 = moderately positive. 40-59 = moderately negative. 0-39 extremely negative.

Linking Performance Measures to Objectives:

4.1b ICBC’s workplace practices attract, engage and retain people to deliver service to our customers

ICBC’s *Employee Opinion Survey* (EOS) captures employees’ opinions regarding the tools and processes through which they execute their work, their understanding of how their efforts align with the corporate strategy, their personal motivation and their individual accountability for delivering business results and an assessment of leadership. The EOS is one indicator of ICBC’s efforts to attract, engage, and retain people through its workplace practices, including flexible work arrangements that can help reduce commutes. The EOS scores have progressively increased over the years. ICBC will maintain its focus on continuous improvement of the employee experience, but has adjusted its EOS targets to reflect that either a score increase or maintenance of existing scores is a satisfactory outcome.

....

Strategy 3: Be a flexible employer, promoting workplace practices to reduce commutes

ICBC is facing strong competition for talent. As our business shifts, our workforce will also change and we need to consider strategies to attract, retain and develop people who will help us move forward. ICBC can encourage other organizations to improve transportation infrastructure by improving the flow of people and goods through flexible workplaces to reduce congestion. Implementing more flexible workplace practices will enable employees to work closer to where they live, reduce commute times, and reduce carbon emissions for the province.

2.3 Please file the complete Employee Opinion Survey reports (and any similar surveys or reviews of employee attitudes) for each year beginning in 2018/19.

2.4 Please file the Annual Service Plan Report linked to page 7A footnote 1, reproduced above.

2.5 Is this the most recent Annual Service Plan Report? If not, please also file any more recent reports.

2.6 When will the next Annual Service Plan Report be produced?

Reference: 2019/20 Annual Service Plan Report page 20:

Performance Measures	2018/19 Actuals	2019/20 Target	2019/20 Actuals	2020/21 Target	2021/22 Target ³
4.1 Employee Opinion Indices ¹					
Aligned	82	82	81	82	82
Enabled	73	76	68	82	82
Motivated	72	75	65	81	81
Accountable	90	90	87	90	90
Leadership ²	76	79	N/A	N/A	82

Data Source: ¹ Employee Opinion Survey (EOS) conducted by an independent firm. ICBC will continue to evolve our employee measures to reflect strategic goals.

² The leadership index can only be updated in a full survey year. **Score Legend:** 80-100 = extremely positive. 60-79 = moderately positive. 40-59 = moderately negative. 0-39 extremely negative.

³ ICBC is revisiting its measurement of employee engagement in 2020/21. It is looking to replace the bi-annual survey format with more frequent surveys throughout the year to monitor and assess feedback on a range of topics important to engagement. The targets set out in this Service Plan may need to be updated to reflect improvements to our methodology for measuring engagement.

Discussion of Results

Employee Opinion Survey

- ICBC achieved an organization-wide participation rate of 51 per cent. This large survey sample suggests the results are an accurate representation of employee sentiment.
- Survey results for 2019/20 indicate:

- Scores are lower across all indices compared to 2018 and sit below the targets.
- The Accountable and Aligned indices both continue to score in the 'Extremely Positive' category.
- The Enabled and Motivated indices scored in the 'Moderately Positive' category and will remain a priority.
- ICBC has undergone a significant period of change, which has impacted employees and created challenges in maintaining a positive and engaging employee experience. Concerns regarding workload, training and wellness will require more focus.
- Looking forward, the insights gained from these results will be used to inform the development of ICBC's Strategic Workforce Strategy, Human Resource programs and priority tactics, as well as the Enhanced Care coverage project's change management.

2.7 What measures have been taken by management to apply "the insights gained from these results"?

2.8 Please provide a table showing employee turnover rates each year in each division beginning in 2016, broken down between bargaining unit and non-union employees.