

OFFICE OF THE WORKER ADVISER

ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2005 TO MARCH 31, 2006

Office of the Worker Adviser

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OFFICE OF THE WORKER ADVISER (OWA)
2005-06 ANNUAL REPORT
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MESSAGE FROM THE DIRECTOR

I am honoured to have been afforded the opportunity to serve the injured workers of this province as the new Director of the Office of the Worker Adviser (OWA). I also appreciate the support the OWA staff have given me as I follow in the footsteps of our previous Director, Alec Farquhar, whose name has been synonymous with providing an approach of fairness and dignity in dealing with the injured worker community.

Since assuming the Directorship of OWA in the middle of last fiscal year, we have proceeded with the commitment to pilot advice and representation to injured workers who seek Canada Pension Plan Disability benefits, in some of our offices. We have also prepared all of the OWA offices to support the families and survivors following a traumatic workplace fatality in a partnership we call Fatalities and Immediate Response (FAIR). This partnership engages WSIB, MOL, and the support group known as Threads of Life with OWA. The FAIR partnership was piloted in the Western Region during the past year, with intent to launch it province wide in June 2006. Along with these new initiatives, the focus of the OWA service continues to be providing advice and representation service to the most vulnerable, non-unionized injured workers, or their dependants, in Workplace Safety and Insurance matters. Our clients have some of the most complex cases in the system – including large numbers of occupational disease cases.

The past year marked the twentieth anniversary of OWA, which gave us the opportunity to reflect back on our achievements. As public servants, our staff often labour in anonymity. Year after year they win cases that have a huge impact on the lives of injured workers, not only in terms of money, but the precedents they set. In recognition of our achievements we have decided to publish on our website summaries of the significant cases our staff have won. They can be perused at <http://www.owa.gov.on.ca/decisions.html>. Last year we also concluded important cases that had been in appeal for quite some time. One of these involved survivor benefits for a same sex partner of a uranium miner who died of occupational cancer, another was a decision not to apportion the benefits to a worker suffering from chronic obstructive pulmonary disease because of a smoking history.

Along with other members of the worker community, OWA staff worked diligently with WSIB in a best practices working group to help develop several adjudicative support documents. These best practices are expected to result in higher quality decisions that will enable injured workers to better understand the reasoning behind the decisions they receive as well as provide for recognition of the need for an injured worker to have time to heal before returning to work and for maintenance treatment after the worker has achieved maximum medical recovery. The work on these documents demonstrates that it is possible to have a co-operative approach to developing guidelines that can have a significant impact on the lives of many injured workers. I look forward to continuing to work with our system partners in the future.

I would like to take this opportunity to thank our working partners in the community, as well as those within the compensation system and the Ministry of Labour, and especially our dedicated staff, who have all made possible our achievements we report for 2005-06.

Jorma Halonen
Director

INTRODUCTION AND BACKGROUND

The Office of the Worker Adviser (“OWA”) was established in 1985, under the Workers’ Compensation Act as a branch of the Ministry of Labour (the “Ministry”) as an advocacy service for injured workers. In 1992 the OWA (along with the Office of the Employer Adviser) became an agency of the Ministry of Labour.

The Director of the Office of the Worker Adviser is an Order-in-Council appointment by the Minister of Labour. The Director’s appointment is effective from April 3, 2006 through to April 2, 2009. The memorandum of understanding between the OWA and the Minister of Labour (the “Minister”) provides that the Director of the OWA will report to the Minister annually. This report covers the fiscal year ending March 31, 2006.

MANDATE AND SERVICES

The OWA’s mandate, established by s. 176(1) of the *Workplace Safety and Insurance Act, 1997* (the “Act”), is “to educate, advise and represent workers who are not members of a trade union and their survivors”.

OWA’s Vision is:

- To be a leader in advice, representation and education on workplace insurance on behalf of the most vulnerable injured workers and their survivors;
- To provide a vital public service that contributes to the effective functioning of Ontario’s workplace insurance system and supports a healthy workforce in a strong, vibrant provincial economy; and,
- To contribute to improvements to workplace safety and insurance through community and system partnerships.

In all of its work, the OWA puts a high priority on participating in and promoting improvements to the functioning of the workplace safety and insurance system. Over 82% of former OWA clients surveyed in 2005-06 expressed that they were ‘very satisfied’ with the overall service they had received from OWA. Comments from these clients included:

- Super job - quality help - expert assistance....
- Change nothing - What a joy you all were? I would like to thank (the adviser)
- My eternal gratitude and a lifetime of thank you!! Until I got in contact with the Worker Adviser office, there was no light at the end of the dark tunnel. Thank you, Thank you.
- They were courteous, very knowledgeable and professional.

AN OVERVIEW OF OWA’S SERVICE DELIVERY

OWA’s service delivery model focuses resources on initial advice and on representation services:

- Program Assistants have been trained to provide basic information/advice to all injured workers who call OWA for help. They use OWA’s website as an integral tool to provide comprehensive self-help information to injured workers.
- Intake Counsellor Positions provide advice in pressing cases and representation in single-issue cases.
- Worker Advisers provide representation service in the more complex cases.

Along with refocusing its service delivery model and increased use of technology, the OWA continues to select out cases and focus resources on those appeals most needing OWA representation. As a result, OWA continued to make progress on reducing its representation backlogs from 231 in 2004-05 to 145 as of March 31, 2006, the lowest level in a decade.

Many of OWA's clients have significant disabilities, which makes it difficult to travel long distances to meet OWA staff when telephone contact is insufficient. These clients also face severe financial hardship, which limits their ability to travel. In order to make its services as accessible as possible, OWA holds injured worker clinics in communities in which there is no OWA office. In 2005-06, OWA staff visited Atikokan, Barrie, Brantford, Dryden, Fort Frances, Goderich, Kenora, Kingston, North Bay, Oshawa, Pembroke, Peterborough, Sioux Lookout, Sturgeon Falls, and Trenton. In Sarnia we have a satellite office to deal with occupational disease case clusters. Through these outreach activities, OWA has successfully increased its accessibility, allowing disabled workers to meet individually with OWA staff close to their home communities, rather than having to travel to more distant locations. In addition to serving individual clients, OWA continues to build partnerships and referral relationships with MPPs and key organizations in local communities.

ACHIEVEMENTS IN KEY ACTIVITIES

(1) ADVISORY SERVICES

In many situations, with appropriate information or advice, injured workers are able to handle their workplace insurance issues on their own. If OWA can help injured workers become more self-sufficient, then staff resources can be assigned to the provision of representation services to clients whose cases are more complex. For some injured workers, the information on the OWA's website will be sufficient. In other situations, these workers will need more customized advisory services from OWA staff. Overall, to encourage self-reliance, workers or survivors who contact the OWA are initially provided with advisory services.

The main components of advisory services are summary advice and assistance. Summary advice consists of basic information and advice that the client can then use in dealing directly with the Board or the employer. Assistance is more active help that does not include representation – for example, helping the client draft his/her own letters to the Board, or reviewing witness statements or medical reports gathered by the client.

Many non-unionized injured workers are vulnerable due to a combination of low education levels, lack of English language skills and the stresses of unemployment and disability. It is thus important that advisory services be targeted at clients who are truly capable of self-reliance and that representation services are available to those who need them.

In 2005-06, OWA assisted 82% of incoming injured workers through advisory services, and 18% with representation (see Table 1). The percent assisted by some form of intervention has declined and there are three key factors contributing to this shift. First was the growth in new requests for service. Second, the overall complexity of OWA's caseload has continued to increase, reducing the number of representation cases, which a Worker Adviser can handle. Finally, as experience had shown that intervention without the file had limited success, OWA has focused its representation services at the stage where the injured worker's Board file can be reviewed.

The number of new requests for service is an indicator of demand for OWA’s services. In 2005-06 there has been a small increase of 2%.

OWA’s overall workload and effectiveness is indicated by the number of different clients served during the fiscal year. In 2005-06, OWA assisted 14,198 different injured workers – down by 4% from 2004-05 levels. However, analysis of these numbers indicates an increase in multiple requests for advisory service. This may mean that some injured workers may be facing challenges in self-reliance, thus returning to OWA on more than one occasion.

The OWA supplements its advisory services with publications that are written specifically for injured workers. These fact sheets are provided in paper form (in French and English) and can be downloaded from the OWA website. In the past year, on average, each month more than 3500 different people visit the OWA website, and download more than 1400 documents. The website also contains a glossary of compensation terms, all forms needed for appeals, street maps to OWA offices, clinic times and locations, answers to frequently asked questions and a direct link to OWA.

Analysis of Incoming Workload

Figure 1: Analysis of Incoming Workload



Table 1(a): Analysis of Incoming Workload

Incoming Workload	01-02	02-03	03-04	04-05	05-06	% Change 04-05 to 05-06
New Requests for Service	14,961	14,363	15,182	18,641	19,034	2%
Closed with Summary Advice	10,399	9,699	10,724	15,144	15,518	2.5%
% Closed with Summary Advice	69%	68%	71%	81%	82%	1%
% Active Intervention Provided Beyond SA	31%	32%	29%	19%	18%	-1%
#of Individual Clients Helped	11,622	11,603	15,570	14,841	14,198	-4%

Determination of cases for which OWA will provide representation

OWA's policy on which cases OWA would provide representation was developed to help OWA deal with the increasing demand for services. The objective of case selection is to focus resources on the cases most needing OWA services.

Through "merit review," the evidence and legal arguments available to substantiate an appeal are evaluated. Cases are not taken to appeal unless there is a significant likelihood of success. The threshold for selection for representation requirement is that at least eight weeks are at stake.

Table 1(b): Case Selected Out where only advisory services provided

Cases Selected Out	01-02	02-03	03-04	04-05	05-06	% Change 04-05 to 05-06
Total Incoming Cases (New Requests for Service)	14,961	14,363	15,182	18,641	19,034	2%
Cases Selected Out	699	760	851	1,331	1,178	-11.5%
% of total incoming cases	4.9%	5.3%	6%	7%	6%	-1%

Merit-Based Selection:

In all cases considered for OWA representation, a Worker Adviser reviews the worker's Board file, any new evidence, the submissions made by Intake Counsellors and the most recent reasons for denial received from the Board. All reasonable avenues for finding additional evidence must also be considered. If the Worker Adviser concludes that there is not a significant chance of success, the reasons are then explained to the injured worker and confirmed in writing. If the injured worker can provide additional information, which could support an appeal with a significant chance of success, the OWA will revisit its decision. Cases do not need to be "guaranteed winners" to be approved for appeal level representation, but at the same time there must be reasonable evidence or argument which gives the appeal a significant chance of success.

In 2005-06, the OWA selected out 1178 cases, or approximately 6% of its incoming cases. This highlights the OWA's ongoing commitment to divert cases without significant evidence for success from the appeals system; however, it also raises the concern that this approach maybe overly stringent.

(2) REPRESENTATION SERVICES

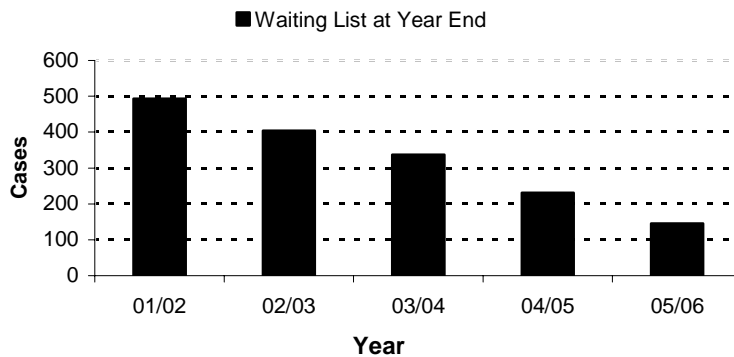
OWA’s Case Management Approach

OWA’s approach to case management is to support the injured worker in resolving the dispute directly with the employer or Board. In the majority of new requests, a Program Assistant or Intake Counsellor provides this support to the worker through summary advice or assistance. There remain complex cases that cannot be resolved through advice or by early intervention. In these situations, Worker Advisers provide representation services at all levels of adjudication and appeal within the workplace insurance system. The representation file is closed when a satisfactory resolution of the case has been obtained, or when it is determined that there is no merit in continuing, or when the worker’s appeal rights have been exhausted.

Waiting List For Appeal Level Representation Services

As of March 31, 2006, OWA’s waiting list had declined to 145 cases, the lowest level in a decade. Overall, 87% of appeals were commenced within 120 days of being reviewed. The average age of files on the waiting list has been six months or less.

Table & Figure 2: Waiting List at Year End



OWA Waiting List	01-02	02-03	03-04	04-05	05-06	% change from 04-05 to 05-06
Waiting List at Year End	493	404	337	231	145	-37%

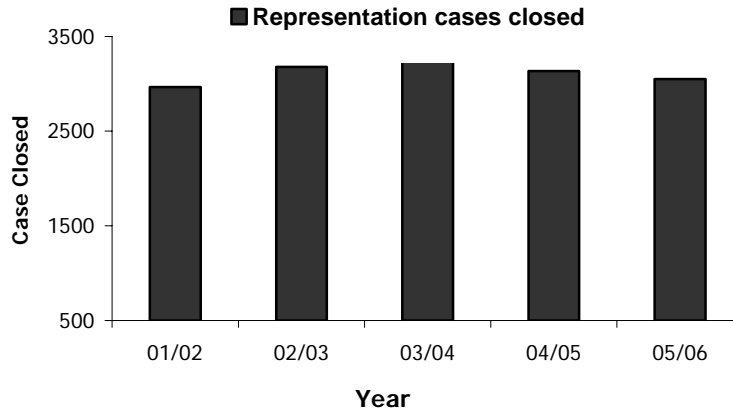
Case Closure Rate

Case closures rate is a measure of OWA’s capacity to manage its workload. Overall, the more cases closed, the more workers OWA can help, the faster their cases can be resolved and the shorter the waiting list becomes. There are other variables, especially the number of actual Worker Adviser staff available in any given year, the number of new incoming cases, and the proportion of files closed by merit review, early intervention and full representation.

The emerging factor affecting case closure rate is the increasing case complexity, not only of appeals in general, but of OWA cases in particular. This is partly a result of stringent case selection procedures, with OWA selecting the more complex cases to provide representation services, as well as the fact that OWA inherits complex cases abandoned by private/fee for service consultants. In addition, occupational disease cases of former unionized workers and their survivors who no longer have representation are coming to OWA for representation.

OWA’s case closure measure, reported in Table/Figure 3, includes both early resolution and full representation, as well as cases diverted from the appeals system through merit review. In 2005-06, OWA closed 3,052 representation cases.

Figure 3 & Table 3: OWA Representation Cases Closed



OWA Representation	01-02	02-03	03-04	04-05	05-06	% Change 03-04 to 04-05
Representation cases closed	2,965	3,179	3,443	3,135	3,052	-2.6%

The Appeals System and OWA’s Role within it

OWA represents more injured workers than any other single organization. This means that OWA has a vital stake in helping improve dispute resolution and avoiding future backlogs and system overload.

a) Early & Alternative Dispute Resolution Initiatives

The volume of cases in the appeals system and their frequently complex nature have focused strategies for all of the system partners on trying to divert simpler cases from proceeding to full formal hearings. This has meant that the use of early or alternative dispute resolution (EDR and ADR) continues to be an important aspect of OWA work. However, complex cases are not amenable to EDR/ADR and it is therefore likely that the percent of cases OWA can resolve by these methods will continue to decline, corresponding to the increase in the number of complex cases being represented by OWA, as indicated in Table 4.

EDR/ADR includes efforts at early dispute resolution with the employer and Board as well as mediation and other non-hearing dispute resolution techniques at the appeals levels. ADR techniques such as agreed statements of facts, or focusing the issue agenda, can also streamline the appeals process even when part of the disputed issue resolution must still be done by a hearing.

In terms of overall numbers, in 2005-06, OWA staff obtained a total of 3,184 decisions from the adjudication and appeals levels of the Board and from the Tribunal.

Table 4: Decisions by Level

Decisions by level & use of Early or Alternative Dispute Resolution	03-04			04-05			05-06		
	Total Decisions	# by EDR/ADR	% by EDR/ADR	Total Decisions	# by EDR/ADR	% by EDR/ADR	Total Decisions	# by EDR/ADR	% by EDR/ADR
WSIB – Operating Level	1,839	1,839	100%	1,568	1,568	100%	1,727	1,727	100%
WSIB – Appeal Level	776	366	47%	901	444	49%	1,048	471	33%
WSIAT	363	105	29%	396	129	33%	409	121	30%
TOTAL Decisions from all Levels	2,978	2,310	78%	2,865	2,141	75%	3,184	2319	73%

b) Central Client Services Unit

Central Client Services Unit Responsibilities:

OWA’s Central Client Services Unit (CCSU) has responsibility for central services relating to

- advice and assistance to the OWA
- representation and advice to OWA staff in legally complex and/or precedent setting cases
- system improvement initiatives
- education materials and sessions for OWA staff and other representatives
- education materials for the public

In addition, CCSU provides legal support for the OWA’s two pilot projects to expand the services OWA provides to severely injured workers (CPP-D pilot) and survivors of workers whose death results from a traumatic workplace fatality (FAIR Partnership).

The General Counsel/Manager CCSU and three Legislative Interpretation Specialists (LIS) carry out CCSU’s role.

Casework

In the areas of advice and representation, CCSU duties include: assisting Worker Advisers with legal issues in their casework, direct handling of, or co-counselling with Worker Advisers in, legally complex and precedent setting cases.

The following is a review of significant casework performed by CCSU in 2005-06:

Occupational Disease: CCSU continued to provide legal and strategic support in a number of individual cancer cases. This included obtaining expert medical reports for a number of contested cases and providing legal and strategic advice through numerous case consultations.

Apportionment in Chronic Obstructive Pulmonary Disease (COPD) CCSU worked with counsel from a community legal clinic on this case, which resulted in *Decision No. 865/92R4*. The issue was whether apportionment between dust and smoking was permissible in COPD cases. Relying in part on the Supreme Court of Canada's decision in *Athey v. Leonati* the Vice-Chair found that benefits could not be apportioned "where there are essentially two co-existent factors causing simultaneous and indistinguishable injury to the worker's lungs". This is an important victory for workers in that it rejects the Board's position that it can determine the relative contributions of dust and smoking to the development COPD. The Board's practice in this regard is of great concern to the worker community in that it is seen as a dangerous precedent that could be expanded to allow for apportionment for smoking in other multi-factorial disease cases such as lung cancer.

Hand Arm Vibration Syndrome (HAVS) CCSU wrote extensive legal submissions in a case dealing with the method used by the Board to determine non-economic loss (NEL) ratings for HAVS cases. It was argued that the "Board's policy on rating permanent impairment for HAVS, OPM Document No. 04-03-02, is not in accordance with the prescribed rating schedule, the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, third edition revised. Consequently, the policy is inconsistent with and not authorized by the Act. While the AMA Guides require that all three component impairments of HAVS (vascular, neurological and musculoskeletal) be assessed, the Board policy does not. It appears that the policy in question will be referred back to the Board under s.126 (4) of the Act, which requires the Tribunal to do so before making a decision if it finds that a policy is inconsistent with, not authorized by or does not apply to the case

Same-sex benefits case: With the release of *Decision No. 897/02R3* and the WSIB's implementation of *Decision No. 897/02*, CCSU succeeded in obtaining survivor benefits under the *Workers' Compensation Act* (WCA) for a client who lost her same-sex partner in 1996. This is a precedent setting case because the WCA, at the time of the same-sex partner's death, did not grant benefits to same-sex partners. Additionally, the WSIB has generally maintained the position that persons who lost their same-sex partners prior to the changes to the WCA in 2000 are not entitled to survivor benefits. Although the WSIAT decisions in the case do not include analysis confirming that the WCA allows for same-sex survivor benefits in all pre-2000 WCA cases, we are hopeful that our experience and the text of the relevant WSIAT decisions will assist other survivors and representatives in arguing for survivor benefits for persons who lost their same-sex partners prior to the amendments to the WCA and WSIA.

Time Limits: CCSU continued to provide significant support to individual staff and to the agency on issues related to statutory time limits. This included extensive review of a number of cases, tracking OWA cases involving missed time limits and analyzing and reporting on OWA experience.

(3) EDUCATIONAL SERVICES

The OWA provides education services to injured workers through information sessions held in communities across the province and through provision of general information from the OWA website, which contains a comprehensive collection of fact sheets, kits and frequently asked questions on workplace safety and insurance topics.

During 2005-06, the OWA held 155 educational sessions, including information sessions and self-help clinics for injured workers, in communities throughout the province. The majority of the information sessions focused on the workplace insurance system especially as it relates to injured workers.

In addition the OWA provides higher level education services to community and system partners and representatives who work in the field of workers' compensation.

Highlights of Educational Sessions

Ontario Bar Association Continuing Legal Education event, *Advanced Workers' compensation: New Directions and Best Practices in Return to Work*, May 11, 2005: The former OWA Director chaired the planning committee and co-chaired this partnered educational program. OWA General Counsel played a key role as a member of the planning committee and workshop subcommittee, represented the worker perspective on a panel and wrote a paper for the conference entitled "The Failed Experiment of Self-reliance in Early and Safe Return to Work".

CAW 2005 Workers' Compensation Conference, October: OWA General Counsel participated in the worker community planning committee, which focused on developing the advanced level programming for the conference in October 2005 and presented on the Board's draft early and safe return to work (ESRTW) policies and on the Board's Adjudication Support Documents.

Ontario Bar Association Evening Educational, *Workers' Compensation: A Review and Debate of Draft Early and Safe Return to Work Policies and New WSIB Forms*: OWA General Counsel presented a worker-side perspective on the draft ESRTW policies.

Ontario Federation of Labour's Occupational Disability Response Team Training Session on Occupational Disease, OWA Worker Adviser from the OWA's Elliot Lake office assisted with the development of this course, attended the initial pilot and co-presented the first full run of this intensive six day course, which covered topics ranging from the history occupational disease to how to argue a complex occupational disease case at the Appeals Tribunal level.

Fatalities And Immediate Response (FAIR) Partnership Training Sessions – OWA co-ordinated training sessions on the FAIR Partnership for Ministry of Labour Health and Safety Inspectors, Managers and Directors. The FAIR Partnership is described in the next section of this report.

Workers Rights Duties and Responsibilities under *the Workplace Safety and Insurance Act*: The OWA presented this basic rights and responsibilities training to a series of Ministry of Environment health and safety seminars across the province.

OTHER KEY ACTIVITIES IN 2005-06

(1) SYSTEM AND COMMUNITY PARTNERSHIPS

OWA places a high priority on its system and community partnerships. The key system organizations involved are the Board, Tribunal and Office of the Employer Adviser. Significant progress to strengthen these partnerships continued in 2005-06. System partnership activities occurred both on a formal organization to organization basis and through initiatives around specific key issues.

In addition, OWA is one of a number of organizations, which advise, represent and/or support injured workers and survivors. With its own resources, the OWA cannot provide all the counselling, support and advice that they require. The OWA relies on key community partners to ensure that injured workers and their survivors receive the help they need. As OWA shares its expertise with the community and system partners they become more knowledgeable advocates for changes to the practices, policies and law that aimed at improving the lives of those who have suffered from a workplace injury or lost a loved one to a workplace fatality.

System and Community Partnership Committees and Activities

MPP Constituency Offices:

OWA offices continued to provide information and referral material to MPPs' constituency offices. OWA's local offices have developed and are sustaining good working relationships and referral processes with constituency offices.

Fatalities and Immediate Response (FAIR) Partnership:

OWA, the Workplace Safety and Insurance Board, Ministry of Labour Operations Division and a families' organization called Threads of Life continued an innovative partnership to improve services and supports to families of workers killed on the job. In 2005-06 this partnership expanded from the Hamilton area to the entire western region of the Ministry of Labour. The goal of the FAIR Partnership is to provide timely, seamless and comprehensive assistance to the survivors following a traumatic workplace fatality. Some of these families need immediate advice, referral and representation in dealing with the difficult impacts of losing a loved one to a workplace tragedy. Starting June 1, 2006 it will be expanding to other parts of the province.

Canada Pension Plan Disability (CPP-D) Pilot:

In 2005-06 the OWA continued to work with the Board and the federal government regarding the interface between workplace safety and insurance and CPP-D and ways for OWA to help facilitate positive outcomes for injured workers. This initiative also has the potential to improve employment rates of injured workers. During 2005-06, OWA facilitated development of a partnered approach to helping injured workers navigate their way through these two inter-related systems, and developed CPP-D training and information materials on entitlement and appeals. In 2006/07 OWA will implement a pilot project in a select number of OWA offices to assist injured workers with CPP-D applications, provide advice on the interface between CPP-D and workplace safety and insurance and represent in CPP-D appeals.

Worker Stakeholder Meetings with the Board

OWA continued in 2005-06 to play an important role in formal Worker Stakeholder Meetings between the worker community and the interim Chair of the Board and the Board senior management team. These meetings allow the Board to present on issues where important changes are occurring (e.g. policy and/or process development) and to receive input from worker stakeholders. In 2005-06 one full Worker Stakeholder meeting was held on the issue of occupational disease. This meeting was focused on how the Board plans to implement the Occupational Disease Advisory Panel's Report.

WSIB Best Practices Working Group

A number of OWA staff along with other worker-side representatives work with senior Board staff to come up with agreed statements of principles regarding the adjudication of claims. The statement of principles documents are then converted by the Board into training documents referred to as "Best Approaches Guides". These documents are aimed at improving the fairness and consistency of Board decision making generally and with respect to specific issues.

In 2005-06 the following six Best Approaches Guides were developed based on the principles worked on by the Best Practices Working Group:

- Decision Writing
- Recognizing Time to Heal -- Assessing Timely and Safe Return to Work
- Reconsidering Decisions
- Return to Work Considerations - Workers with Psychological Entitlement and Chronic Pain Disability
- Maintenance Treatment
- Weighing of Medical Evidence

These guides, which are available on the Board's website, represent a significant achievement from this collaborative process and one that the OWA is proud to have contributed to.

WSIB Best Practices Steering Committee

The OWA Director sits on this committee, which is comprised of a small number of key worker-side representatives and senior Board staff who work together to determine the issues to be referred to the Best Practices Working Group and to review and comment on final versions of the documents worked on by the working group.

WSIB Policy Round Table

The OWA coordinated the worker-side of the WSIB Policy Round Table, which is a group made up of worker-side representatives and Board staff responsible for policy development. This group met several times in 2005 – 06 to try and resolve a number of significant policy issues raised by the worker members on the committee or referred by the larger Worker Stakeholder group. These included mental stress, independent living allowance, clothing allowance, employment benefits and the merits and justice policy.

System Partnership Working Group: This group which includes the Board WSIB, OWA and OEA, reviews service delivery issues that relate to our system partners. Meetings are held about 2 or 3 times a year.

Workers in Critical Need and in Crisis: This committee, which includes the Board, Ministry of Labour, WSIAT and OWA, has developed a protocol for expediting adjudication, hearings and/or decisions for workers in crisis. The protocol tries to limit gaps in service and prevent urgent cases, for those vulnerable workers in crisis, from falling through the cracks. Such cases are to be handled according to the protocol developed and agreed to by the committee members. Meetings are held about once or twice a year.

Family / Peer Support Working Group: This group, which includes the Board, Threads of Life, Hydro One, Electrical Burns Victim, Injured Workers Outreach Services and OWA, reviews issues related to severely disabled workers and tries to limit gaps in services. This group meets about 3 times a year.

Worker-side Meeting with Workplace Safety and Insurance Tribunal (WSIAT): In 2005-06 the OWA initiated an important worker stakeholder meeting with the WSIAT, which brought together key worker representatives from OWA, labour and community legal clinics and senior WSIAT officials including the Chair to discuss a list of issues of importance to the worker community.

Formal Policy and/or Law Reform Submissions in 2005-06:

WSIB Consultation on Draft Early and Safe Return to Work (ESRTW) Policies:

OWA wrote extensive submissions in response to the Board's consultation on its draft ESRTW policies. The OWA supported the general intent and direction of the draft policies, made extensive comments and recommendations for improvements and pointed out the need for more fundamental reform including legislative change and an alternative to the current experience rating programs.

WSIB Functional Abilities Form Consultation:

The OWA provided submissions to the Board in response to its second consultation on the "Functional Abilities Form for Timely Return to Work".

Regulation of Paralegals:

The OWA provided written submissions to the Ontario Legislature Standing Committee on Justice Policy arguing that the regulations should focus on fee-for-service paralegals and should not regulate OWA staff or other not-for-profit representatives who provide free service to injured workers.

(2) OWA TRANSFER PAYMENT PROGRAM

The OWA administers a transfer payment funding program for the Building and Construction Trades Council Training Program (PBCTCO), which supports education and training in workplace insurance.

OWA reviews and approves the PBCTCO Annual Business Plan and manages the transfer payment program through the administration of an annual Service Level Agreement, which includes performance measures, training outcomes and financial reporting requirements on a quarterly basis. OWA assesses the training outcomes against the actual year-end performance measures and financial reports. Year-end audited statements are required prior to approval of payment for the following year. The Minister of Labour, as part of OWA's Business Plan submission approves the overall Transfer Payment Program as well as specific funding distribution for PBCTCO.

The purpose of the PBCTCO program is to develop and deliver workplace insurance training that is specific to the needs and concerns of the construction sector in training its members in workplace insurance and early and safe return to work. The key objective of the program is to strengthen workplace insurance self-reliance among the construction unions.

The PBCTCO funding program also provides extensive mentoring and support to trained representatives, which, combined with the formal training, results in significant increase in the number of cases handled by trained representatives. Total claims handled by PBCTCO trained representatives in 2005-06 were 1503.

(3) TECHNOLOGY AND INFORMATION MANAGEMENT IN SUPPORT OF CLIENT SERVICES

New Case Management System

With the assistance of the Economics and Business Cluster (EBC), in 2005-06 the OWA successfully deployed a Windows based case management system (CMS) to replace the legacy system. The legacy system used obsolete software and was structured on business rules that are no longer consistent with practices of the workplace safety and insurance appeal system and the OWA. The replacement system added a new Appeals Module and many enhancements to improve workflow and reporting. It provides a more efficient platform for documenting file activity, monitoring of appeal time limits and tracking agency performance. This will improve agency accountability and efficiency. The 2006/07 CMS development will add document management functions and an external activities module. As well as being a true technology enabler for OWA staff, the new CMS infrastructure and interface ensures faster client service and reduces the overall costs of achieving results for OWA clients.

Website: www.owa.gov.on.ca

The newly designed OWA web site was launched in 2005-06 and now contains over 800 pages, including an OWA fact sheet in 15 languages. In 2006-07 the OWA will continue to add new Fact Sheets, and content to reflect changes in policies and regulations. The OWA will also continue to add to the significant decisions section outlining the successful work of OWA staff on the behalf of injured workers and their survivors.

Knowledge Management

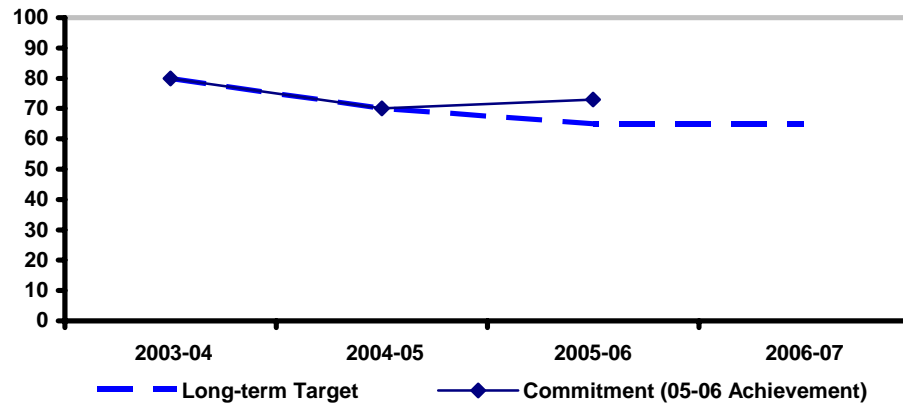
OWA creates a significant amount of case and appeal related materials, which have the potential for generic use, contributing to more efficient case preparation.

In 2005/06, OWA developed a web based knowledge management system to replace the manual index of research materials and the Outlook public folders. An electronic catalogue of research materials will significantly increase knowledge retention and knowledge transfer within the organization. Much of this material is full text and will replace multi paper copies filed in individual offices. The database will continue to be expanded during 2006/07, and OWA is exploring options for providing community and system partners to access the library database.

APPENDIX A – OUTCOME PERFORMANCE MEASURE REPORTED TO MBS

Performance Measure #1: Early and Alternative Dispute Resolution

Percentage of Decisions obtained by EDR or ADR



Agency Contribution

- OWA’s focus is to provide support for early and safe return to work and for early resolution of disputes without recourse to formal hearings, by diverting cases from the appeals system and finding alternative dispute resolution at the appeals level.

What does the graph show?

This graph shows the proportion of decision results on OWA appeals that were achieved without formal hearings. A new baseline was established in 2004/05 reflecting changes in disputes resolved without a formal hearing – due to increased case complexity as well as number of appeal cases.

2005/06 Year End Performance Achievement

73% of all decisions were obtained by EDR or ADR, however as the service delivery shifts to more complex representation, it is anticipated that the long-term target will remain at 65% of decisions to be obtained by EDR or ADR.

APPENDIX B – INTERNAL PROGRAM PERFORMANCE ACHIEVEMENTS

Measure	Standard/Target	2004-2005 Achievement	2005-2006 Commitments	2005-2006 Year End Achievements (as at March 31, 2006)
Early and Alternative Dispute Resolution.	65% of all decisions to be obtained by early (EDR) or alternative dispute resolution (ADR).	Commitment Met. OWA obtained 75% of all decisions by EDR or ADR	To obtain 60% of all decisions by EDR or ADR. Revisiting benchmark options for EDR and ADR for 2006/07 that will reflect the revised service delivery approach and new Case Management System.	73% of all OWA decisions were obtained by early or alternative dispute resolution
Effectiveness of advisory & representation services.	150 cases per FTE	OWA achieved 142 cases per FTE. The commitment assumed full staffing which was not sustained with the reduction of intake counsellors to refocus service delivery on complex representation cases	To achieve 145 issues resolved per FTE. OWA anticipates increasing the commitment to 150 issues resolved per FTE in 2006-07 providing staffing levels are maintained.	140 issues per FTE were resolved, based on new case management system (CMS) statistics. This measure has been revised in the new CMS to reflect number of issues resolved versus number of cases handled per staff, and corresponding benchmarks are being developed over the next two fiscal years.
Timeliness of Appeals Representation Service.	100% of all cases involving appeals representation service to commence within 120 days	Commitment exceeded. OWA achieved level of 61% of appeals cases commenced within 120	To achieve 50% appeals cases commenced within 120 days. OWA will review and benchmark performance based on changes in service delivery model and the implementation of new CMS over the next two fiscal years.	Exceeded Commitment 87% of appeals cases commenced within 120 days.

APPENDIX C – FINANCIAL REPORT FOR ANNUAL REPORT – FISCAL YEAR 2005/2006

All Figures in \$000.0 thousand

Account	Final Budget *	Total** Actual Expenditures	Variance	Explanation
Salary & Wages	6,045.6	5,999.2	46.4	The surplus in salary and wages budget resulted from vacancy management necessary to fund the benefits deficit.
Benefits	1,366.2	1,421.5	(55.3)	One-time benefits costs caused deficit.
Transportation & Communications	380.0	349.7	30.3	Reduction in travel expenditures to offset other increased ODOE costs.
Services (incl. Office Leases)	1,461.3	1,370.0	91.3	Lease savings main contribution to services surplus.
Supplies & Equipment	100.0	123.1	(23.1)	Deficit in supplies due to Health & Safety accommodation requirements for staff.
ODOE TOTAL	1,941.3	1,842.8	98.5	
Transfer Payment	225.0	225.0	0.0	
OWA TOTAL	9,578.1	9,488.5	89.6	
Recoveries	(9,577.1)	(9,488.5)	(88.6)	
TOTAL	1.0	0.0	1.0	

- * Final Budget = Printed Estimates+/- TBO, re-alignment of funds by standard account.
- ** Total Actual Expenditures including office lease cost.

APPENDIX D - OWA OFFICE LOCATIONS

TORONTO & EASTERN REGION

HEAD OFFICE & TORONTO OFFICE

Office of the Worker Adviser
123 Edward St.
Suite 1300
Toronto ON M5G 1E2

SCARBOROUGH OFFICE

Office of the Worker Adviser
2275 Midland Avenue
Unit 3
Scarborough ON M1P 3E7

MISSISSAUGA OFFICE

Office of the Worker Adviser
10 Kingsbridge Garden Circle
Suite #512
Mississauga ON L5R 3K6

OTTAWA OFFICE

Office of the Worker Adviser
11 Holland Ave.
Suite 705 Ottawa ON K1Y 4S1

SOUTHWEST REGION

LONDON OFFICE

Office of the Worker Adviser
495 Richmond St.
Suite 810
London ON N6A 5A9

HAMILTON OFFICE

Office of the Worker Adviser
1 Jarvis St.
Hamilton ON L8R 3J2

WINDSOR OFFICE

Office of the Worker Adviser
880 Ouellette Ave.
Suite #601
Windsor ON N9A 1C7

ST. CATHARINES OFFICE

Office of the Worker Adviser
301 St. Paul Ave. 9th Floor
St. Catharines ON L2R 3M8

NORTHWEST REGION

SAULT STE. MARIE OFFICE

Office of the Worker Adviser
70 Foster Dr.
Suite 480
Sault Ste. Marie ON P6A 6V4

THUNDER BAY OFFICE

Office of the Worker Adviser
435 South James Street
Suite 335, 3rd Floor
Thunder Bay ON P7E 6S7

TIMMINS OFFICE

Office of the Worker Adviser
60 Wilson Ave.
Suite 303, 3rd Floor
Timmins ON P4N 2S7

ELLIOT LAKE OFFICE

Office of the Worker Adviser
50 Hillside Dr. North
Elliot Lake ON P5A 1X4

CENTRAL REGION

SUDBURY OFFICE

Office of the Worker Adviser
159 Cedar St.
Suite 304
Sudbury ON P3E 6A5

DOWNSVIEW OFFICE

Office of the Worker Adviser
1201 Wilson Ave.
2nd Floor, E Building
Downsview ON M3M 1J8

WATERLOO OFFICE

Office of the Worker Adviser
155 Frobisher Drive
Unit G (213)
Waterloo ON N2V 2E1

APPENDIX E - ORGANIZATION CHART

