



**OFFICE OF THE WORKER ADVISER**

# **Annual Report**

**April 1, 2020 to March 31, 2021**

[www.owa.gov.on.ca](http://www.owa.gov.on.ca)

# CONTENTS

- CONTENTS ..... 2**
- MESSAGE FROM THE DIRECTOR ..... 3**
- THE MANDATE OF THE OFFICE OF THE WORKER ADVISER..... 4**
- REPORT ON THE OWA’S WORKPLACE SAFETY AND INSURANCE PROGRAM.... 5**
  - Overview of Services ..... 5
  - Information, Advice and Representation ..... 5
- OUTREACH AND EDUCATIONAL SERVICES ..... 8**
- OWA SERVICE QUALITY DELIVERY INITIATIVES..... 9**
- OWA’S WORKPLACE INSURANCE PROGRAM STATISTICS..... 12**
  - Advisory Services and Case Review .....13
  - Decisions obtained for OWA clients .....16
- OCCUPATIONAL HEALTH AND SAFETY REPRISALS PROGRAM ..... 21**
  - Achievements .....22
- OWA OVERVIEW ..... 28**
- APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2019-2020..... 29**
- APPENDIX B – OWA OFFICE LOCATIONS ..... 30**

## MESSAGE FROM THE DIRECTOR

I am pleased to submit the annual report of the Office of the Worker Adviser (OWA) for the fiscal year 2020-2021.

Given the current health crisis, the period covered by this year's annual report has been a significant challenge for Ontario and the rest of the world, but it is one that OWA staff have adapted to both swiftly and professionally. Since the start of 2020, OWA staff have been delivering our workplace safety and insurance and occupational health and safety reprisals mandates by working remotely, and this is something we continue to do. The workload coming to the OWA has remained consistent, and our ability to provide timely information and advice, educational services and representation to our clients, stakeholders and system partners has continued unabated. Our staff are working through new virtual hearing methods and electronic communication channels while ensuring that the confidential and sensitive nature of the work is respected and maintained.

The OWA continues to strive for innovative and transformational ways to serve our clients' needs and support the overall effectiveness of the workplace safety and insurance and occupational health and safety systems. Some of these efforts include:

- partnering with WSIB and WSIAT to adapt to the challenges of the pandemic, including the rapid adoption of new technology to support remote work and virtual hearings,
- making significant strides towards procuring a new case management system,
- ensuring gains from the previous year's efforts to reduce wait times were maintained,
- expanding partnerships with the MLTSD to strengthen our work on reprisals and provide better service to workers,
- obtaining additional funding to increase our frontline staff, in accordance with the recommendations of Workplace Safety and Insurance Board Operational Review and,
- continuing excellence and supporting staff within the OWA by delivering a robust internal staff training program.

The culture we foster, and our teamwork underpin all the good work that we do, in addition to the lives that we are able to help change. Teamwork is one of the greatest strengths at the OWA and I would like to personally thank our staff for their dedication, commitment and support in making Ontario one of the fairest and most equitable places in the world to live and work.

Sean McGowan  
Director (A), Office of the Worker Adviser

# 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*.<sup>1</sup>

OWA is an operational agency of the Ministry of Labour, Training and Skills Development (MLTSD) 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.

The OWA supports the government's goal to advance safe, fair and harmonious workplace practices that are essential to the social and economic well-being of the people of Ontario by supporting vulnerable workers through dispute resolution, enabling clients to access benefits and services under the WSIA.

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.

---

<sup>1</sup> 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)

# **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, Advice and Representation**

Workers contact the OWA with questions about workplace insurance or for help to understand their entitlements. The agency provides information, summary advice and, where applicable, referrals to other government programs or services.

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 to handle their own claims or applications where appropriate. We serve a wide range of clients with various matters related to workplace insurance. In particular, our expertise and efforts to support those with occupational disease are of deep importance to vulnerable workers, their families and the communities in which they live.

## **Occupational Disease**

The identification and prevention of occupational disease continues to be a challenge. Often, these diseases take many years to manifest. By the time they do, the workplaces and local unions related to them have frequently ceased operations. As a result, a vital role of the OWA is to represent workers who suffer from an occupational disease and their survivors.

These are complex cases, involving scientific, medical and exposure information. Frequently, there are clusters of cases that can be linked due to employment in the same workplaces or industries.

### **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 2020-2021, the OWA dealt with 74 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.

The WSIB engaged Dr. Paul Demers from the Occupational Cancer Research Centre (OCRC), based at Ontario Health (Cancer Care Ontario), to study the relationship between McIntyre Powder in Ontario mines and the development of neurological health outcomes in former miners. Dr. Paul Demers released his report in May 2020. The highlight of Dr. Demers’ report was that he found there to be a link between Parkinson’s and Parkinsonism with McIntyre Powder exposure. Several claims have already been allowed, without going through the appeal process, for those workers who have been diagnosed with Parkinson’s.

### **Peterborough Occupational Disease Cluster**

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.

During 2020-2021, the OWA worked on 116 files from this cluster. In last fiscal, a total of 28 submissions were made on behalf of these workers. A total of 19 appeals were adjudicated, 58% of which were allowed, with 80% of them at the operating level. Issues covered by these decisions were initial entitlement, permanent impairment and survivor’s benefits, but they also included the issue of personal care allowance, which more often than not, was provided by the worker’s spouse or family members. Over the last several years, the OWA has secured nearly 5 million dollars for claimants.

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

### **Sarnia Occupational Disease Cluster – Owens Corning**

The OWA continued its longstanding commitment to represent workers who developed occupational diseases, and those who died, following occupational exposures at a now closed factory in Sarnia.

In 2020-2021, 15 legal submissions were made on behalf of these workers to the WSIB and WSIAT. These pertained to lung related cancers and Chronic Obstructive Pulmonary Disease (COPD). Extensive work was completed to support clients through the adjudication and payment of benefits following successful appeals in 2019-2020.

In 2020-2021, the WSIAT released two decisions related to the cluster. In *Decision No. 1088/20*, the worker received six years of loss of earnings benefits (until age 65) connected to his lung cancer entitlement. In *Decision No. 1687/19IR*, the Tribunal clarified parts of its earlier decision allowing COPD entitlement for the worker.

### **Rubber Workers – Kitchener/Waterloo**

The OWA has been working on cases for Rubber Workers in the Kitchener area since 2013. Successful outcomes for approximately two-thirds of these claimants have been received.

Extensive work has continued in order to ensure that survivors receive all entitlements as a result of successful appeals. Related to WSIAT decisions 356/20 and 204/19, the deceased workers were awarded 100 percent Non-Economic Loss awards, retroactive loss of earning benefits, retroactive independent living allowances, and surviving spouses will receive ongoing monthly pensions.

Between February 2021 and April 2021, and as a result of a systematic review of these cases by the WSIB, an additional 41 workers or their survivors were offered service and many are now in the process of appealing negative decisions.

### **Casework**

Every year the OWA represents thousands of workers. Each success is important and makes a difference in the life of an injured worker and a family. Often cases turn on complex issues of law and medical evidence. Those that establish important precedents improve adjudication in future appeals, positively affecting workers generally and improving the functioning of the system. The following cases from 2020-21 exemplify how OWA contributes to improving fairness and quality in decision-making while representing individual workers.

- The OWA represented a worker in a WSIAT case that clarified its jurisdiction, making it easier in future for workers to have their issues dealt with all at once. The Tribunal endorsed a broad and purposive approach to jurisdiction, rejecting a narrower view that could lead to fragmented appeals and “jurisdictional ping pong” where parties are required to go back and forth between the WSIB and WSIAT. In the individual case, the WSIAT held that a determination of LOE benefits included the underlying issue of the correctness or the suitable occupation identified for the worker and found that it was not necessary for the worker to return to the WSIB to have the issue decided.
- The OWA represented in two cases that emphasized the need for sufficient reasons in decisions. This is an important component of fairness in decision-making. In the first case, the OWA successfully challenged the sufficiency of the reasons provided in the original Tribunal decision. The Tribunal found that the original decision did not sufficiently explain its reason for denying benefits. It reversed that decision and the worker was granted full loss of earnings benefits at the final review.
- In the second case, WSIAT reconsidered an earlier decision and extended the time limit for filing an appeal. The reconsideration was granted on the basis that the original decision did not address or provide reasons for rejecting important evidence regarding the worker’s intent to appeal. The Tribunal also found that there was an arguable case that the issue in dispute was intertwined with another, timely appeal.

## **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 information<sup>2</sup>.

In addition, the OWA provides educational services to injured workers and the general public through information sessions held in communities across the province. Prior to the pandemic, the OWA held one clinic and two information or educational sessions with the public across the province. A total of 27 people attended these sessions which focused on information about our services and education about entitlements under the Act. Due to the restrictions of COVID-19, the OWA had to limit and refrain its interactions with the public therefore, these types of activities needed to be put on hold.

### **Community and System Partners**

---

<sup>2</sup> <http://www.owa.gov.on.ca>

Across the province, the 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. The OWA also participates in partnerships at the provincial level.

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. In this forum, labour representatives and the OWA provide constructive feedback and 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 the WSIB, Threads of Life and MLTSD, the OWA continues to participate in the Fatalities and Immediate Response (FAIR) Partnership. Its goal is to provide timely and coordinated services to support the individual needs of families and survivors following either a traumatic workplace fatality or a severe and permanent life altering physical impairment resulting from a workplace accident.

In our work related to occupational disease claims, we are 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 2020-2021, OWA staff participated in an advisory role in a research project on return to work and workplace disability supports conducted by the University of Ottawa and Memorial University.

## **OWA SERVICE QUALITY DELIVERY INITIATIVES**

OWA is taking steps to modernize how we do our work and explore opportunities for innovation. These include:

- The use of technology to enhance service delivery
  - Moving towards electronic access to WSIB and WSIAT files
  - Procuring and developing a modern case management system
- Improving service timelines by reducing our list of cases waiting for review to assess if full representation can be offered, and

- Investing in expert, knowledgeable staff through a learning program.

## **The Use of Technology to Enhance Service Delivery**

### **E-Access to WSIB and WSIAT files**

The OWA has moved to electronic access to WSIB files. Expanding the use of E-Access files from WSIB has decreased case processing time.

WSIAT has also offered digital Case Records. Several of our Worker Advisers are now receiving digital case records by USB. The OWA will move to all Worker Advisers receiving digital Case Records eventually as WSIAT is still offering Case Records in paper format. All staff have been given the proper tools and training to work with these files.

### **Procuring a New Case Management System**

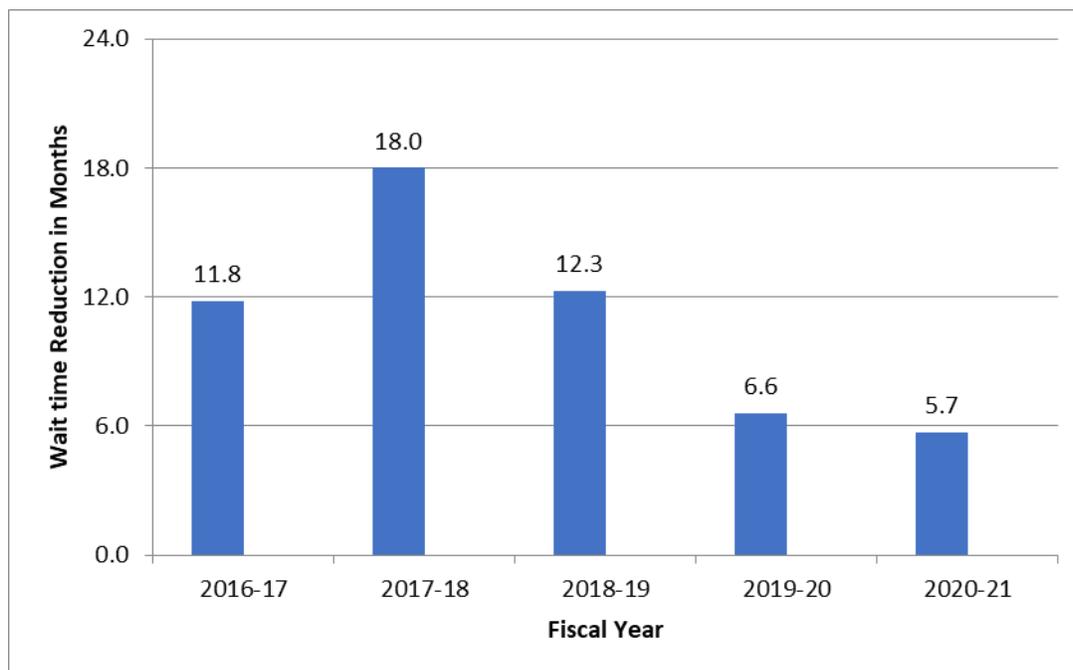
Currently, the OWA relies on decades-old software to manage our paper-based system. Modern technology, when it comes, will include a portal for clients, improve efficiencies in workflow, and support better access to WSIB and WSIAT processes. Procurement stages are moving forward with targeted full implementation by March 31, 2022.

### **Waiting for Case Review**

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

In 2019-2020, the wait time for review was reduced from an average of 12 months to 6.6 months. This achievement substantially met the goal to reduce the agency wait time for review to 6 months by March 31, 2020. In 2020-2021, the wait time for review was further reduced from 6.6 months to 5.7 months. In achieving this result, the Advisers reduced the inventory of files waiting for review from 607 to 479. Reducing and managing the wait time to review will continue to be a priority for the upcoming year.

**Figure 1: Wait Time**



## **Staff Learning Program**

Over the 2020-2021 year the OWA has continued to build the skills and knowledge of staff with high quality learning opportunities to support the expert, specialized work of the organization. Ninety OWA staff completed over 1,300 hours of training over the year. These hours of training are sourced from:

- Internally developed and delivered training
- The Law Society of Ontario and the Ontario Bar Association
- Training made available through a partnership with the Ministry of Attorney General's Civil Law Division learning committee
- Courses from community legal system partners

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, Training and Skills Development staff or other relevant programs.

This year, internally developed training included courses focused on the following topics:

- Adapting to the pandemic, learning new programs and technologies to enable staff to work primarily from home while continuing to provide services to our clients, including:
  - New software programs such as Adobe Acrobat Pro to prepare for hearings and meetings using electronic documents
  - New e-services, for example, WSIB upload tool and software for use with e-claim files
  - Skills and strategies for advocating in telephone and virtual hearings formats
  - Procedures related to these technological changes, and
  - Mental health supports to maintain work life balance during the challenging pandemic environment.
  - Substantive topics including Non-economic loss cases, Occupational disease cases, an understanding of the mining sector and related occupational diseases.

Many OWA staff are licensed by the Law Society of Ontario. Through internally developed and delivered training, staff were able to meet the majority of their continuing professional development obligations to maintain their licensed status and improve skills. Our commitment to expert, professional client service in a specialized area of law is strongly supported through in-house expertise and experience.

Once again, this year's training was delivered primarily via teleconference and webinar, enabling the OWA to continue staff development during the pandemic. New worker advisers hired during the year were able to use self guided learning tools and video recordings of training sessions to learn the fundamentals of workers compensation and OWA procedures and practices.

## **OWA'S WORKPLACE INSURANCE PROGRAM STATISTICS**

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

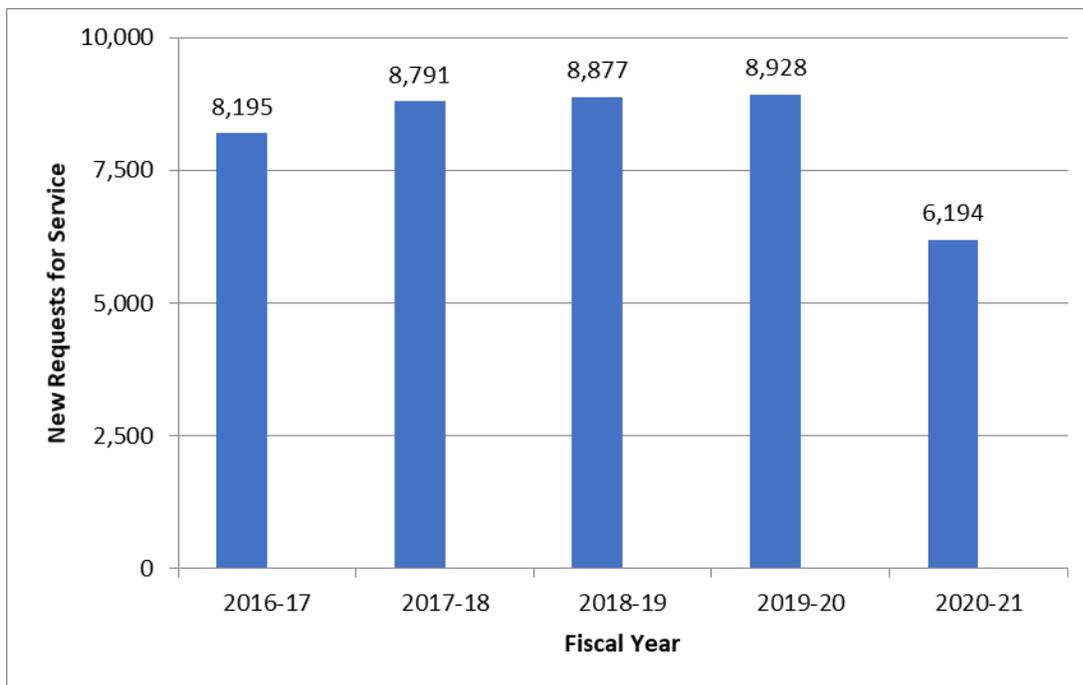
- Responded to 6,194 new requests for service, a decrease from the previous year
- Resolved 2,130 cases through summary advice, a decrease of 61% from the previous year
- Completed 1,167 case reviews for workers who had requested representation service, a decrease of 16% from 2019-2020
- Reduced the wait time for case review to below 6.0 months
- Accepted 652 cases for representation services, representing 56% of the cases reviewed
- Achieved an overall success rate in representation services 54%

## Advisory Services and Case Review

The table below shows the number of new requests for service involving both summary advice and requests for representation services during the past five years.

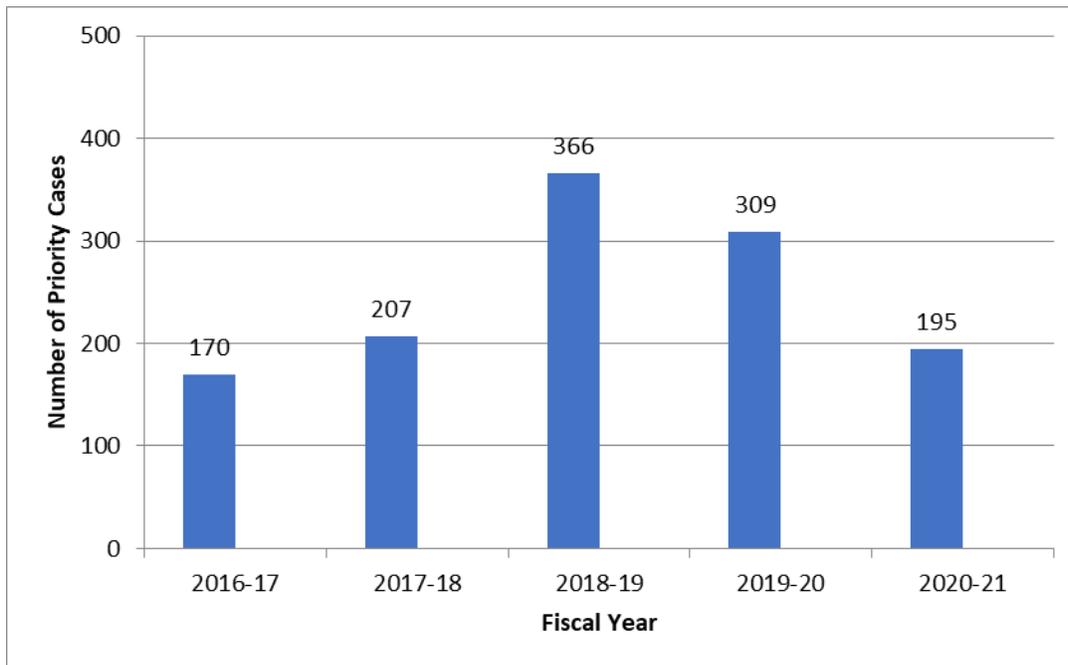
During the 2020-2021 fiscal year, the OWA had 6,194 new requests for service and a total of 1,119 workers requested representation services. This was a decrease of 44% and of 44% respectively from 2019-2020. In addition, the OWA completed 1,167 case reviews in 2020-2021 compared to 1,359 in the previous year, a decrease of 16%.

**Figure 2: New Requests for Service**



To avoid delay in dealing with priority cases such as terminal occupational disease or occupational disease clusters, OWA offered immediate case reviews in 2020-2021 to 195 workers whose situations met the criteria for case prioritization. This is a decrease of 58% from 2019-2020 and a decrease of 88% from 366 priority cases in 2018-2019. The current number of priority cases are closer to the earlier numbers seen between 2016-2018.

**Figure 3: Number of Priority Cases**



### **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 straightforward, 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.

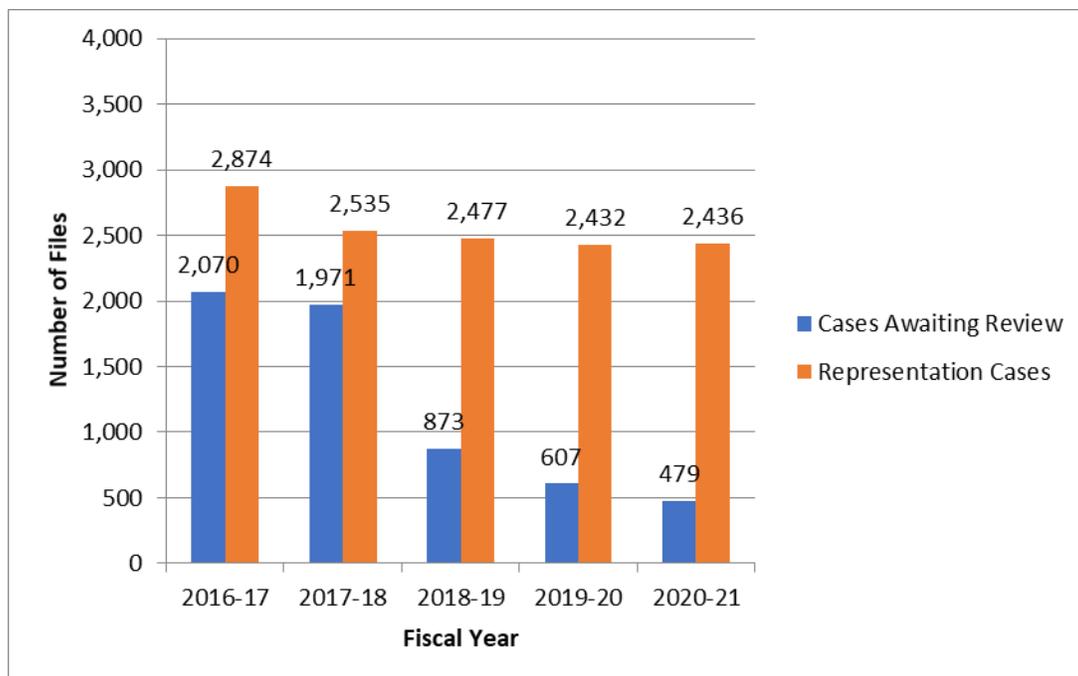
As noted above, the proportion of cases reviewed which were accepted for representation remains at 56% as per the 2019-2020 level. This is within the OWA's historic range of acceptance rates.

### Representation Case Inventory

The figure below shows the evolution and success of work to reduce the total case inventory over the past five years. For each year, the bar graph compares the total of cases awaiting case review (left) and the agency's representation caseload.

The OWA's inventory of representation cases and wait list times were correlated with the WSIAT's high caseload. OWA Advisers worked diligently to represent clients before the WSIAT during that agency's caseload reduction period, and the OWA's number of appeals reached more manageable volumes by the end of 2017-2018. This focused appeal work positioned OWA to continue to improve wait times and respond substantively to waiting workers in the couple of years and during 2020-2021. During the last fiscal year, the agency reduced the number of cases awaiting review by 27% in comparison to 44% the year before.

**Figure 4: Total Case Inventory**



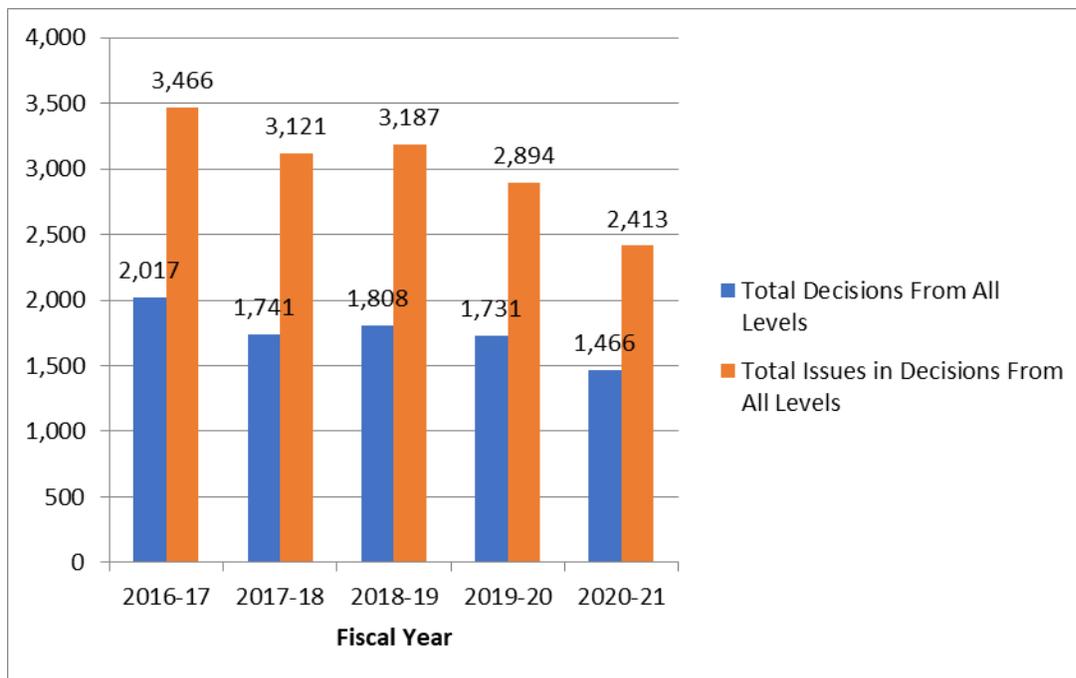
## Decisions obtained for OWA clients

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 2020-2021, the OWA achieved its commitment by resolving 90% of disputes without a hearing which is 9% higher than the previous year.

In 2020-2021, OWA obtained a total of 1,466 decisions from the adjudication and appeals levels of the WSIB and from WSIAT, a decrease of 18% from the previous year's total of 1,731 (see Table 2).

The 1,466 decisions obtained in 2020-2021 involved a total of 2,413 issues versus 2,894 in 2019-2020, a decrease of 20%. The overall success rate decreased slightly, from 56% in 2019-2020 to 54% in 2020-2021. Although a slight decrease from the previous year, this remains consistently up over the past five years from 51% in 2016-2017. There was a decrease of 5% in success rate at the WSIB appeals level but an increase of 4% at the WSIAT.

**Figure 5: Total Decisions and Total Issues in Decision**



## **Client Satisfaction Levels**

The OWA takes pride in the quality of service it provides to clients. To support continuous improvement, clients are asked to complete satisfaction surveys at the conclusion of OWA's representation service to them. Of the 121 individuals who responded to the survey in 2020-2021, 98.3% were "very satisfied" or "satisfied" with the service they received.

## **Select Client Testimonials**

- "Thank you so much! I was completely lost and terrified before I found the OWA. You have no idea how much the OWA helped me. The staff were so caring, knowledgeable and understanding. The positive impact the OWA had on my life will never be forgotten. Thank you for everything."
- "The Worker Adviser treated me with the outmost respect, kindness, compassion while always keeping me informed and made the last year of this process bearable for me with the least amount of stress."
- "The Worker Adviser was extremely knowledgeable, understanding and reliable. Answered all of our questions and really helped during this difficult time."
- "You require more representatives for the Office of the Worker Adviser. I would like to see the Worker Adviser get a raise for her hard work and dedication and non-relenting pursuit of a favourable result in my appeal. Her knowledge and guidance to me was a great help in winning our appeal. Thank you."

**Figure 6: New Requests for Service and Case Reviews**

	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Change from 2019-20 to 2020-21</b>
Number of New Requests for Service*	8,791	8,877	8,928	6,194	-44%
Number of New Requests Resolved with Summary Advice	4,772	3,817	3,430	2,130	-61%
Number of Requests for Representation***	1,699	1,532	1,607	1,119	-44%
Number of Cases Reviewed for Representation	1,048	1,663	1,359	1,167	-16%
Number of Cases Selected for Representation**	617	950	766	652	-17%
Number of Cases Declined Representation	431	713	593	515	-15%
% of Cases Reviewed which are offered Representation	59%	57%	56%	56%	0%

\*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 (1,119) is the number of new workers in 2020-2021 who requested a case review for representation services.

**Figure 7: Decisions by Level and Success Rate**

<b>Decisions by Level</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Change from 2019-20 to 2020-21</b>
WSIB – Operating Level	783	904	927	842	-10%
% of Issues Allowed at Operating Level	51%	54%	54%	57%	+3%
WSIB – Appeal Level	406	417	471	382	-23%
% of Issues Allowed at the Appeals Branch	47%	40%	48%	43%	-5%
WSIAT	552	487	333	242	-38%
% of Issues Allowed at the WSIAT	64%	67%	70%	74%	+4%
Total Decisions From All Levels	1,741	1,808	1,731	1,466	-18%
Total Issues in Decisions From All Levels	3,121	3,187	2,894	2,413	-20%
Total % of Issues Allowed at all Levels	54%	55%	56%	54%	-2%

**Figure 8: Performance Measure Targets and Results**

	<b>Long-Term Target</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>Change from 2019-20 to 2020-21</b>
<b>Workplace Insurance Program</b>						
Early & Alternative Dispute Resolution (EDR/ADR)	70%	69%	74%	81%	90%	+8%
Case Assessments and Representation	5,000	4,236	4,918	4,253	3,580	-19%
Providing Summary Advice and Referrals	10,000	10,327	11,651	11,127	6,622	-68%
Customer Satisfaction Rate	90%	97%	94.6%	96.1%	98.3%	+2.2%
<b>OHSA Reprisals Program</b>						
Percentage of Representation Cases Resolved Through Early & Alternative Dispute Resolution	80%	88.1%	92.6%	81%	89.7%	+8.7%

# **OCCUPATIONAL HEALTH AND SAFETY REPRISALS PROGRAM**

## **Description of Services**

The Occupational Health and Safety Reprisals Program (OHSRP) 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 to workers across the province by program staff from the OWA's head office in Toronto. Most workers contact the program through its province-wide, toll-free phone number.

## **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. Staff provide legal representation at all stages of a reprisal complaint to the Ontario Labour Relations Board (OLRB), including:

- Drafting, preparing and filing an application to the OLRB
- Representing workers during informal settlement discussions (early dispute resolution)
- Representing workers at formal mediation conducted by the OLRB, and
- Representing workers at hearings and or consultations before the OLRB.

## Achievements

### Summary of Achievements

There was an overall decline in demand for services from the program, likely as a result of the COVID-19 global pandemic. Demand for immediate information and advice declined modestly, while the need for representation services saw a more significant reduction. The smaller decline in advice reflects an increased need to provide workers with formal legal advice due to the complexity and uncertainty caused by the pandemic.

Client satisfaction and settlement rates remained very high.

Program staff completed several projects to improve tools and supports for casework.

### New Requests and Summary Advice

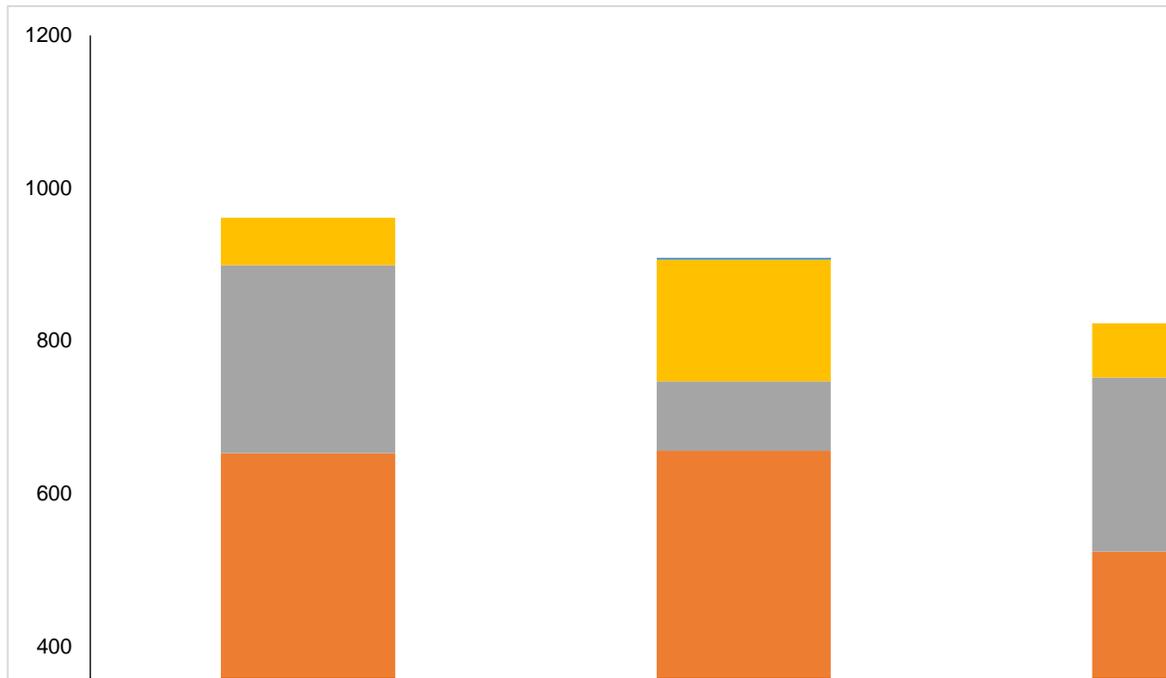
There were 647 new requests for service in 2020-2021, a decrease of 40% over 2019-2020. Summary advice was provided to 703 callers, a 15% reduction over the previous year. Proportionally, a greater percentage of summary advice was provided in the form of referrals to other sources of assistance. This likely reflects uncertainty among workers about where to seek assistance during the pandemic.

In most cases, information and advice was provided on the same day the request for assistance was received.

**Figure 9: New Requests and Summary Advice**

<i>Disposition</i>	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-21</i>	<i>Annual Change</i>
<b>New requests</b>					
New Requests Received	964	1126	1072	647	-40%
<b>Summary Advice</b>					
Forward to Intake	271	337	246	221	-10%
Referral	382	319	278	295	+6%
Info	246	91	228	187	-18%
No Further Contact	62	159	71	0	-100%
Withdraw Service	0	2	0	0	0
<b>Total</b>	<b>961</b>	<b>908</b>	<b>823</b>	<b>703</b>	<b>-15%</b>

**Figure 10: Disposition of New Requests for Service**



**Intake**

The program completed 208 intake interviews in 2020-2021. This was an overall decrease of 24% compared to 2019-2020. The number of intake interviews concluded with legal advice was 7% lower than the previous year and consistent with the historical pattern. This is reflective of increased complexity and uncertainty during the pandemic, in which it was necessary to provide workers with formal legal advice to determine the application of the OHSA to their individual circumstances.

**Figure 11: Intake Outcomes**

<i>Disposition</i>	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-21</i>	<i>Annual Change</i>
Advice	92	119	116	108	-7%
Offer to Represent	94	121	70	29	-59%
Referral	100	90	80	63	-21%
No Further Contact	9	1	9	8	-11%
Withdraw Service	0	0	0	0	0%
<b>Total</b>	<b>295</b>	<b>331</b>	<b>275</b>	<b>208</b>	<b>-24%</b>

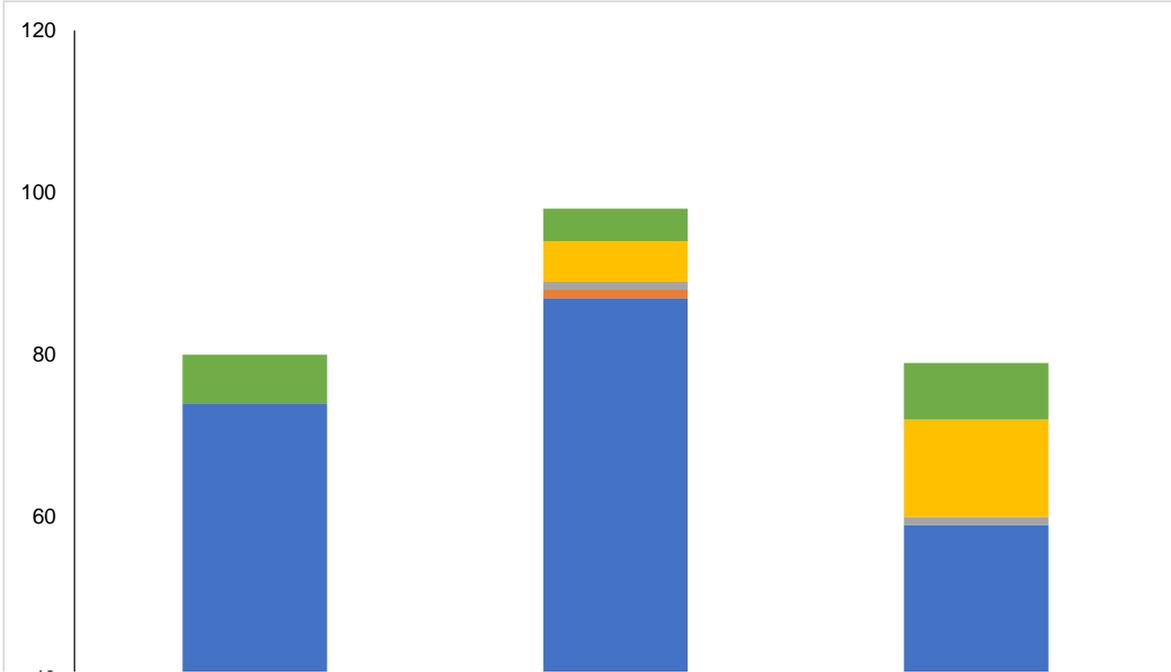
# Representation Services

The program achieved resolutions in 26 representation cases in 2020-2021. This represents a reduction of 56% over 2019-2020 and is reflective of a significant drop in incoming service requests, likely due to the COVID-19 pandemic. The program resolved 96% of reprisal complaints without a formal hearing at the OLRB, exceeding its target of 80%.

**Figure 12: Representation Outcomes**

<i>Outcome</i>	<i>2017-18</i>	<i>2018-19</i>	<i>2019-20</i>	<i>2020-201</i>	<i>Annual Change</i>
Settlement	74	87	59	26	-56%
Final Decision - Positive	0	1	0	1	+100%
Final Decision - Negative	0	1	1	0	-100%
Withdrawal of Application	0	5	12	0	-100%
No Further Contact	0	0	0	2	-
Withdraw Service	6	4	7	2	-72%
<b>Total</b>	<b>80</b>	<b>98</b>	<b>79</b>	<b>31</b>	<b>-46%</b>

**Figure 13: Representation Outcomes**



This fiscal year was unprecedented due to the global COVID-19 pandemic. Many businesses closed for prolonged periods of time and stay-at-home orders were invoked. It is difficult to establish conclusively, but it appears likely that the decline in demand for services from the program was related to the effects of the pandemic.

As a result of the relatively small size of this program, there is a high degree of variability from year to year. Small changes in absolute numbers translate into large percentage changes.

## Caseload Inventory

The table below shows the total caseload inventory for the program as of March 31, 2021. Occupational Health and Safety reprisal cases have a high rate of turnover, as they 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.

This statistic represents a point in time snapshot on March 31, 2021. The year-over-reduction in caseload inventory reflects the overall decline in demand for services from the program, likely related to COVID-19, seen during the year. The large reduction in new requests also reflects the increased speed with which the program was able to process them. Because staff were able to action new service requests almost immediately, they quickly changed to a different file status.

**Figure 14: Total Caseload Inventory on March 31, 2021**

<i>File Status</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	<i>2020</i>	<i>2021</i>	<i>Annual Change</i>
New request	38	65	46	55	64	11	-83%
Intake	20	23	18	36	18	0	-50%
Representation	28	30	29	46	18	7	-60%
<b>Total</b>	<b>86</b>	<b>118</b>	<b>93</b>	<b>137</b>	<b>100</b>	<b>17</b>	<b>-27%</b>

## Client Satisfaction Levels

In, 2020-2021, 16% of clients who were provided with representation services responded to a client satisfaction survey. Nevertheless, 100% of the respondents reported that they were very satisfied with the service they received from the OHSRP.

## Select Reprisals Client Testimonials

- “I would like to add that [worker representative] provided me with excellent and effective legal representation. Throughout the process I felt that I was in good hands. She ensured that I understood the process, kept me abreast of proceedings, and guided me as to what was in my best interests.”
- “I hope and strongly recommend that the Government continues to support the Office of the Worker Adviser - Occupational Health and Safety Reprisals Program, as they provide a critical service to protect the health of workers in Ontario.”
- “The OWA was helpful in navigating the process and making sure that my interests were looked after”
- “I would like to express my gratitude and thanks for your help throughout this process. Your expertise made it so much simpler for me.”
- “I cannot begin to tell you how much I appreciated your help. I honestly felt that you were on my team and looking out for me.”
- [Worker Representative] was very easy to talk to and answered all questions clearly and in a timely manner. I felt more comfortable with the process when talking with her.”

## Educational Services

In addition to answering workers’ questions about health and safety reprisal complaints by phone, the program 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 help
- Other organizations that can help

Additionally, a presentation was made as part of the Ministry training program for new Occupational Health and Safety inspectors.

## Outreach and Partnerships

In 2020-2021, the OHSRP began developing a comprehensive outreach program aimed at educating the general public about health and safety reprisals. There was also a continued 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 continue to develop relationships and work cooperatively with community legal clinics, and labour organizations with expertise in the area.

## OWA OVERVIEW

The workplace safety and insurance program is provided by 52 worker advisers, customer service representatives in each office and four regional managers. At the end of the fiscal year, the OWA had 14 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, 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 in French and English by the OWA Occupational Health and Safety Reprisal Program (OHSRP). Although the program is located centrally in the OWA's provincial office, services are provided to clients across the province. Health and safety reprisal complaints are filed with the Ontario Labour Relations Board (OLRB). OWA staff represent clients at OLRB hearings which are largely held in Toronto and at mediations which are held in regional centres.

The Planning, Finance and Electronic Services Delivery Unit reports directly to the director and supports the agency's corporate planning and financial accountability. The unit works closely with four regional service coordinators.

## APPENDIX A – FINANCIAL REPORT FOR THE FISCAL YEAR 2020-2021

Figures are in \$000.0

ACCOUNT	2020-21 Expenditure Estimates	2020-21 In-year Board Approvals	2020-21 Year-end Budget*	2020-21 Year-end Actuals**	Variance	% Variance
Salaries & Wages	7,783.1	280.9	8,064.0	7,709.5	354.5	4.4%
Benefits	1,790.1	-	1,790.1	2,210.1	(420.0)	-23.5%
<b>Other Direct Operating Expenses (ODOE)</b>						
Transportation & Communication	296.0	153.3	449.3	118.2	331.1	73.7%
Services (incl. Office Leases)	1,395.6	150.0	1,545.6	1,645.2	(99.6)	-6.4%
Supplies & Equipment	100.0	-	100.0	33.0	67.0	67.0%
<b>Total ODOE</b>	<b>1,791.6</b>	<b>303.3</b>	<b>2,094.9</b>	<b>1,796.4</b>	<b>298.5</b>	<b>14.3%</b>
<b>Grand Total</b>	<b>11,364.8</b>	<b>584.2</b>	<b>11,949.0</b>	<b>11,716.0</b>	<b>233.0</b>	<b>2.0%</b>
OWA Lease - Services	795.6	150.0	945.6	923.4	22.2	2.3%

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

\*\* Total Actual Expenditures including Office Leases

## APPENDIX B – OWA OFFICE LOCATIONS

### TORONTO & EASTERN REGION

#### **HEAD & TORONTO**

123 Edward Street  
Suite 1300  
Toronto, ON M5G 1E2

#### **SCARBOROUGH**

305 Milner Avenue  
Suite 918  
Scarborough, ON M1B 3V4

#### **OTTAWA**

347 Preston Street  
3<sup>rd</sup> Floor  
Ottawa, ON K1S 3H8

### SOUTHWEST REGION

#### **LONDON**

495 Richmond Street  
Suite 810  
London, ON N6A 5A9

#### **KITCHENER/WATERLOO**

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

#### **WINDSOR**

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

#### **SARNIA (SATELLITE)**

171 Kendall Street  
Sarnia, ON N7V 4G6

### NORTH REGION

#### **SAULT STE. MARIE**

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

#### **THUNDER BAY**

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

#### **TIMMINS**

60 Wilson Avenue  
Suite 3030  
Timmins, ON P4N 2S7

#### **SUDBURY**

159 Cedar Street  
Suite 304  
Sudbury, ON P3E 6A5

### CENTRAL REGION

#### **DOWNSVIEW**

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

#### **HAMILTON**

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

#### **ST. CATHARINES**

301 St. Paul Street  
9<sup>th</sup> Floor  
St. Catharines, ON L2R 7R4

#### **MISSISSAUGA**

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

Workplace Insurance Issues:

1-800-435-8980 (English)  
1-800-661-6365 (French)

Website Address:

[www.owa.gov.on.ca](http://www.owa.gov.on.ca)

Webmail Contact:

[owaweb@ontario.ca](mailto:owaweb@ontario.ca)

Health and Safety Reprisals:

1-855-659-7744 (Toll Free)