

June 30, 2017
OFFICE OF THE WORKER ADVISER
Annual Report
April 1, 2016 to March 31, 2017



PROVINCIAL OFFICE
1300 – 123 Edward Street
Toronto, Ontario
M5G 1E2
416-325-8570
416-325-4830
www.owa.gov.on.ca

CONTENTS

CONTENTS	1
A MESSAGE FROM THE DIRECTOR	3
THE MANDATE OF THE OFFICE OF THE WORKER ADVISER.....	5
OWA SERVICE DELIVERY	6
REPORT ON THE OWA'S WORKPLACE SAFETY AND INSURANCE MANDATE.....	7
REPORT ON OWA'S HEALTH AND SAFETY REPRISAL COMPLAINT MANDATE.....	20
APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2014-2015	25
APPENDIX B - NOTEWORTHY WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (WSIAT) DECISIONS BY OFFICE OF THE WORKER ADVISER STAFF	26
APPENDIX C – OWA OFFICE LOCATIONS.....	28
APPENDIX D – ORGANIZATION CHART	29

A MESSAGE FROM THE DIRECTOR

I am pleased to report on the accomplishments of the Office of the Worker Adviser (OWA) for 2016-2017. With 97 staff in 16 offices across Ontario, OWA is an important resource for vulnerable non-unionized workers in dealing with their WSIB claims or possible reprisals for exercising their health and safety rights. Below, I briefly highlight our workplace insurance services and then review our fifth year of services around reprisals.

OWA carries out its mandate as a partner in Ontario's workplace insurance system, along with the Workplace Safety and Insurance Board (WSIB), Workplace Safety and Insurance Appeals Tribunal (WSIAT) and Office of the Employer Adviser (OEA). With our mandate for reprisals, we are also a partner in Ontario's health and safety system. We are committed to helping both of these systems work for all the workers and employers that they serve.

Workplace insurance services

2016-2017 was a turnaround year for OWA as we fully implemented a new service delivery model. The new model responded to changes in OWA's operating environment. The model streamlined our services by reducing the initial service process from two stages to one; as well as providing more comprehensive advice and referrals to workers, including those whose cases lack sufficient evidence for OWA to bring forward into the appeals system. It also enabled us to focus our resources on successful initiatives with WSIAT to reduce our appeals inventory.

OWA responded to 8,195 new initial requests for service during 2016-2017, a decline of about 26% from the previous fiscal year. This continued the trend from 2013-2014 to 2015-2016, when service demand moderated following several years of higher levels. However, the number of requests for representation from workers decreased by a smaller amount, 14%, to 2,070, meaning that a higher proportion of those workers contacting OWA needed help with representation. We maintained the increase in percentage of new cases accepted for representation from the low of 52% in 2012-2013 to 55% in 2016-2017. We made very significant progress reducing our case inventory at the Workplace Safety and Insurance Appeals Tribunal (WSIAT) by 17.6% from historically high levels which had affected our capacity for efficient case turnover. At the same time, we reduced our inventory of cases awaiting case review by 6.5% over the 2015-2016 level. Finally, our overall success rate in representation services at WSIB and WSIAT increased significantly, from 45% in 2015-2016 to 51% in 2016-2017 - reflecting a steady increase in the five years since 2012-2013, when the rate was 31%. This indicates that OWA's worker advisers are making good decisions on the merits of the cases which they bring forward for reconsideration and appeal.

During 2016-2017, OWA was involved in some of the most complex cases in the system, including major clusters of occupational diseases and Charter of Rights matters. This annual report also highlights a number of positive WSIAT decisions obtained by worker advisers. We continued to strengthen our protocols with WSIB and WSIAT in responding to the situations of injured workers in psychological and financial crisis.

OWA was involved in proactive partnerships to deal with the workplace insurance system's challenges. We collaborated with WSIAT in innovative initiatives to reduce our appeals inventory

there, including preparatory work on a pilot on video hearings to be launched in 2017-2018. We partnered with employer representatives to develop consensus proposals on potential improvements to the appeals process and alternative dispute resolution.

Health and safety reprisal services

Starting on April 1, 2012, amendments to the Occupational Health and Safety Act (OHSA), gave OWA the mandate to serve non-unionized workers who may have suffered reprisal by their employers for exercising their OHSA rights. 2016-2017 was the fifth year for this mandate.

The program workload has matured and stabilized. In 2016-2017, we had 1,145 new requests for service, 26.4% more than in 2015-2016 and the highest number in the history of the program. This showed the continuing importance of OWA's reprisals mandate to vulnerable non-union workers in Ontario

Thank you!

This was a turnaround year for OWA. I wish to thank all those who contributed to the implementation of our new service delivery model, which began with the joint staff/management team which developed the proposed approach. Thank you as well to our workplace insurance program frontline staff, who stepped up to reduce our WSIAT appeals inventory and case review inventory. And to the staff of our Reprisals Program, who helped over 1,100 workers in the fifth year of this service; and to our legal, administrative and management teams.

I also want to acknowledge the support of the Ministry of Labour, which facilitated inter-agency partnerships; and our many friends and colleagues at WSIB, WSIAT, and OEA, with whom OWA worked on solving problems and serving the public. I want to thank our partners in the worker community, with whom we collaborated closely in dealing with another year of major change. And also the many employer representatives with whom we worked on resolving cases as well as on strategic issues such as improvements in dispute resolution. Finally, I would like to recognize and thank the thousands of vulnerable workers and surviving family members who entrusted their cases to us – we tried our best to serve every single worker with dedication and care; and we learned much from those workers as well.

Alec Farquhar
Director

THE MANDATE OF THE OFFICE OF THE WORKER ADVISER

The OWA has two mandate areas:

- Section 176(1) of the Workplace Safety and Insurance Act (WSIA): to educate, advise and represent non-union workers and their survivors regarding workplace insurance claims and appeals.
- Section 50.1(1) of the Occupational Health and Safety Act (OHSA): to educate, advise and represent non-union workers who have complaints under the Occupational Health and Safety Act (OHSA) that their employer may have engaged in a reprisal against them for exercising their rights under the OHSA.

The OWA's vision is to:

- be a leader in advice, representation, and education in workplace safety and insurance matters, on behalf of the most vulnerable injured workers and their survivors;
- provide expert and effective advice, representation and education to vulnerable, non-unionized workers who may have suffered reprisal for asserting their rights under the Occupational Health and Safety Act;
- provide a vital public service that contributes to the effective functioning of Ontario's workplace safety and insurance and health and safety systems, and support a healthy workforce as a foundation for a strong, vibrant provincial economy; and,
- contribute to improving workplace safety and insurance and health and safety through community and system partnerships.

The OWA is an operational agency of the Ministry of Labour (MOL). OWA staff are public servants. The director of the OWA is an Order-in-Council appointee.

OWA SERVICE DELIVERY

Workplace insurance related services are provided from 16 offices in four regions:

Toronto East Region: Downtown Toronto, Scarborough and Ottawa

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

Southwest Region: London, Waterloo, Windsor and a satellite office in Sarnia

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



In addition to these office locations, OWA offers clinics in a number of other communities across the province where injured workers can meet in person with worker advisers without having to travel long distances. These communities include: Barrie, Brantford, Kingston, North Bay, Oshawa, Peterborough and St. Thomas. In 2016-2017, 8 clinics were held in total across the province.

OWA's Central Client Services Unit (CCSU) provides the following services, primarily in relation to the OWA's workplace insurance mandate:

- 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
- 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 OLRB mediations and hearings are held in Toronto. Some mediations are held in regional centres. In 2016-2017, worker representatives traveled to London, Sudbury, Windsor and Thunder Bay to represent workers.

REPORT ON THE OWA’S WORKPLACE SAFETY AND INSURANCE MANDATE

The following section of this report relates to services provided under the OWA’s workplace insurance mandate. Services provided under the OWA’s occupational health and safety Reprisals mandate are reported separately later in this report.

Overview of Services

Under its workplace insurance mandate, the OWA focuses on the following services to non-union injured workers and their survivors:

- 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 injured workers and survivors.

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). During 2016-2017, OWA responded to 8,195 new requests for service.

OWA Website - <http://www.owa.gov.on.ca>

In addition to directly responding by phone or in person to questions workers may have about their workplace insurance claims, the OWA also promotes its website as a source of information to clients.

Highlights of the website include:

- pages on specific workplace insurance related topics;
- an appeals overview page features visuals and text outlining the key agencies in the system, the WSIB vs. the WSIAT;
- a webpage with the forms necessary to meet appeal time limits and to initiate an appeal;
- “frequently asked questions” about the OWA, workplace insurance, and health and safety reprisals;
- information sheets in 21 languages providing an overview of OWA’s services; and
- an email enquiry service.

A featured Spotlight section also gives the OWA space to highlight important news and events.

EDUCATIONAL SERVICES

Injured Workers and the General Public

The OWA provides educational services to injured workers and the general public through information sessions held in communities across the province. During 2016-2017, the OWA held 9 information sessions for MPPs' staff, 8 information or educational sessions for the public, and 8 clinics for injured workers in communities across the province.

The OWA also provides general information through its website as described earlier in this report.

Community and System Partners

The OWA provides educational services at a more advanced level to community and system partners. OWA staff are also invited to present at continuing legal education sessions on workplace insurance topics. In 2016-2017, these services included the following:

- July 2016 – presentation by OWA Director to Ontario Institute for Studies in Education graduate program, on occupational disease prevention and workplace insurance
- October 2016 - presentation by OWA Director to University of Toronto School of Industrial Relations on elements of an effective Internal Responsibility System and how it relates to workplace insurance
- October 2016 - presentation by OWA Director to occupational hygiene program at University of Toronto Dalla Lana School of Public Health on Occupational Health and Safety from a worker perspective and the role of OWA in helping non-unionized workers
- October 2016 – keynote presentation by OWA Director to Peel and District Health and Safety Awards Dinner – on strategies to serve and support vulnerable workers and the role of OWA
- November 2016 – keynote presentation by OWA Director to Prevention Link and Eastern Ontario Labour Education School on challenges in workplace insurance and health and safety

HIGHLIGHTS OF OWA REPRESENTATION SERVICES

Statistics on OWA representation services are provided later in this report, along with summaries of important WSIAT decisions obtained by OWA representation. Our representation caseload at the end of 2016-2017 was 2,874 as noted in Figure 1. This accounts for the total number of representation files open as of March 31, 2017. The number of workers requesting representation services found in Table 1 (2,070) is the number of new workers in 2016-17 who requested a case review for possible opening for representation services.

This section provides highlights of some of OWA's more complex cases and case clusters.

Occupational Disease

During 2016-2017, the OWA continued to represent in a number of occupational disease clusters and individual cases in various parts of the province. This included Peterborough factory workers; Sarnia foundry, petrochemical, construction and factory workers; Elliot Lake uranium miners and Kitchener-Waterloo rubber workers. The claims arising from these clusters were at various stages of

adjudication, from initial evidence gathering up to WSIAT. Taken as a whole, 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.

Sarnia Occupational Disease Cluster

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. Throughout 2016-2017, submissions on the lead case worker's exposures were being considered by the dedicated WSIAT Panel. As such, internal work was done by the OWA on the non-lead cases to prepare them for eventual adjudication. In addition, the OWA made submissions to the WSIAT requesting activation of the non-lead cases. In 2017-2018, we will work with the WSIAT to get the non-lead cases ready for the hearing process. In addition, we expect WSIAT to release the interim decision with findings about the lead case worker's exposures. We anticipate this will allow us to move into the second (causation) phase of the lead case and allow the WSIAT to begin consideration of some other appeals in the cluster.

Peterborough Occupational Disease Cluster

In 2016-2017, the OWA continued to work with UNIFOR, the Occupational Health Clinics for Ontario Workers (OHCOW), MOL, WSIB and members of the Peterborough Occupational & Environmental Health Coalition, to move forward a cluster of cases from a Peterborough factory. These cases are factually complex, often involving many years of multiple exposures. In order to evaluate and prepare these cases for appeal, careful case reviews and thorough analysis of the medical documentation are required. The partners worked collaboratively to ensure timely and effective support and service to the workers and their families. This included organizing a joint information event in Peterborough over three days, March 28 – 30, 2017. The event was a success and was attended by 240 workers and family members. This included 46 who requested OWA assistance with their cases. Some case related problem solving took place right at the event. Further progress on this cluster was anticipated for 2017-2018. As of March 31, 2017, OWA had 32 open cases from this cluster and had requested a total of 44 WSIB claim files for review early in 2017-2018.

Rubber Workers – Kitchener/Waterloo

As a result of an intake clinic organized by the USW union in 2002 for rubber workers in the Kitchener-Waterloo area, approximately 400 WSIB claims were initiated. Many were cancer claims. Some were allowed at the operating level of WSIB. Another clinic was held in 2005, with an additional 200 claims initiated. The primary exposures were asbestos, polycyclic aromatic hydrocarbons, aromatic amines and nitrosamines.

At the end of 2016-2017, the OWA was still representing 16 Rubber Workers and their families for entitlement to various cancers as a result of occupational exposures. The majority of the claims were for gastro-intestinal cancers (colon, rectal, stomach, esophageal), several for bladder and lung cancer. There was also Non-Hodgkins Lymphoma, Chronic Obstructive Pulmonary Disease and kidney disease. During 2016-2017, 4 cases were successfully resolved. This included three allowed at the WSIB operating level, for Chronic Obstructive Pulmonary Disease (COPD), lung cancer and bladder cancer; plus a case of Non-Hodgkins Lymphoma allowed at the WSIB appeals level. The WSIAT denied an appeal for nasal cancer.

As of March 31, 2017, OWA had completed submissions to the WSIAT for 4 other cases - brain cancer, COPD and 2 bladder cancers.

Mental Stress

In 2016-2017, the OWA continued its participation as an intervenor in a mental stress case that challenged subsections 13(4) and (5) of the *WSIA* under the *Canadian Charter of Rights and Freedoms* (Charter). These are provisions that exclude workers with chronic mental stress from entitlement under the Act. The OWA's intervention resulted in Decision 665/10, which was the third WSIAT decision to hold that the exclusion of workers with chronic mental stress was contrary to the Charter.

Emerging occupational disease clusters

During 2016-2017, OWA was involved in two emerging occupational disease clusters:

Possible health conditions from aluminum prophyllaxis

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. This was called "aluminum prophyllaxis" and the aluminum dust was called "McIntyre Powder". It was believed at the time that the dust was protective 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 perhaps other health consequences.

During 2016-2017, OWA worked with a community based initiative called the McIntyre Powder Project, the USW union, WSIB and OHCOW to organize community based intake clinics for exposed workers. Three clinics took place: Timmins in May and November 2016 and Sudbury in October 2016. A total of around 325 workers and family members attended these clinics.

As of March 31, 2017, OWA had 60 cases resulting from the McIntyre Powder Project. Many of these cases involved not just aluminum powder exposure but other mining exposures. Among the health conditions were Parkinson's Disease, Alzheimer's, COPD, sarcoidosis and silicosis.

Agent Orange

Various formulations of herbicides were used in Ontario for several decades primarily to suppress plant growth in northern Ontario. They have been popularly termed "Agent Orange". Hundreds of the exposed workers have filed WSIB claims for a wide range of health conditions. During 2016-2017, OWA partnered with the Power Workers Union and OPSEU around Agent Orange strategy. It is anticipated that Agent Orange claims and will be brought forward in 2017-2018.

SYSTEM AND COMMUNITY PARTNERSHIPS

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 referrals. This includes local WSIB offices, Members of Provincial Parliament, health care

providers and social service agencies. OWA also works at the provincial level. Highlights of provincial partnerships are reported below.

WSIB Labour and Injured Worker Advisory Committee (LIWAC)

The OWA director and General Counsel sit on this committee, which is convened by the Chair of the WSIB and is comprised of senior management from the WSIB and worker members from unions, injured worker groups, legal clinics and the OWA. Through this committee, worker members provide feedback and input on high level initiatives of the WSIB, including policy and system change consultations. Highlights in 2016-2017 included discussions of the WSIB appeals process and experience rating and other incentives programs.

Fatalities and Immediate Response (FAIR) Partnership

FAIR is a partnership with WSIB, MOL, and Threads of Life (an organization of families affected by 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.

Workers in Crisis and Critical Need

In 2016-2017, OWA continued our system partnership with WSIB, MOL and WSIAT to ensure that identified cases are considered for prioritization in the appeal system. These cases are defined as: demonstrating significant financial hardship, homeless, in imminent likelihood of death, posing a suicide threat, or having a severe mental health issue. Together we have ensured that any possible gaps in services are dealt with on a priority basis. During 2016-2017, the partners dealt with several serious cases. We also refreshed our protocols for collaboration.

Support to OWA Clients with Asbestos Cancers

OWA over the years has represented hundreds of workers and surviving family members in asbestos disease cases, including mesothelioma, lung cancer and asbestosis. Ontario is now at the crest of a wave of asbestos cancers stemming from exposures up to the 1980s, with around 150 new mesothelioma cases and 350 new lung cancers annually. There is an urgent need for early detection and treatment, as well as prevention of any new exposures. In 2016-2017, OWA worked with a group of employers and unions, in partnership with the Canadian Mesothelioma Foundation (CMF), on efforts to secure stable funding for research, early detection and treatment for OWA clients and other workers contracting mesothelioma, as well as for a national mesothelioma health care network. OWA also partnered with the CMF on priority referrals and support for workers newly diagnosed with mesothelioma.

Partnerships around appeals and dispute resolution

2016-2017 was another year of significant challenge in the workplace dispute resolution and appeals system. As background, as of April 2015, OWA had over 1600 of its 3500 representation files at WSIAT, around 950 more than the ideal level of 650. This greatly affected our ability to process cases efficiently and to take new cases. In response, in 2015-2016, OWA collaborated with WSIAT to address this situation, resulting in stabilization and modest reduction in case inventory by March 31, 2016 to 1548 cases. In 2016-2017, OWA built on this and worked closely with WSIAT on innovative strategies to reduce the appeals inventory. This included a focus on accepting every appeal date offered by WSIAT – which was only made possible by worker advisers stepping forward to accept extra assignments. The OWA Director and management team met with the new Chair of WSIAT to

brainstorm collaborative initiatives, including a pilot for video hearings, which was set for implementation early in 2017-2018. The Director of the OWA also met the WSIAT Chair jointly with the Director of the Office of the Employer Adviser to identify collaborative approaches by employers and workers. The outcome of all these efforts was that 2016-2017 was a turnaround year for reduction of OWA's WSIAT appeals inventory, which declined to 1276 as of March 31, 2017 – a reduction of 17.6%.

OWA also continued to place a high priority on the need to work collaboratively with employers on improving dispute resolution at WSIB, and to avoid having cases go to the WSIAT level. Promising progress was made by a joint employer/worker dispute resolution advisory group through the Ontario Bar Association, which the OWA Director co-chaired with a prominent employer lawyer. The group had worked on a consensus-based joint submission to the WSIB during 2015-2016. In November 2016, the group met WSIB senior appeals management and had very constructive discussions. At year end, discussions with WSIB were ongoing, with a further meeting planned for early in 2017-2018. In addition, OWA engaged in its own direct discussions with the WSIB Operations and Appeals Services Divisions on ways for the two organizations to collaborate.

Partnerships around improving employment for injured workers

Many of OWA's clients have some capacity to work, following their occupational injury or illness. However, there are many challenges to helping them re-enter the labour market. During 2016-2017, OWA was active in several initiatives to improve employment levels for persons with disabilities. Most important was a national initiative organized by the Centre for Research on Work Disability Policy (CRWDP), bringing together federal and provincial policy people and stakeholders to discuss ways to improve disability program coordination. The OWA Director served as a member of the CRWDP Executive and lead for stakeholder engagement. For OWA, the focus was on coordination of services and supports for injured workers. One major outcome of this work was the launch of an employer/labour initiative to develop a national Work Disability Prevention Standard through the Canadian Standards Association.

CORPORATE OWA INITIATIVES

New OWA Service Delivery Model

In 2016-2017, OWA fully implemented major changes to its service delivery model, based on recommendations developed by a joint management/staff working group in 2013-2014 and 2014-2015.

The service model has responded to a changing operational environment and strengthened the OWA's capacity to meet clients' needs in a timely way. This included:

- elimination of duplication of reviews of injured workers' WSIB claim files
- provision of comprehensive case reviews to help workers understand the strength and challenges in their cases and to facilitate referrals to alternative sources for income and support services where appropriate

Work processes, procedures and other supports for staff and management to make the transition have been completed and implemented. Training has been provided for OWA staff and will continue as improvements are made to the model. Continued training will be provided on effective referrals for injured workers who might need additional support or services.

An evaluation plan for the service delivery model was developed during 2016-2017, by comparing the goals of the model changes to actual experience.

A communications update to system and community partners about the status of the new service model was drafted in 2016-2017 for use in 2017-2018.

The OWA began to contact new clients in January 2016 pursuant to the new service delivery model. There were varying numbers of injured workers awaiting case review in the different OWA offices. During 2016-2017, OWA developed an operational strategy to ensure a fair process across the province, by offering case reviews to new clients based on the date they had initially requested service.

Service Excellence, staff learning initiatives and wellness

During 2016-2017, OWA moved forward with several initiatives to ensure service excellence and support staff wellbeing.

Learning programs for OWA Staff

As part of its commitment to continuing professional development, the OWA delivers educational programs to its own staff. During fiscal 2016-2017, this included:

- **“Calculating earnings basis”** for worker advisers which covered the myriad of rules around determining a worker’s earnings basis.
- **“Dealing with workers with psychological issues,”** a webinar for all staff, addressed how to sensitively deal with clients who are struggling psychologically.

Workplace Violence Prevention and Peer Support

OWA Staff deal with vulnerable workers who sometimes experience crisis situations – often from a combination of financial, health and psychological factors. In extreme cases, workers may pose a threat of harm to themselves and/or others. OWA has long recognized the importance of supporting these workers but also when appropriate, protecting them, OWA staff and other system partners from potential harm.

During 2016-2017, OWA also participated actively in the MOL’s Peer Support Program, an initiative to provide peer to peer emotional support and resources in times of personal crisis.

STATISTICAL REPORTING

2016-2017 was a year of transition for OWA to full implementation of a new service delivery model. The new model responded to changes in the OWA's operating environment and streamlined our services by reducing the initial service process from two stages to one; as well as providing more comprehensive advice and referrals to workers, including those whose cases lack sufficient evidence for OWA to bring them forward into the appeals system.

Summary of OWA's achievements in 2016-2017

During the 2016-2017 fiscal year, OWA was successful in assisting a very substantial number of workers with their workplace insurance claims and appeals:

- OWA responded to 8,195 new requests for service. This was 26% below 2015-2016 levels in line with reductions over the past two years from the higher levels of previous years;
- OWA completed 1,166 case reviews for workers who had requested representation service, 34% more than in 2015-2016, mainly as a result of the transition to a new service delivery model;
- The overall success rate in representation services in 2016-17 at WSIB and WSIAT was 51%. This represented a significant increase from the 2015-2016 level of 45%.

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 180 individuals who responded to the survey in 2016-2017, 95.0% were "very satisfied" or "satisfied" with the service they received.

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 five years.

The OWA had 8,195 new requests for service, during the 2016-2017 fiscal year, 26% less than the 11,082 in 2015-2016. This likely reflected the continuing decline of new claims to the WSIB, working their way through the system. 2,070 workers requested representation services. This was a decline of 14% from 2015-2016. However, this showed that although fewer overall requests for service were made to OWA in 2016-2017, a higher proportion of those workers needed help with representation.

In 2016-2017, the OWA completed 1,166 case reviews, compared to 871 in 2015-2016, an increase of 34%. This increase reflected the full implementation of OWA's new service delivery model following 2015-2016, which was a transition year. To avoid delay in dealing with priority cases such as terminal occupational disease, OWA offered immediate case reviews in 2016-2017 to 182 workers whose situations met the criteria for case prioritization, an increase of 43% from 127 in 2015-2016.

Table 1: New Requests for Service and Case Reviews

	12-13	13-14	14-15	15-16	16-17	Change from 15-16 to 16-17
Number of New Requests for Service*	17,105	13,881	13,164	11,082	8,195	-26%
Number of New Requests Resolved with Summary Advice	13,771	11,150	10,510	6,276	4,321	-31%
Number of Requests for Representation***	3,114	2,523	2,382	2,421	2,070	-14%
Number of Cases Reviewed for Representation	3,179	2,473	2,386	871	1,166	+34%
Number of Cases Selected for Representation**	1,658	1,471	1,479	526	638	+21%
Number of Cases Declined Representation	1,521	1,002	1,025	345	528	+53%
% of Cases Reviewed which are offered Representation	52%	59%	62%	60%	55%	-5%

*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 (2,070) is the number of new workers in 2016-17 who requested a case review for possible opening for representation services.

Representation Services

Case Review

When clients contact the OWA because they have received a WSIB decision that 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.

The proportion of cases reviewed which were accepted for representation decreased by 5% from the 2015-2016 level, to 55%. This was in the range of acceptance rates over the past few years, higher than 2012-2013 but lower than the years in between. The rate of acceptance will be monitored during 2017-2018 to ensure that all cases with sufficient chance of success continue to be accepted.

Representation Files

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

Following a surge of new requests for representation beginning in 2011-2012, OWA experienced a steady increase in the number of its representation cases which were 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 increases in the time needed to resolve appeals at that level. As a response, OWA maintained a relatively high full representation caseload, in the 3600 – 3700 range, so that work on some cases could proceed while a significant number of others waited at WSIAT. It became clear that these higher caseloads were becoming increasingly difficult to manage. Delays in case reviews and assignment for representation were increasing. There was also an impact from staff turnover as around one third of OWA's 52 worker advisers retired from 2012-2013 to 2014-2015. So during 2015-2016, efforts were made to reduce the overall representation caseload, resulting in a more sustainable level of 3232 by year end. In 2016-2017, these efforts continued, with a level of 2874 being achieved by March 31, 2017. This, combined with the continuing reduction in WSIAT appeals inventory reported above, positioned OWA for improved case turnover in 2017-2018.

Transition to a new service delivery model – impact on total case inventory

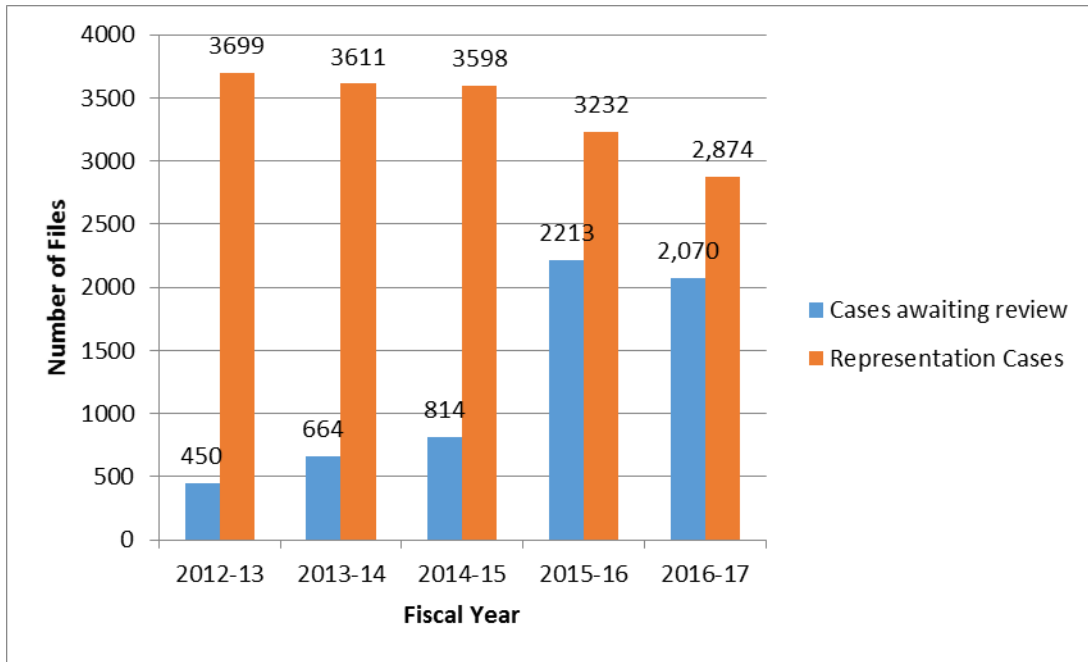
The OWA is committed to providing quality and timely service to all of our clients. Unfortunately, the demand for representation services is high and in the past, sometimes OWA did not have a worker adviser immediately available to open a file at the conclusion of the case review process. This meant that until 2015-2016, following case review, workers' cases were placed on a waiting list for representation service. This meant that a worker might wait initially for a case review and then later on also wait for assignment of a Worker Adviser for representation. During the years prior to 2012-2013, this two stage system did not result in overall lengthy delays, because cases were being processed through the system reasonably quickly, including many case resolutions at the WSIB operating level and internal appeals level. However, as the proportion of appeals at the WSIAT level grew, delays began to develop at both the case review and case assignment stages and the inventory at those stages grew. This is documented in Figure 1.

As of April 1, 2015, there were a total of 607 cases in the case review and case assignment stages, some of which had experienced delays of up to two years. In response, OWA began implementing its new service delivery model, which would require a delay at just the initial stage, with case review taking place only when a worker adviser was available to accept the representation case immediately if the case review indicated a reasonable chance of success. The first stage of implementation was to clear the prior case review inventory, which was accomplished by January 2016. In the meantime, workers requesting case review during 2015-2016 had to wait, unless they were in a case prioritization category – of which 127 were accepted immediately during 2015-2016 and 182 in 2016-2017. In addition, during 2015-2016 and especially 2016-2017, OWA focused on reduction of the WSIAT appeals inventory, which took some resources away from the frontline.

Total Case Inventory

Figure 1 shows the evolution of total case inventory over the past five years, including the transition to a new service delivery model in 2015-2016. For each year, the bar graph on the left side is the total of cases awaiting case review or case assignment. A conversion has been done to allow an "apples and apples" comparison with the 2015-2016 annual report chart, which reported only one number – the number of workers awaiting case review. By March 31, 2016, the number of workers awaiting case review had increased to 2213. In 2016-2017, along with reducing its WSIAT appeals inventory, OWA succeeded in reducing the number awaiting case review to 2070 – a reduction of 6.5%. Further reduction is projected for 2017-2018.

Figure 1: Total Case Inventory



Decisions obtained for OWA clients

In 2016-2017, OWA obtained a total of 2,017 decisions from the adjudication and appeals levels of the WSIB and from WSIAT, a decrease of 11% from the previous year’s total of 2,264 (see Table 2). The overall reduction resulted mainly from the slowdown in case processing in 2016-2017 as OWA focused on reducing its WSIAT appeals inventory and on reducing the overall inventory of representation files. The reduction in overall decision numbers was counter-balanced by an increase in outcomes at WSIAT by 19% from 2015-2016 levels, from 417 to 497. Generally speaking, outcomes at WSIAT require substantially more work by Worker Advisers than work at the operations level and appeals level of WSIB.

The 2,017 decisions obtained in 2016-2017 involved a total of 3,466 issues versus 3,783 in 2015-2016, a reduction of 8%. Overall success rate increased significantly, from 45% in 2015-2016 to 51% in 2016-2017. This was the highest level in the past five years and up dramatically from 31% in 2012-2013. 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 modest increase in success rate at the WSIB appeals level as well as a 3% increase at WSIAT. The increase in success rate at WSIB will also mean that a smaller proportion of OWA cases will ultimately progress to the WSIAT level, which should help moderate case inventory there.

Table 2: Decisions by Level and Success Rate

Decisions by Level	2012-13	2013-14	2014-15	2015-16	2016-17
WSIB – Operating Level	1,872	1,669	1,433	1,085	919
% of Issues Allowed at Operating Level	25%	31%	32%	36%	45%
WSIB – Appeal Level	1,287	1,178	927	762	601
% of Issues Allowed at the Appeals Branch	39%	44%	41%	44%	45%
WSIAT	373	378	386	417	497
% of Issues Allowed at the WSIAT	58%	60%	57%	65%	68%
TOTAL DECISIONS FROM ALL LEVELS	3,532	3,225	2,746	2,264	2,017
TOTAL ISSUES IN DECISIONS FROM ALL LEVELS	5,854	5,8425	4,364	3,783	3,466
Total % of Issues Allowed at all Levels	31%	39%	39%	45%	51%

OCCUPATIONAL HEALTH AND SAFETY MANDATE

Description of Services

Under its occupational health and safety reprisals mandate, the OWA assists non-union workers who may have experienced a reprisal for exercising their workplace health and safety rights. Services provided include:

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

The OWA also works with the Ministry of Labour and community partners to ensure that the system serves the needs of non-union workers.

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 of Toronto.

The OHSRP provides escalating levels of service depending on the situation and needs of the worker. Some workers' inquiries are resolved by through information or advice (advisory services), while others may require formal legal representation (representation services).

Advisory Services

Advisory services are resolved at either of the following levels:

- Summary advice, in which a worker is provided with information about their rights or, for matters outside the program's mandate, a referral to a more appropriate source of assistance
- Intake, in which a worker receives a comprehensive telephone consultation with a worker representative, who may provide legal advice, a referral, or offer to represent

Representation Services

When representation services are provided, the worker formally retains the OWA as his or her legal representative. The OHSRP provides legal representation at all stages of a reprisal complaint to the OLRB, including:

- Preparing and filing an application to the Ontario Labour Relations Board (OLRB)
- Negotiating a settlement prior to formal mediation (early dispute resolution)
- Representation at formal mediation conducted by the OLRB
- Representation at hearings before the OLRB
- Enforcement of minutes of settlement and OLRB orders

Achievements

Summary of Achievements

Demand for service under the occupational health and safety reprisals mandate remained high for 2016-2017. New requests for service and summary advice were at their highest levels since the program began, increasing by about 25% over last year and slightly exceeding the previous high seen in 2014-15.

Representation numbers remained steady year-over-year. Intakes declined slightly (1.7%). Overall, representation outcomes declined by 4.5% but settlements, the largest and most important component of this measure, increased by 1.8%.

Longer-term analysis remains challenging because of the inherent variability of a relatively small program (at least in comparison to the workplace safety and insurance mandate). The last four years of new request and summary advice numbers show an alternating pattern of higher (about 1100 new requests) and lower (about 900 new requests). This would suggest that the long-term number is about 1000, although new may continue to exceed that number going forward. On the representation side, intakes and representation outcomes appear to be stabilizing at around 235 and 70 per year, respectively. These may increase if long-term staffing of worker representative positions remains stable.

Finally, client feedback indicates that workers who receive representation services from the OHSRP continue to be very happy with the quality of assistance they received.

Advisory Services

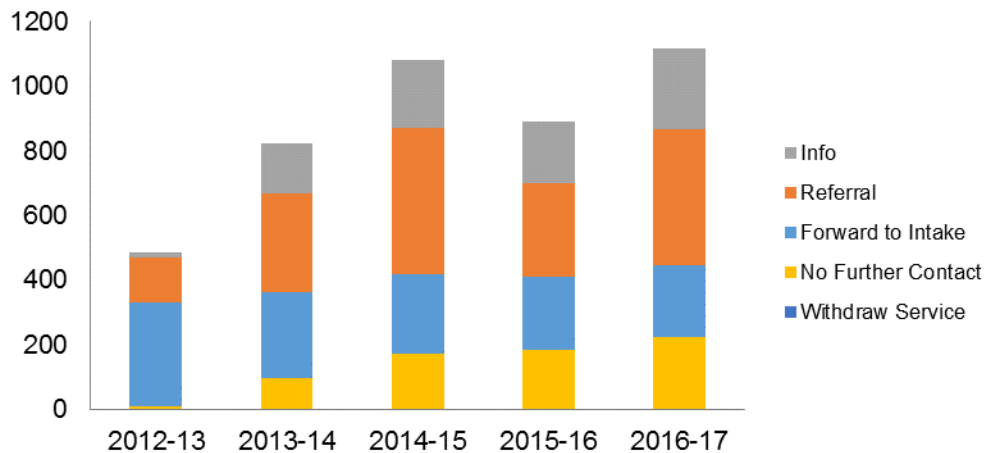
New Requests and Summary Advice

In 2016-17, new requests and summary advice were both at their highest levels since the program's inception in 2012-13. After declining last year, both rebounded to levels slightly higher than those seen in 2014-15.

Table 1: New Requests and Summary Advice

<i>Disposition</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>Annual Change</i>
New requests						
New Requests Received	502	894	1137	906	1145	+ 26.4%
Summary Advice						
Forward to Intake	322	264	246	227	224	- 1.3%
Referral	139	305	451	290	419	+ 44.5%
Info	15	155	213	191	248	+ 29.8%
No Further Contact	9	98	172	184	224	+ 21.7%
Withdraw Service	0	1	0	0	0	+0%
Total	485	823	1082	892	1115	+ 25.0%

Chart 1: Disposition of New Requests for Service: 2012-13 to 2016-17



Intake

The number of intakes completed by the program declined slightly (2%) from 2015-16 to 2016-17. Overall, intake numbers have remained fairly consistent over the last three years. The proportion of intakes offered representation has also remained consistent at about one in three.

Table 2: Disposition of Intakes 2012-13 to 2016-17

<i>Disposition</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>Annual Change</i>
Advice	143	58	69	97	69	- 28.9%
Offer to Represent	59	102	83	72	72	+ 0.0%
Referral	90	90	80	60	87	+ 45.0%
No Further Contact	34	19	12	5	2	- 60.0%
Withdraw Service	0	0	2	0	0	+ 0%
Total	326	269	246	234	230	- 1.7%

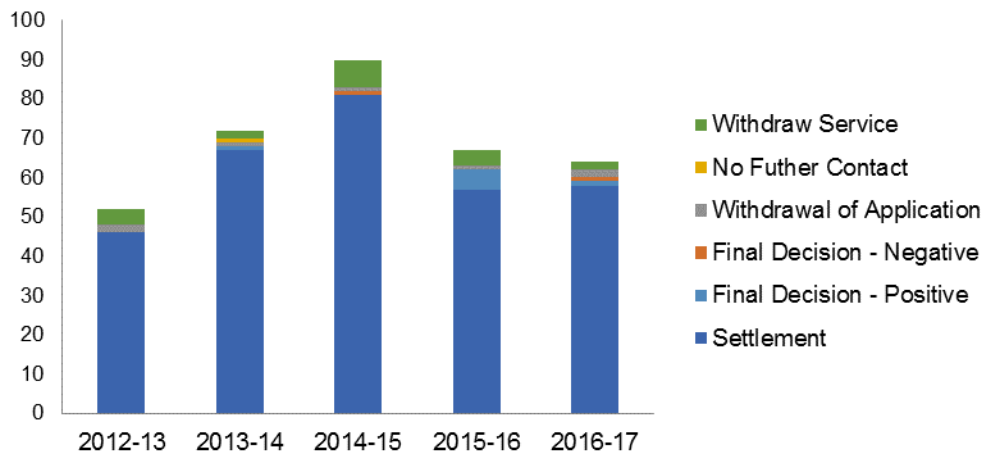
Representation Services

Representation outcomes declined in 2016-17 versus 2015-16, although the reduction as relatively small (4.5%). Despite this, the number of settlements achieved increased slightly year-over-year. The reduction in representation outcomes is likely due to natural variability caused by small size of the program and reduced capacity due to staffing vacancies during the year.

Table 3: Representation Outcomes 2012-13 to 2016-17

<i>Outcome</i>	<i>2012-13</i>	<i>2013-14</i>	<i>2014-15</i>	<i>2015-16</i>	<i>2016-17</i>	<i>Annual Change</i>
Settlement	46	67	81	57	58	+1.8%
Final Decision - Positive	0	1	0	5	1	-80.0%
Final Decision - Negative	0	0	1	0	1	N/A
Withdrawal of Application	2	1	1	1	2	+100.0%
No Further Contact	0	1	0	0	N/A	N/A
Withdraw Service	4	2	7	4	2	-50.0%
Total	52	72	90	67	64	-4.5%

Chart 2: Representation Outcomes 2012-13 to 2016-17



Caseload Inventory

Table 4 shows the total caseload inventory for the OHSRP as of March 31, 2017. OHS reprisal cases are continually active and resolve quickly. This is very different from OWA’s workplace insurance caseload. This results in a high turnover as cases close and new ones open. The total caseload inventory for the OHSRP at any given point in time may appear relatively small.

Table 4: Total Caseload Inventory on March 31

<i>File Status</i>	<i>2016</i>	<i>2017</i>	<i>Annual Change</i>
New request	38	65	+ 71%
Intake	20	23	+ 15%
Representation	28	30	+ 7%
Total	86	118	+ 37%

Client Satisfaction Levels

Representation clients consistently expressed a very high rate of satisfaction with the service provided by the OHSRP. In 2016-17, 84.6% of file closure survey respondents reported that they were “very satisfied” overall with the service they received from the OHSRP (the highest rating on the survey). The response rate on these file closure surveys is approximately one in five.

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

Outreach and Partnerships

In 2016-2017, outreach for the OHSRP continued to focus on system partners to help ensure better communications and referrals for workers within the occupational health and safety system. Program staff also continued to develop relationships and work cooperatively with community legal clinics and organized labour.

APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2015-2016

Account	Final Budget*	Total Actual Expenditures**	Variance	Variance %
Salary & Wages	7,733.1	7,302.4	430.7	5.6%
Benefits	1,790.1	2,160.7	(370.6)	(20.7%)
Other Direct Operating Expenses (ODOE)				
Transportation & Communications	300.0	270.8	29.2	9.7%
Services (incl. Office Leases)	1,425.9	1,516.1	(90.2)	6.3%
Supplies & Equipment	100.0	69.0	31.0	31.0%
ODOE TOTAL	1,825.9	1,855.9	(30.0)	(1.6%)
OWA TOTAL	11,349.1	11,319.0	30.1	0.26%

* Final Budget = Printed Estimates+/- TBO, re-alignment of funds by Standard Account.

** Total Actual Expenditures including Office Leases

APPENDIX B - NOTEWORTHY WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (WSIAT) DECISIONS BY OFFICE OF THE WORKER ADVISER STAFF

The WSIAT summarizes its significant decisions and identifies those that are especially important as noteworthy. A selection of noteworthy decisions resulting from OWA representation is summarized below.

Occupational Disease

Decision No. 2806/16

The Panel granted entitlement for esophageal cancer due to asbestos exposure, finding that the worker met the requirements of the policy.

Decision No. 2186/16

The WSIB denied the worker's claim for COPD entitlement because the worker did not meet the policy threshold of 40 exposure years for respirable dust. The WSIB hygienist estimated that the worker had 25.3 years of exposure to respirable dust. The worker also had a 32 pack year of smoking. In granting entitlement, the Panel found that both the dust exposure and the smoking history were significant contributing factors in the development of the worker's COPD.

Healthcare

Decision No. 763/16

The Vice-Chair granted the worker entitlement for maintenance chiropractic treatment, even though the worker was retired, because it was necessary for the worker's ability to function and control pain.

Decision No. 1759/16

Workers are entitled to be reimbursed for the reasonable costs of medical marijuana so long as they meet the criteria established by WSIAT decisions and have a Health Canada license for the relevant period.

Loss of Earnings

Decision No. 901/16

This decision holds that workers cannot be penalized for non-co-operation if the WSIB did not warn them of the consequences of non-co-operation. The worker withdrew from her work transition plan prior to its completion. Because the WSIB considered her to have failed to co-operate, at final review she was deemed to have earnings of an experienced worker in the "suitable occupation." The Vice-Chair held that, because she had not been warned about non-co-operation, she ought to be deemed at entry-level wages in the suitable occupation.

Decision No. 402/16

The WSIB initially terminated all benefits to the worker six months after the workplace accident because it determined that the worker had fully recovered. On appeal, the ARO decided that the worker fully recovered about a year and a half after the injury, but granted partial loss of earnings benefits on the grounds that the worker did not make reasonable efforts to mitigate his loss. The Vice-Chair disagreed, finding that the worker had a permanent impairment and granted full loss of earnings benefits as the worker had been involved in wide ranging job search activities.

Decision No. 1844/16

The WSIB considered the worker to be under-employed as a farmhand when the suitable occupation was "shipper/receiver." The Vice-Chair found that the worker *was* working in the suitable occupation, as the farm was a large operation involving thousands of animals and the worker's job was ordering supplies and shipping products. The Vice-Chair ordered that the final review be based on actual earnings, not deemed earnings.

Decision No. 2031/15

The worker, a truck driver, was in a motor vehicle accident that was found to be her fault. Her employment was terminated because of her responsibility for the accident. The Panel held that she was entitled to loss of earnings benefits because the worker was unable to work due to her compensable post traumatic stress disorder.

Decision No. 2396/16

The worker quit his job following a shoulder injury. The Panel held that he was entitled to loss of earnings benefits because his decision to resign was due to his compensable injury.

Initial Entitlement

Decision No. 2260/16

A 30 year-old worker with no previous back problems was granted entitlement for a low back injury as a disablement. The worker did heavy physical work, had no pre-existing medical issues with his back, and imaging showed a herniated disc. The Panel relied on the WSIAT's discussion paper on low back pain that says that repetitive heavy lifting is a risk factor for back injuries.

Decision No. 2324/16

The WSIB had denied entitlement for concussion following a head injury on the basis that imaging showed no abnormalities. The Vice-Chair allowed entitlement, pointing to the medical discussion paper which explains that, typically, evidence of concussion does not show up on imaging. Evidence of concussion is found in a person's symptoms.

APPENDIX C – 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

TIMMINS OFFICE

60 Wilson Avenue, Suite 303
Timmins, ON P4N 2S7

ELLIOT LAKE OFFICE

50 Hillside Drive North
Elliot Lake, ON P5A 1X4

SOUTHWEST REGION

LONDON OFFICE & SARNIA SATELLITE

495 Richmond Street
Suite 810
London, ON N6A 5A9

WATERLOO OFFICE

155 Frobisher Drive
Unit G (213)
Waterloo, ON N2V 2E1

WINDSOR OFFICE

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

SUDBURY OFFICE

159 Cedar Street
Suite 304
Sudbury, ON P3E 6A5

NORTH REGION

SAULT STE. MARIE OFFICE

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

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

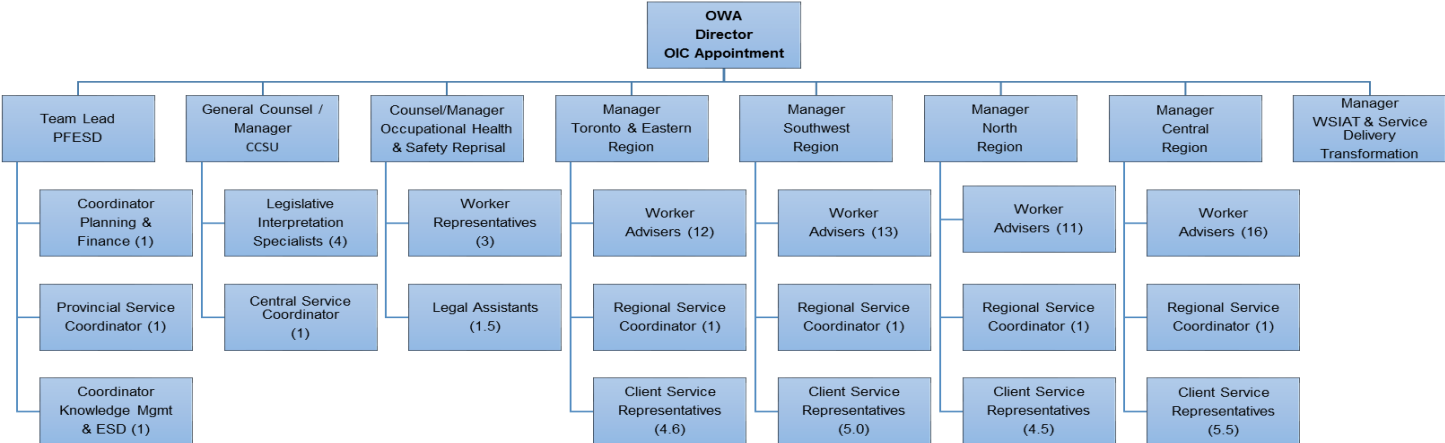
MISSISSAUGA OFFICE

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

THUNDER BAY OFFICE

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

APPENDIX D – ORGANIZATION CHART



2016–2017 OWA STAFF ALLOCATION = 97.1 FULL TIME EQUIVALENTS (FTE)