



OFFICE OF THE WORKER ADVISER

Annual Report

April 1, 2018 to March 31, 2019

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MESSAGE FROM THE DIRECTOR

I am pleased to submit the annual report of the Office of the Worker Adviser (OWA) for the fiscal year 2018-2019.

It was a year of change, beginning with my arrival as Director in April of 2018.

OWA continues to offer quality service to workers and their families but has begun to take steps to modernize and explore opportunities for innovation. These include:

- The use of technology to enhance service delivery:
 - Piloting electronic access to Workplace Safety and Insurance Board (WSIB) and Workplace Safety and Insurance Appeals Tribunal (WSIAT) files;
 - Continuing to make use of WSIAT virtual hearings, where appropriate for our clients; and
 - Together with other Ministry of Labour (MOL) business areas, initiating a coordinated procurement proposal for a modern case management system.
- Targeting key areas of workplace safety and insurance services for consideration:
 - Taking a look at Return to Work matters, and piloting training and data collection in one region, while engaging in a national research project;
 - Significantly reducing our list of cases waiting for review to see if full representation can be offered; and
- Investing in training for our staff.

These initiatives are set out in detail in the report, and together will support the provision of modern, quality services in the years to come.

Of course, nothing is more foundational to our success than the hard work, dedication and skill of OWA staff. I am regularly humbled by the passion and expertise of our people and am so very proud to be able to showcase our achievements in this report.

Kathleen Therriault
Director, OWA

THE MANDATE OF THE OFFICE OF THE WORKER ADVISER

The Office of the Worker Adviser (OWA) provides education, advice and legal representation to non-unionized workers and their survivors in workplace insurance matters (also known as workers' compensation), as well as to non-unionized workers with complaints that they have been penalized by their employers for exercising rights under the *Occupational Health and Safety Act*.¹

OWA is an operational agency of the Ministry of Labour (MOL) and is part of the workplace insurance system which includes the Workplace Safety and Insurance Board (WSIB), the Workplace Safety and Insurance Appeals Tribunal (WSIAT) and Office of the Employer Adviser (OEA). We are also a partner in Ontario's health and safety system.

We are committed to helping both of these systems work well for all the workers and employers that they serve. OWA's primary role with our partners is to help facilitate effective and timely dispute resolution within these systems.

¹ Per section 176(1) of the *Workplace Safety and Insurance Act* (WSIA) and section 50.1(1) of the *Occupational Health and Safety Act* (OHSA)

OWA SERVICES

The **workplace safety and insurance program** is provided by staff located in 16 offices across Ontario divided into four regions:

Toronto East Region: Downtown Toronto, Scarborough and Ottawa

Central Region: Downsview, Mississauga, Hamilton and St. Catharines

Southwest Region: London, Waterloo, Windsor

North Region: Sudbury, Elliot Lake, Sault Ste. Marie, Timmins and Thunder Bay

Our services are available in English and in French. We also operate satellite offices as well as clinics in some communities, depending on need.

To support this work, OWA's Central Client Services Unit (CCSU) provides the following services:

- advice and representation services for OWA clients in legally complex and/or precedent setting cases;
- internal legal advice and assistance to OWA managers and staff, including support around fulfilling professional responsibilities to OWA clients;
- system improvement initiatives and policy submissions;
- development of educational sessions and resources for OWA staff and other worker representatives; and
- development of educational materials for the public.

Occupational health and safety reprisal complaint services are provided by the OWA Occupational Health and Safety Reprisal Program (OHSRP) from the OWA's provincial office in Toronto. Most Ontario Labour Relations Board (OLRB) mediations and hearings are held in Toronto. Some mediations are held in regional centres.

The **Planning, Finance and Electronic Services Delivery Unit**, reporting directly to the Director, support's the agency's corporate planning and financial accountability. The unit works closely with four Regional Service Coordinators.

REPORT ON THE OWA'S WORKPLACE SAFETY AND INSURANCE PROGRAM

OVERVIEW OF SERVICES

The OWA focuses on providing the following services to non-unionized injured workers and their survivors, related to workplace safety and insurance matters:

- information and advice

- educational services
- representation in dispute resolution and appeals

In addition to serving individual clients, the OWA also seeks to work with system and community partners to help ensure that the system is responsive to the needs of all injured workers and survivors; and that appropriate referrals are made among the partners.

INFORMATION AND ADVICE

Some workers contact the OWA with a question about workplace insurance or for information to help them understand their entitlements. Other workers contact us because they have been denied benefits or services by WSIB and they want to appeal a decision. The OWA provides assistance in both situations: in the first, by providing information and “summary advice” (advisory services) and in the second, by representing the worker in the dispute resolution and appeal process (representation services).

OUTREACH AND EDUCATIONAL SERVICES

Injured Workers and the General Public

We meet by phone or in person with workers about their claims or cases and promote our website as a source of information².

In addition, the OWA provides educational services to injured workers and the general public through information sessions held in communities across the province. This fiscal year, OWA held 3 clinics and 35 information or educational sessions with the public across the province. The focus is on informing people about our services and educating them about their entitlements under the Act.

Community and System Partners

OWA places a high priority on partnerships, both within the workplace insurance system and in the community. Across the province, OWA works actively with many local partners, to ensure good service and mutually beneficial referrals. This includes local WSIB offices, health care providers and social service agencies. OWA also participates in partnerships at the provincial level.

Over the last year, the OWA made significant efforts to reach out to all Members of Provincial Parliament (MPP) Queen’s Park and Constituency offices to educate their

² <http://www.owa.gov.on.ca>

staff about our services and to offer our support in responding to injured workers. Some MPP offices were invited to an OWA “open house” while others were personally visited by OWA staff to reconnect and be informed of OWA services.

The Director regularly attends the WSIB Labour and Injured Worker Advisory Committee (LIWAC) meetings. LIWAC is an advisory committee drawn from the worker community and convened by the Chair of the WSIB. This forum is meant to help labour and OWA to play a key role in shaping and developing the practical administrative and operational policies necessary to deliver a sustainable workplace health and safety system for the future.

Along with WSIB and MOL, OWA also continues its association with the Fatalities and Immediate Response (FAIR) Partnership, which is an organization of workplace fatalities to ensure coordinated services and support to workers and their families following traumatic workplace fatalities and catastrophic workplace injuries resulting in severe permanent impairment.

In our work related to occupational disease claims, we are greatly supported by the Occupational Health Clinics for Ontario Workers. OHCOW can take detailed exposure histories from workers and develop exposure assessments that help provide the evidence basis for claims and appeals. This is not something that workers and their families can do on their own, and it is a tremendous support to the adjudication of claims.

Academic Research

The OWA is frequently called upon by academic researchers to lend its experience and expertise to research projects relating to workplace insurance or occupational health and safety. These projects support evidence-based decision-making to improve the effectiveness of both systems. In 2018-2019, OWA staff participated in an advisory role in research projects on the following topics: return to work and workplace disability supports (University of Ottawa, Memorial University), health and safety for drivers in “ride-share” programs (University of Waterloo), protections for workers under s. 50 of the Occupational Health and Safety Act (McMaster University, University of Waterloo).

REPRESENTATION IN DISPUTE RESOLUTION AND APPEALS

The OWA provides workplace insurance services to non-unionized injured workers and their survivors. The OWA represents workers at the Workplace Safety and Insurance Board (WSIB) and the Workplace Safety and Insurance Tribunal (WSIAT). The OWA provides self-help information for workers (as noted above) to handle their own claims or applications where appropriate. While we serve a wide range of clients with various matters related to workplace insurance, our expertise and efforts to support those with occupational disease and mental health issues are of deep importance to vulnerable workers, their families and the communities in which they live.

Occupational Disease

During 2018-2019, the OWA continued to represent in a number of occupational disease clusters and individual cases in various parts of the province. The claims arising from these clusters are at various stages of adjudication, from initial evidence gathering up to WSIAT. Majority of occupational disease claims arise from past exposures leading to diseases that may take decades to develop. OWA involvement in occupational disease cases is one of its most vital roles, helping hundreds of occupational disease victims and in many cases their survivors. These are complex cases, involving scientific, medical and exposure information. In many cases, both the workplace and the local union related to it have ceased operations.

Rubber Workers – Kitchener/Waterloo

On December 10, 2018, the WSIB announced that a Dedicated Review Team will re-examine more than 300 claims filed by rubber workers in the Kitchener Waterloo area since 2002 that had not previously been allowed.

Before this announcement, the OWA had been working on over 50 cases received since 2013. This work continues today. We have been very successful in getting compensation benefits for many former rubber workers, one case at a time. In 2018-2019, OWA won compensation for three rubber workers or their families at WSIAT for cancers caused by workplace exposure to asbestos and chemicals. In one case, the claim dated back to 1984.

On March 28 and 29, 2019, a two-day intake and information session for former rubber workers was held in Kitchener. OWA was there throughout to provide support, and we provided a brief presentation on the first day. We will continue to address the needs of this community and cluster as moving forward.

McIntyre Powder - Northern Ontario

From the 1940s to the 1970s, thousands of hard rock miners in northern Ontario were required to breathe aluminum dust prior to each daily shift. At that time, it was believed that the dust, known as “McIntyre Powder” provided protection from the health impacts of silica. This turned out to be mistaken and the practice ceased by 1979. Concern has been growing through the years that this extensive aluminum exposure may have led to neurological and potentially to other health consequences.

Since 2016, OWA has been working to support workers with their claims for occupational disease related to these and other exposures. In 2018-2019, the OWA dealt with 83 cases. Many are still waiting to go through all stages of appeal which can take several years. These claims involve not only aluminum powder exposure but to health conditions from other exposures as well.

Other Occupational Diseases

OWA is actively involved in cluster of occupational disease cases arising from closed factories such as in Sarnia and Peterborough.

Peterborough Occupational Disease Cluster – GE

The OWA has been involved in occupational disease cases for workers from a large Peterborough factory since an initial intake clinic held by the Occupational Health Clinics for Ontario Workers (OHCOW) in 2004. This has meant working with the WSIB, OHCOW, the Unifor union, WSIAT, retirees' and local community groups for over a decade, addressing over 800 cases.

In 2017-2018, there were important developments in this occupational disease cluster, including the commencement of a review by WSIB of 250 earlier cases. A total of 99 files were being worked on during 2018-2019.

OWA continues to be actively involved in the representation of workers and survivors in this occupational disease cluster, working with Unifor to determine whether there might be other clusters.

Sarnia Occupational Disease Cluster – Owens Corning

The OWA continued its work representing at WSIAT and WSIB in a cluster of occupational disease cases, including a number of lung cancers, arising from a closed factory in Sarnia. In 2017-2018, the WSIAT released a second interim decision in the lead case of the cluster (Decision No. 95/0912). This decision made findings about the lead case worker's exposures and gave important insight into how the WSIAT will apply its general findings to a particular appeal. In follow-up to that decision, the WSIAT requested and received an additional assessment from the WSIB about the lead case worker's exposures. In addition, the OWA made submissions to the WSIAT asking them to clarify and reconsider aspects of Decision No. 95/0912.

In 2017-2018, the WSIAT also agreed to the OWA's request that the non-lead cases in the cluster be activated. These cases are now proceeding at the Tribunal. We have done 5 written submissions since January 2019. As of March 31, 2019, the OWA had 30 open cases from this cluster.

Chronic Mental Stress

On January 1, 2018, WSIB implemented entitlement to chronic mental stress. To handle these novel and challenging cases, OWA created a dedicated Chronic Mental Stress Team as a pilot project. Chronic mental stress cases were assigned exclusively to the team. In addition to developing subject matter expertise, team members were tasked with developing case strategies and identifying best practices in case management,

evidence gathering and return to work. The pilot was continuing at the end of 2018-2019 and is expected to continue into 2019-2020.

Other Casework

Every year the OWA represents thousands of workers. Each success is important and makes a real difference in the life of an injured worker and a family. Often cases turn on complex issues of law and medical evidence. It is not possible to share every positive outcome in this report, but the following examples show the huge positive difference the OWA can make.

- Representing the parents of a young worker in their capacity as estate trustees, OWA successfully appealed a WSIB decision that his motor vehicle accident was not work-related.
- A widow finally received benefits for her husband's long-standing occupational disease claim and was granted almost \$300,000, including \$28,000 in interest for delayed payment.
- In a complex occupational disease appeal, the OWA was able to obtain entitlement for asbestosis and lung cancer for the worker by successfully arguing that WSIAT apply the legal test required by the legislation to the facts.
- A worker who obtained entitlement for noise-induced hearing loss wrote to the OWA Director to tell her how much she was looking forward to being able to hear again and to thank her for the support of the clients' service representative and worker adviser who assisted her.
- Without going to an appeal, a worker adviser was able to obtain entitlement for full benefits to age 65 for a worker with a significant level of disability, providing the worker with income security and sparing the worker the delay and stress of an appeal.
- Because the OWA provided a thorough work and exposure history at the start of the claim, a worker with an occupational cancer claim received entitlement without having to go to an appeal.
- The OWA was successful in an appeal at the Workplace Safety and Insurance Appeals Tribunal (WSIAT) on behalf of a vulnerable worker who continued to suffer from work related psychological symptoms. The worker won psychological entitlement to his claim and was granted a permanent psychological impairment award that was supported by the medical evidence and health care professionals.

OWA SERVICE QUALITY DELIVERY INITIATIVES

OWA continues to offer quality service to workers and their families but has begun to take steps to modernize and explore opportunities for innovation. These include:

- The use of technology to enhance service delivery:
 - Piloting electronic access to WSIB and WSIAT files;
 - Continuing to make use of WSIAT virtual hearings, where appropriate for our clients; and
 - Together with other MOL business areas, initiating a coordinated procurement proposal for a modern case management system.
- Targeting key areas of workplace safety and insurance services for consideration:
 - Taking a look at Return to Work matters, and piloting training and data collection in one region, while engaging in a national research project;
 - Significantly reducing our list of cases waiting for review to see if full representation can be offered; and
- Investing in a learning program for our staff.

The Use of Technology to Enhance Service Delivery

E-Access to WSIB and WSIAT files

Currently, OWA receives hard copy files from the WSIB and the Tribunal. This is a practice that is outdated and cumbersome to all involved. OWA is currently piloting electronic access to WSIB files. Issues that may surface can be addressed before the pilot is implemented across the OWA. Expanding the use of E-Access files from WSIB should decrease case processing time considerably.

WSIAT has recently approached the OWA asking if we would be interested in exploring the use of digital Case Records. Several of our Worker Advisers are participating in a testing phase, and we are working to ensure they have the proper tools and training to work with these files.

WSIAT Video Hearings

In 2017, OWA began holding video hearings for matters at the WSIAT level where it is appropriate for our clients. Since then, we have conducted 37 of them in total. Feedback from our clients and staff has been positive, and WSIAT may consider expanding this initiative. Not all OWA offices have sufficient internet access and capacity to support this expansion, without further investment in IT infrastructure.

Procuring a New Case Management System

OWA has been relying for years on decades-old software to manage our paper-based system. Modern technology, when it comes, could include a portal for clients, improve efficiencies in service delivery, and support better access to WSIB and WSIAT processes. A project proposal with MOL was prepared for submission in 2018-2019 with anticipated full implementation by March 31, 2021, if approved.

Targeting Key Areas

Return to Work

The WSIB reports that in 2017, its return-to-work staff made more than 22,000 workplace visits.

The OWA represents workers at return to work meetings and work transition meetings on a priority basis. In order to help more workers successfully return to the workplace and divert appeals from the system, a strategy was developed which included educating managers at the WSIB about our ability to assist in these matters and working with them to ensure that workers are advised of their rights to a representative, and that meetings are scheduled in advance so that Worker Advisers have the opportunity to review claim files, meet with workers and attend the meetings in the workplaces.

The initial results have been favourable. Data will be collected to determine the impact of this early intervention strategy.

Since 2016, OWA has also been a partner in research funded by the Social Sciences and Humanities Research Council of Canada and the Canadian Institute of Health Research. In May 2019, the OWA attended a symposium showcasing the research of teams across the country, which highlighted the challenges of returning to work after injury or illness, within a changing world of work.

Waiting for Case Review

With a focus on quality client service, OWA mobilized internal resources to reduce the number of clients waiting for service. Staff from regional offices worked strategically to determine capacity and redistribute files in order to stabilize volumes and wait times.

From April 1, 2018 to March 31, 2019, the number of files waiting for review was reduced from 1,971 to 873 respectively. The wait time was also significantly reduced, from an average of 19 months on April 1, 2018 to 12 months on March 31, 2019. This will continue to be a priority for the upcoming year.

Staff Learning Program

OWA is committed to ensure all staff receive high quality learning opportunities, to better support our service delivery to clients. During the fiscal year 2018-2019, 95 OWA staff completed 1,073 hours of training over 17 different offerings.

To meet our unique subject matter needs, and to promote cost-effectiveness, approximately 75% of the training was provided internally, by experienced and knowledgeable OWA staff, by Ministry of Labour staff or other relevant programs.

Internal training was focused on the following objectives:

- Training 6 new Worker Advisers which included a week of Mock Hearing training to prepare them to argue cases before the WSIB and WSIAT;
- Supporting Client Service Representatives and Worker Advisers ability to meet appeals timelines;
- Focus on diversity and cultural awareness; and
- Increasing the knowledge of Worker Advisers on Common Medical Conditions that they encounter in their cases.

Many OWA staff are licensed by the Law Society of Ontario and must meet Continuing Professional Development Obligations, to maintain their licensed status and improve skills. Through OWA internal courses, staff were able to achieve 100% of their required hours in substantive areas, and 50% of their professionalism hours. Our commitment to professionalism is therefore largely met with in-house expertise.

Face to-face training is preferred where appropriate e.g. training for mock hearings, but technology is also used wisely. Where training is delivered via teleconference and webinar, it is now routinely recorded and made available to staff following delivery of the sessions. This enables staff to attend the training at a later time, or to review the training concepts as needed.

OWA'S WORKPLACE INSURANCE PROGRAM ACHIEVEMENTS IN 2018-2019

OWA was successful in assisting a very substantial number of workers with their workplace insurance claims and appeals:

- OWA responded to 8,877 new requests for service, an increase of 1% from previous year; and resolved 3,817 cases through summary advice, a decrease of 20% from the previous year.
- OWA completed 1,663 case reviews for workers who had requested representation service. This was an increase of 59% from 2017-2018.
- OWA accepted 950 cases for representation services, representing 57% of the cases reviewed.
- The overall success rate in representation services in 2018-2019 at WSIB and WSIAT was 55%.

Client Satisfaction Levels:

The OWA takes pride in the quality of service it provides to clients. In order to identify and address any deficiencies, clients are asked to complete satisfaction surveys at the conclusion of OWA's representation service to them. Of the 148 individuals who

responded to the survey in 2018-2019, 94.6% were “very satisfied” or “satisfied” with the service they received.

- “I am forever grateful with how you helped me obtain the survivor benefits. It has given me a comfortable life. My husband’s death was tragic and I am truly grateful you helped me prove that it was work related. Thank you, thank you, thank you for the bottom of my heart!!”
- “I could not have asked for better. Your office has done well. High praise. It’s my desire to share my experience of the service I derive from your institution. The service was second to none. I was extremely gratified with the degree of defense granted to me by the representative. I could not have asked for anything better. Now that my case is closed, may I once again say thanks for your service and work well done.”

Advisory Services and Case Review

Table 1 shows the number of new requests for service involving both summary advice and requests for representation services during the past four years.

The OWA had 8,877 new requests for service during the 2018-2019 fiscal year, a slight increase of 1% from previous year. This likely reflects a stabilization of new claims to the WSIB working its way through the system. A total of 1,532 workers requested representation services. This was a decline of 10% from 2017-2018, which may show that a smaller proportion of injured workers contacting OWA required representation (as opposed to other) services.

In 2018-2019, the OWA completed 1,663 case reviews, compared to 1,048 in 2017-2018, an increase of 59%. This demonstrates the OWA’s commitment to address both the reduction in the number of clients waiting for service and the wait length.

To avoid delay in dealing with priority cases such as terminal occupational disease or occupational disease clusters, OWA offered immediate case reviews in 2018-2019 to 366 workers whose situations met the criteria for case prioritization, an increase of 77% from 2017-2018, and an increase of 115% from 170 priority cases in 2016-2017.

In 2018-2019, the OWA staff addressed the identified needs of 8,463 clients, both WSIB-related and otherwise, either by way of summary advice or referrals, including the number of referrals made to address alternative support from other disability programs or community resources and occasions of support to vulnerable workers. Although lower than our projected commitment, it was increase of 17% over 7,005 instances in 2017-2018.

Table 1: New Requests for Service and Case Reviews

	2015-16	2016-17	2017-18	2018-19	Change from 2017-18 to 2018-19
Number of New Requests for Service*	11,082	8,195	8,791	8,877	+1%
Number of New Requests Resolved with Summary Advice	6,276	4,321	4,772	3,817	-20%
Number of Requests for Representation***	2,421	2,070	1,699	1,532	-10%
Number of Cases Reviewed for Representation	871	1,166	1,048	1,663	+59%
Number of Cases Selected for Representation**	526	638	617	950	+54%
Number of Cases Declined Representation	345	528	431	713	+65%
% of Cases Reviewed which are offered Representation	60%	55%	59%	57%	-2%

*Note that the sum of “Number of New Requests Resolved with Summary Advice” and “Number of Cases Reviewed for Representation” does not total the “Number of New Requests for Service.” This is because the “Number of Cases Reviewed for Representation” includes only those reviews completed during the fiscal year, and not reviews initiated, but still in progress, as of March 31.

** The number of workers requesting representation services found in Table 1 (1,532) is the number of new workers in 2018-2019 who requested a case review for possible opening for representation services.

Case Review

When clients contact the OWA because they have received a WSIB decision which they want to appeal, the file is assigned to a worker adviser for a case review. The purpose of this review is to determine if there is sufficient evidence to support an appeal.

The OWA offers representation services in cases where:

- the entitlement issue is valued at more than the equivalent of four weeks of wage loss benefits;
- the issue(s) are complex enough to require the assistance of a skilled and knowledgeable representative; and
- sufficient evidence is available to support a reasonable chance of success in the appeal process. This does not mean that the case is guaranteed to succeed – but it does mean that a worker adviser must find enough evidence and/or legal grounds to justify an appeal.

The OWA does not represent in cases with straight forward, single issue appeals involving a non-economic loss (NEL) increase, commutation of a pension, or an employer's request for Second Injury Enhancement Fund (SIEF) relief, although we do provide information and support to workers who wish to represent themselves. The OWA will also not represent in cases where the only issue is a challenge of a WSIB security restriction decision.

As noted above, the proportion of cases reviewed which were accepted for representation decreased by 2% in 2018-2019 from the 2017-2018 level, to 57%. This is a positive result as this is within the OWA's historic range of acceptance rates.

Representation Files

If, at the conclusion of the case review, the OWA determines that the case meets the criteria for service, an offer of representation is made.

Beginning in 2011-2012, OWA experienced a steady increase in the number of its representation cases at the WSIAT level. By the beginning of 2015-2016, over 1600 cases were at WSIAT versus the ideal level of around 650. This mirrored the growth of WSIAT's overall case inventory, which resulted in significant increases in the time needed to resolve appeals at that level. As a response, OWA management determined the ideal level of representation cases would be and moved towards this target beginning with 2015-2016, so that by the time that the WSIAT inventory reached the target level, average caseloads would be lower and more sustainable as well.

Figure 1 documents the success of these efforts, with representation caseload falling steadily over the past three fiscal years to essentially reach the target level by the end of 2017-2018. This, combined with the continuing reduction in WSIAT appeals inventory reported above, positioned OWA to continue to improve case turnover in 2018-2019.

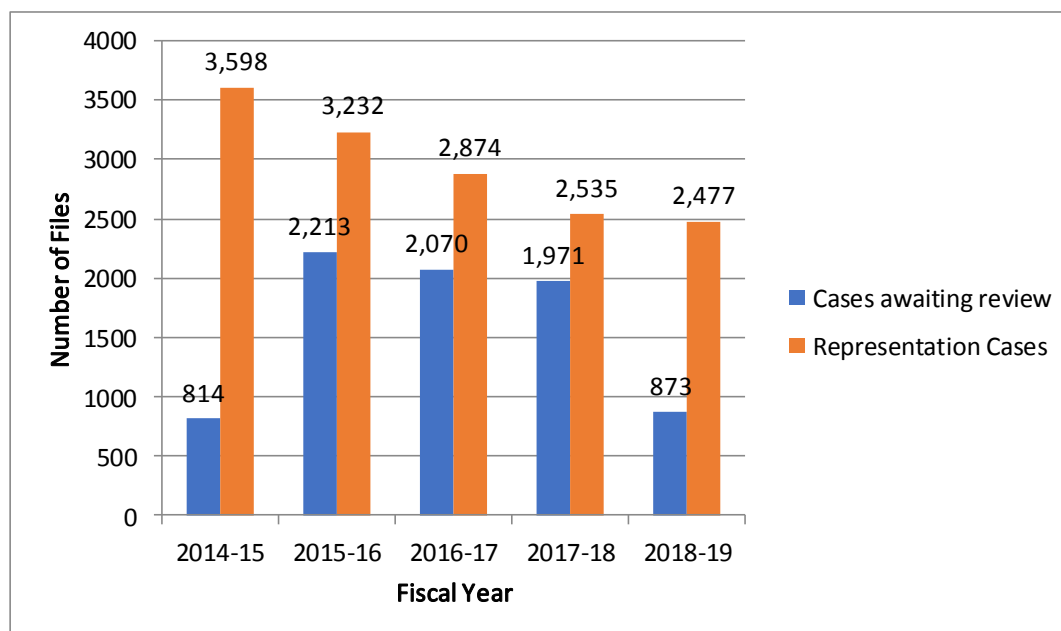
Total Case Inventory

Figure 1 shows the evolution of total case inventory over the past five years. For each year, the bar graph on the left side is the total of cases awaiting case review or case assignment. On the righthand side is the total representation caseload.

2015-2016 saw the number of workers awaiting case review had increased while the number of representation cases was still well above the target level of 2,500. In 2016-2017, along with reducing its WSIAT appeals inventory, OWA succeeded in reducing the number awaiting case review along with a major reduction in representation caseload. The case review inventory continued declining and the representation caseload essentially reached the target level into 2017-2018. This trend continued to be maintained in 2018-2019.

In 2018-2019, the OWA was able to reduce the inventory of WSIAT appeal cases by 138 cases per FTE an increase of 6% over the previous year but just under our targeted commitment.

Chart 1: Total Case Inventory



Decisions obtained for OWA clients

The OWA provides support for early and safe return to work and for early resolution of disputes without recourse to formal hearings, both by diverting cases from the appeals system and by alternative dispute resolution at the appeals level. In 2018-2019, the

OWA achieved its commitment by resolving 74% of disputes without a hearing which is 6% higher than the previous year.

In 2018-2019, OWA obtained a total of 1,808 decisions from the adjudication and appeals levels of the WSIB and from WSIAT, an increase of 4% from the previous year's total of 1,741 (see Table 2). The increase in overall decision numbers was counter-balanced by a decrease in outcomes at WSIAT by 12% from 2017-2018 levels, from 552 to 487. These numbers demonstrate that OWA was still successful in reducing the case inventory at the Tribunal. This allowed the OWA to shift its focus on reducing the WCR list hence the increase in the number of decisions at the adjudication and appeals levels.

The 1,808 decisions obtained in 2018-2019 involved a total of 3,187 issues versus 3,121 in 2017-2018, an increase of 2%. Overall success rate increased slightly, from 54% in 2017-2018 to 55% in 2018-2019. This was the highest level in the past five years and up dramatically from 45% in 2015-2016. It is likely that the higher success rate at the operating level reflected the fact that worker advisers significantly reduced the number of cases taken back to that level for reconsideration, choosing only those where they determined that there was a significant chance of success. There was a decrease of 7% in success rate at the WSIB appeals level but a small increase of 3% at WSIAT.

Table 2: Decisions by Level and Success Rate

Decisions by Level	2015-16	2016-17	2017-18	2018-19	Change from 2017-18 to 2018-19
WSIB – Operating Level	1,085	919	783	904	+15%
% of Issues Allowed at Operating Level	36%	45%	51%	54%	+3%
WSIB – Appeal Level	762	601	406	417	+3%
% of Issues Allowed at the Appeals Branch	44%	45%	47%	40%	-7%
WSIAT	417	497	552	487	-12%
% of Issues Allowed at the WSIAT	65%	68%	64%	67%	+3%

TOTAL DECISIONS FROM ALL LEVELS	2,264	2,017	1,741	1,808	+4%
TOTAL ISSUES IN DECISIONS FROM ALL LEVELS	3,783	3,466	3,121	3,187	+2%
Total % of Issues Allowed at all Levels	45%	51%	54%	55%	+1%

OCCUPATIONAL HEALTH AND SAFETY REPRISALS PROGRAM

DESCRIPTION OF SERVICES

In addition to its workplace insurance services, the OWA assists non-unionized workers who have been penalized by their employers for exercising their workplace health and safety rights. Services provided to workers include:

- Information and advice;
- Representation in complaints under s. 50 of the Occupational Health and Safety Act (OHSA); and
- Educational services.

The OWA's work in reprisals helps support the effectiveness of the health and safety system.

Services are delivered by the Occupational Health and Safety Reprisals Program (OHSRP) from the OWA's head office in Toronto. Most workers contact the program through its province-wide, toll-free phone number. Worker representatives travel to attend proceedings when they are held outside Toronto.

The OHSRP provides escalating levels of service depending on the situation and needs of the worker. Workers' inquiries are resolved by providing information or advice (advisory services) or formal legal representation (representation services).

Advisory Services

Advisory services include summary advice and intake interviews. Summary advice provides workers with information about their rights and, for matters outside the OWA's mandate, a referral to another source of help. At an intake interview, workers receive a comprehensive telephone consultation with a worker representative. They receive legal advice and referrals and may be offered representation.

Representation Services

When representation services are provided, workers formally retain the OWA to act as their legal representative. The OHSRP provides legal representation at all stages of a reprisal complaint to the Ontario Labour Relations Board (OLRB), including:

- Preparing and filing an application to the OLRB;
- Negotiating a settlement prior to formal mediation (early dispute resolution);
- Representation at formal mediation conducted by the OLRB; and
- Representation at hearings before the OLRB.

Achievements

Summary of Achievements

Demand for representation services continued to grow in 2018-2019. For the second year in a row, several key measures were the highest in the history of the program.

OHSRP staff completed more of the following than in any prior year:

- Intake interviews (331, a 12.2% increase over last year);
- Applications to the OLRB (102, a 30.8% increase over last year);
- Mediations (74, a 57.4% increase over last year); and
- Resolutions of representation cases (98, a 22.5% increase over last year)

The program resolved 92.6% of its reprisal complaints without a formal hearing at the OLRB, exceeding its target of 80%.

New requests for service increased 16.8% over last year and summary advice declined by 5.5%. These numbers are consistent with the pattern of variability seen over the past five years. Client feedback indicates that workers who received representation services from the OHSRP continue to be very happy with the quality of assistance they received.

Advisory Services

New Requests and Summary Advice

In 2018-2019, the number of new requests increased by 16.8% over the previous year and summary advice declined by 5.5%. Historically, both numbers have fluctuated year-to-year and the values for 2018-2019 are well within the range seen in past years. More new requests were forwarded to the intake stage than in any prior year.

Table 3: New Requests and Summary Advice

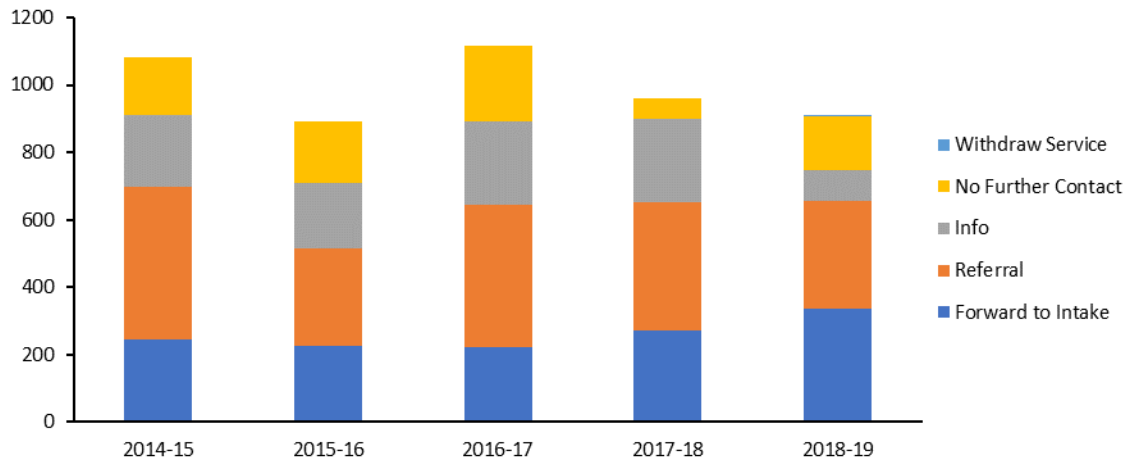
<i>Disposition</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>Annual Change</i>
New requests						
New Requests	1137	906	1145	964	1126	+16.8%

Received

Summary Advice

Forward to Intake	246	227	224	271	337	+24.4%
Referral	451	290	419	382	319	-16.5%
Info	213	191	248	246	91	-63.0%
No Further Contact	172	184	224	62	159	+156.5%
Withdraw Service	0	0	0	0	2	N/A
Total	1082	892	1115	961	908	-5.5%

Chart 2: Disposition of New Requests for Service



Intake

The number of intakes completed by the program increased significantly (12.2%) from 2017-2018 to 2018-2019. A total of 331 intakes were completed, the most since the program's inception in 2012-2013.

Table 4: Intake Outcomes

<i>Disposition</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>Annual Change</i>
Advice	69	97	69	92	119	+29.3%
Offer to Represent	83	72	72	94	121	+28.7%
Referral	80	60	87	100	90	-10%
No Further Contact	12	5	2	9	1	-88.9%
Withdraw Service	2	0	0	0	0	N/A
Total	246	234	230	295	331	+12.2%

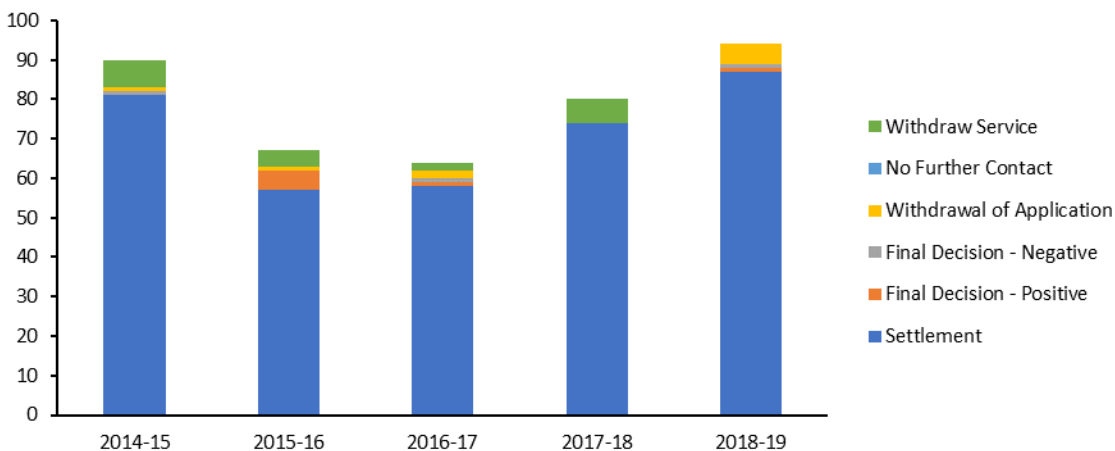
Representation Services

The program achieved resolutions in 98 representation cases in 2018-2019. This is an increase of 22.5% over the previous year and the highest number since the program's inception. Of these 98 outcomes, 87 (88.8%) were settlements in which the worker received a remedy of some kind.

Table 5: Representation Outcomes

<i>Outcome</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>2017-18</i>	<i>2018-19</i>	<i>Annual Change</i>
Settlement	81	57	58	74	87	+17.6%
Final Decision - Positive	0	5	1	0	1	N/A
Final Decision - Negative	1	0	1	0	1	N/A
Withdrawal of Application	1	1	2	0	5	N/A
No Further Contact	0	0	N/A	0	0	0.0%
Withdraw Service	7	4	2	6	4	-33.3%
Total	90	67	64	80	98	+22.5%

Chart 3: Representation Outcomes



Caseload Inventory

Table 6 shows the total caseload inventory for the OHSRP as of March 31, 2019. OHS reprisal cases are continually active and resolve relatively quickly. As a result, the program tends to have a smaller number of open cases per caseworker than the workplace insurance program, but a higher rate of turnover.

Table 6: Total Caseload Inventory on March 31, 2019

<i>File Status</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>Annual Change</i>
New request	38	65	46	55	+19.6%
Intake	20	23	18	36	+100%
Representation	28	30	29	46	+58.6%
Total	86	118	93	137	+47.3%

Client Satisfaction Levels

Representation clients expressed a very high rate of satisfaction with the service provided by the OHSRP. In 2018-2019, 93% of file closure survey respondents reported that they were satisfied or very satisfied with the service they received from the OHSRP. The response rate on these file closure surveys is approximately one in six.

Select Reprisals Client Testimonials

“Thank you. It is amazing to know that people like [my representative] are available to help in these situations. The work you do makes a difference in the world.”

“[My representative] and the office in general were extremely helpful and put my mind at ease through a stressful period in my life. I am very thankful to him and the office.”

“I would like to thank [my worker representative] for taking care of my case. I am very satisfied and very glad that he did all his best and he was very hard-working. He got me sorted out after just one meeting.”

“[My representative] was an exceptional officer who took care of me. Very understanding, always listened and helped me get through it.”

“My representative was more than understanding. He listened and responded with sincerity. It was greatly appreciated.”

“[My representative] was very professional. He explained my case to me in a way that I could understand and explained any potential complications fully. Would recommend.”

Educational Services

In addition to answering workers’ questions about health and safety reprisal complaints by phone, the OHSRP provides educational resources through the OWA website. The reprisals section of the OWA website contains information on:

- What health and safety reprisals are

- How workers can enforce their rights
- How the OWA can provide assistance
- Other organizations that can provide assistance

McMaster Reprisals Study

In a study of protections from reprisals under the OHSA released in January 2019, researchers from McMaster University and the University of Waterloo found that OWA representation was helpful and effective.

According to the study: All of the non-union interviewees who were represented by the OWA clearly benefited from the services that they received and said so. In the OLRB cases files, the applications of those workers who were represented by the OWA were clearly set out and supported by relevant evidence.³

Outreach and Partnerships

In 2018-2019, the OHSRP continued to focus on working with system partners to improve communications and ensure appropriate referrals for workers within the occupational health and safety system. Program staff also continued to develop relationships and work cooperatively with community legal clinics, researchers and labour organizations with expertise in the area.

³ Andrew King, Wayne Lewchuk, Ellen MacEachen and Julia Goyal, *Making Worker Voice A Reality Under The Internal Responsibility System: The Limits Of Section 50 Protections For Workers Experiencing OHS Reprisals*, January 2019

APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2018-2019

Figures are in \$000's

Account	Final Budget	Total Actual Expenditures	Variance	Variance %
Salary & Wages	7,783.1	7,364.7	418.4	5.4%
Benefits	1,790.1	2,063.6	(273.5)	(15.3%)
Other Direct Operating Expenses (ODOE)				
Transportation & Communications	300.0	214.4	85.6	28.5%
Services (incl. Office Leases)	1,426.4	1,631.4	(205.0)	(14.4%)
Supplies & Equipment	100.0	59.6	40.4	40.4%
ODOE TOTAL	1,826.4	1,905.4	(79.0)	(4.3%)
OWA TOTAL	11,399.6	11,333.7	65.9	0.6%

APPENDIX B – OWA OFFICE LOCATIONS

TORONTO & EASTERN REGION

HEAD OFFICE & TORONTO OFFICE

123 Edward Street
Suite 1300
Toronto, ON M5G 1E2

SCARBOROUGH OFFICE

305 Milner Avenue
Suite 918
Scarborough, ON M1B 3V4

OTTAWA OFFICE

347 Preston Street
3rd Floor
Ottawa, ON K1S 3H8

SOUTHWEST REGION

LONDON OFFICE

495 Richmond Street
Suite 810
London, ON N6A 5A9

KITCHENER/WATERLOO OFFICE

4273 King Street East
Suite 300
Kitchener, ON N2P 2E9

WINDSOR OFFICE

100 Ouellette Avenue
10th Floor
Windsor, ON N9A 6T3

SARNIA SATELLITE OFFICE

171 Kendall Street
Sarnia, ON N7V 4G6

NORTH REGION

SAULT STE. MARIE OFFICE

70 Foster Drive
Suite 480
Sault Ste. Marie, ON P6A 6V4

THUNDER BAY OFFICE

435 South James Street
Suite 335
Thunder Bay, ON P7E 6S7

TIMMINS OFFICE

60 Wilson Avenue
Suite 303
Timmins, ON P4N 2S7

ELLIOT LAKE OFFICE

50 Hillside Drive North
Elliot Lake, ON P5A 1X4

SUDBURY OFFICE

159 Cedar Street

CENTRAL REGION

DOWNSVIEW OFFICE

145 Sir William Hearst Avenue
Suite 125
Downsview, ON M3M 0B6

HAMILTON OFFICE

119 King Street West
13th Floor
Hamilton, ON L8P 4Y7

ST. CATHARINES OFFICE

301 St. Paul St.
9th Floor
St. Catharines, ON L2R 7R4

MISSISSAUGA OFFICE

10 Kingsbridge Garden Circle,
Suite #512
Mississauga, ON L5R 3K6