

September 18, 2015

Sent via e-mail

C. Michael Mitchell and the Honourable John C. Murray,
Special Advisors
Changing Workplaces Review
Employment Labour and Corporate Policy Branch,
Ministry of Labour
400 University Ave., 12th Floor
Toronto, ON M7A 1T7

(CWR.SpecialAdvisors@ontario.ca)

Dear Mr. Mitchell and Mr. Murray,

Re: City of Toronto Submission to the Changing Workplaces Review

The City of Toronto appreciates the opportunity to provide input into the review of the *Employment Standards Act, 2000* (ESA) and the *Labour Relations Act, 1995*. As a provider of front-line employment and social services, City Council and City staff take an active interest in employment-related issues and legislation. The City's submission to the Changing Workplaces Review (CWR) recommends changes to the ESA that aim to manage the impact of precarious work, with emphasis on managing impacts on residents from historically disadvantaged groups, including Aboriginal peoples, women, newcomers, people with disabilities and racialized communities. Specifically, City staff recommend defining 'precarious work' in the ESA; strengthening monitoring and enforcement of employment standards for people in the most vulnerable employment arrangements and; given the complexity of employment legislation, increasing workers' awareness of their rights in various employment arrangements.

Toronto Employment and Social Services staff observe that Ontario Works (OW) caseloads increasingly involve individuals who are distant from the labour market and require more intensive supports to find and keep work and, on average, remain on OW longer than in the past. The City's Social Development, Finance and Administration staff also note that improving the quality of jobs in communities is one of the most powerful ways to reduce poverty and improve neighbourhood health.

The Toronto and Ontario governments have a mutual interest in reducing pressure on social services and budgets for providing support to individuals experiencing greater employment and income risks in the information and service-based economy. It is with these shared interests in mind that City staff propose the following recommendations for enforcing employment standards and informing diverse workforces about protections.

Recommendations for Modernizing the *Employment Standards Act, 2000*

Recommendation 1: Codify a definition of 'precarious work'.

- Add a clear definition of 'precarious work' to the ESA to inform employees about the appropriate classification of their job and the corresponding protections to which they are entitled.
- Clarify when and if it is appropriate to use precarious work arrangements.

Recommendation 2: Use the definition of 'precarious work', to develop a tiered, risk-based framework for monitoring and enforcing compliance with the legislation.

- Use the definition of 'precarious work' to form a monitoring and enforcement framework that targets resources to vulnerable workers and focuses on achieving equitable outcomes for claimants.
- Rank industries based on employee complaint and employer non-compliance data from the previous year and use the ranking to narrow monitoring and enforcement efforts to industries where there may be a culture of non-compliance.
- Implement minimum response times for claims made under the ESA to enhance employee confidence in the investigation and enforcement process.
- Increase set fines and maximum penalties to provide stronger disincentive for violating legislated standards.
- Ensure that working conditions and employment arrangements are monitored after an employee files a complaint to ensure that complainants do not face indirect reprisals.
- Improve the search capacity of the public registry of companies with ESA convictions to assist organizations that wish to procure goods and services from employers that provide high quality jobs.

Recommendation 3: Raise awareness and improve individuals' understanding of their employment rights through accessible public communication and responsive legislation.

- Convey ESA protections and obligations through plain language public information campaigns in multiple languages to ensure that people engaged in various employment arrangements are aware of their rights. Information and materials should be provided to community agencies to maximize reach and community groups should be engaged to bolster public outreach efforts.

- Review the ESA at set intervals in the future to ensure that the regulatory regime is responsive to economic and labour market shifts.

City staff look forward to the outcome of the CWR as an opportunity to deliver on "Breaking the Cycle: Ontario's Poverty Reduction Strategy" through modernized employment legislation that both acknowledges workers' vulnerabilities and employers' need for flexibility in order to increase competitiveness and productivity.

If the Special Advisors would like more information on any of the recommendations, Denise Andrea Campbell, Director of Social Policy, Analysis and Research, can be reached at (416) 392-8614 or dcampbe6@toronto.ca.

Sincerely,



Giuliana Carbone
Deputy City Manager

cc: Peter Wallace, City Manager, City of Toronto