

ANNUAL REPORT 2015



FAIR PRACTICES OFFICE

**An independent office
working to promote fair
practices at the Workers'
Compensation Board
of Saskatchewan**

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2015 ANNUAL REPORT



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MESSAGE FROM THE FAIR PRACTICES OFFICER

It is my pleasure to present the Annual Report of the Fair Practices Office (FPO) for the year ending December 31, 2015. This is my fifth Annual Report and in some ways it seems like I took the position of Fair Practices Officer a short time ago and in other ways it seems as if I have been working toward fairness in WCB's processes for a much longer time.

In 2015 we experienced a slight increase in the number of incoming calls compared to 2014 (403 versus 363) and a larger increase in individual issues or complaints (676 versus 603). Overall, both the number of calls and the number of issues is lower than our five-year averages of 423 calls and 666 individual complaints.

During the last year we continued to see an increase in repeat callers, at almost 30 percent of all calls, up from a little over 25 percent in 2014. Callers who had a previous inquiry with our office indicate they found our services useful to help them understand WCB's processes and decisions and to help them navigate themselves through their claim. People continue to feel heard and find an objective opinion of their issue to be very valuable, even when the FPO is unable to alter WCB's position.

In 2015 we provided information or clarification to callers to support WCB's decisions on 282 of the calls we received, or 70.3 percent of the time, which is down from our five-year average of 72.3 percent. Conversely our office made recommendations to the management of WCB on 29.7 percent of our calls compared to 30.4 percent of the time in 2014.

Our resolution rates or 'Response Time to Close' categories all improved slightly over 2014, but continue to lag behind our five-year average (see page 15). This is partly due to FPO activities and partly due to management response to our calls and referrals. Issues of this nature are reported on under categories of complaints (see Timeliness Issues on page 11). Even with delays, WCB staff

demonstrate a genuine desire to provide quality and timely service to our stakeholders. Additionally, staff at all levels are open and receptive to the FPO's involvement to proactively work at resolving issues and concerns.

WCB has backed its commitment to fairness by supporting the FPO's objective scrutiny of the administration to ensure this goal is achieved. The FPO identifies issues of fairness and provides the WCB with an opportunity to consider and address the issues raised. While the FPO does not advocate for any one person, we do advocate for fair process and that might include a particular position on an issue. Where unfairness is found, the FPO has the power to recommend change, but not to compel compliance with any recommendation. Given an objective and independent review, confidence in the FPO conclusions is created. This likely accounts for the fact that FPO recommendations are accepted at a rate of over 94 percent of the time.

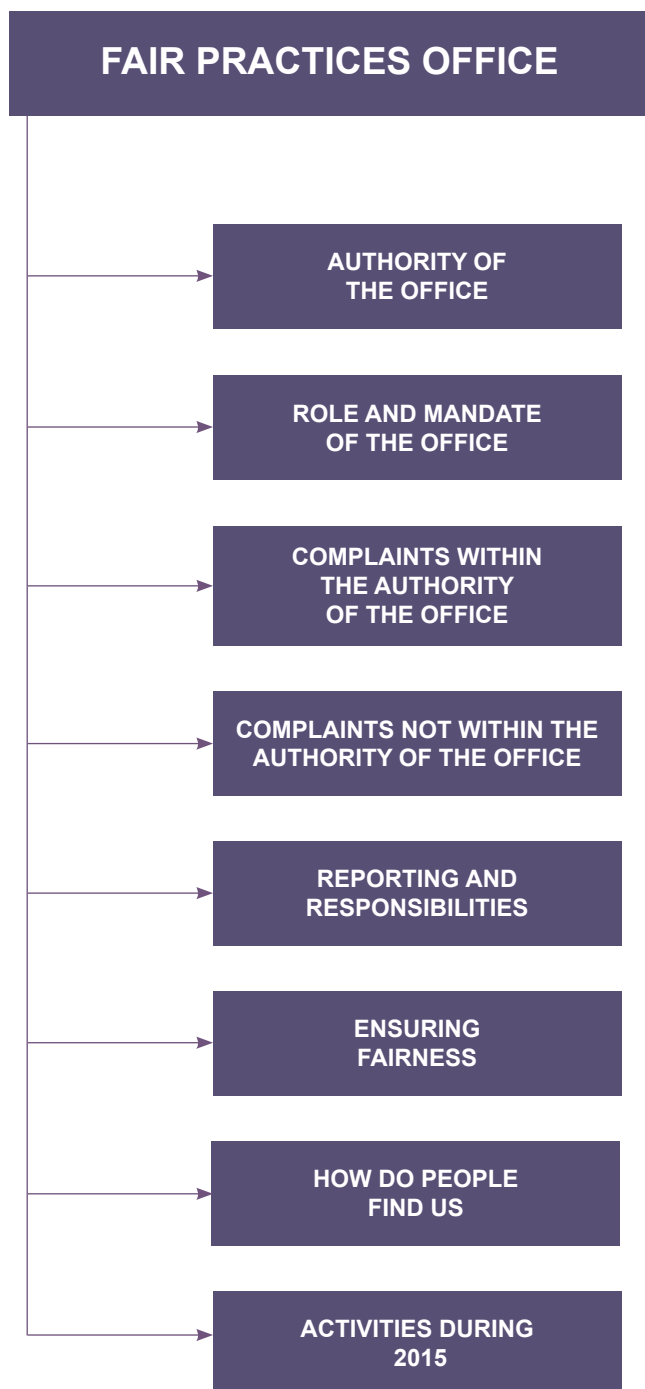
Throughout 2015, the FPO continued to provide information both internally and externally about the services our office provides by attending internal staff meetings, hosting information tables and providing presentations. If you would like the FPO to provide information on our services or how we might assist you or your organization, please contact us directly for service information.

Finally, I wish to convey my sincere thanks for the patient and competent work of the Intake and Inquiry Officer who successfully resolves many problems at the initial stages. We look forward to continuing to promote fair practices in all areas of WCB service delivery.



Dana Stutsky
Fair Practices Officer

OVERVIEW



Authority of the Office

The FPO opened in September 2003 on the recommendation of the 2001 WCB Act Committee of Review (COR). Their recommendation was based on the view that the WCB's legislation required that workers and their dependents be treated in a fair and reasonable manner.

The FPO's authority and its mandate were first established through a mandate statement provided by the WCB Board. The role and mandate of the FPO was more formally defined in policy in 2009 with amendments in 2010 and 2013.

When the WCB's new legislation took effect on January 1, 2014, the appointment of the Fair Practices Officer was enshrined in Section 186. The legislation and Policy 14/2013 confirm that the Fair Practices Officer is appointed pursuant to Sections 18(2) and (3) of the Act and has the power to conduct inquiries pursuant to Section 25(2). Policy 14/2013 is available in chapter 9.5 of the WCB's online policy manual (www.wcbask.com).

Role and mandate of the Office

The Office has a mandate to:

- Receive, investigate and resolve complaints raised by workers, employers and external service providers about unfair practices in all areas of WCB service delivery.
- Identify complaint trends, policy matters and systemic issues and make recommendations for improvements.

If it is determined that an unfair practice has occurred, the FPO may seek to resolve the issue at the most appropriate administrative level of the WCB. If a remedy is not implemented, the

We assist to clarify problems, identify issues, and explore resolution.

FPO will raise the matter to senior management levels including the WCB'S Chief Executive Officer. Unresolved issues are reported to the Board. The FPO may, on her own initiative, investigate, identify and make recommendations on systemic issues. These are issues that affect more than one file and occur on an ongoing basis. Findings and recommendations are initially presented to senior administration within the WCB, including the Chief Executive Officer and then to the Board.

Complaints within the authority of the Office

The FPO has jurisdiction to investigate all areas of WCB service delivery including, but not limited to:

- Delays in adjudication, communication, referrals or payment;
- WCB staff conduct;
- Spoken and written communications;
- Implementation of appeal decisions;
- Employer services;
- Benefit payments; and
- Misapplication of policy.

Complaints not within the authority of the Office

A complaint is not within the jurisdiction of the Office if it is about:

- The conduct or a decision of the Board Members;
- Changes to the Act or its regulations;

- An issue outside of the jurisdiction of the WCB;
- An issue under appeal;
- An issue being handled by the Office of the Workers' Advocate, unless the Office of the Workers' Advocate requests that the FPO review the complaint; and
- An alleged illegal or fraudulent act. Allegations of this nature are referred to the investigative unit within the WCB's Internal Audit unit.

Reporting and responsibilities

The Fair Practices Office is a neutral, impartial, confidential and independent office of the WCB, working to promote fairness in the WCB's practices, procedures and processes. The Board has responsibility for the appointment of the FPO and oversight of the Fair Practices Office.

The FPO regularly reports to the Board, on average, about 10 times a year. The FPO provides the Board with statistical and anecdotal information to support the discharge of the Board's duties. Direct and independent information supports achieving the Board's strategic objectives. The FPO keeps the Board informed of stakeholders' issues and concerns, monitors trends and systemic issues. Information also is provided to help assess the effectiveness of WCB policies.

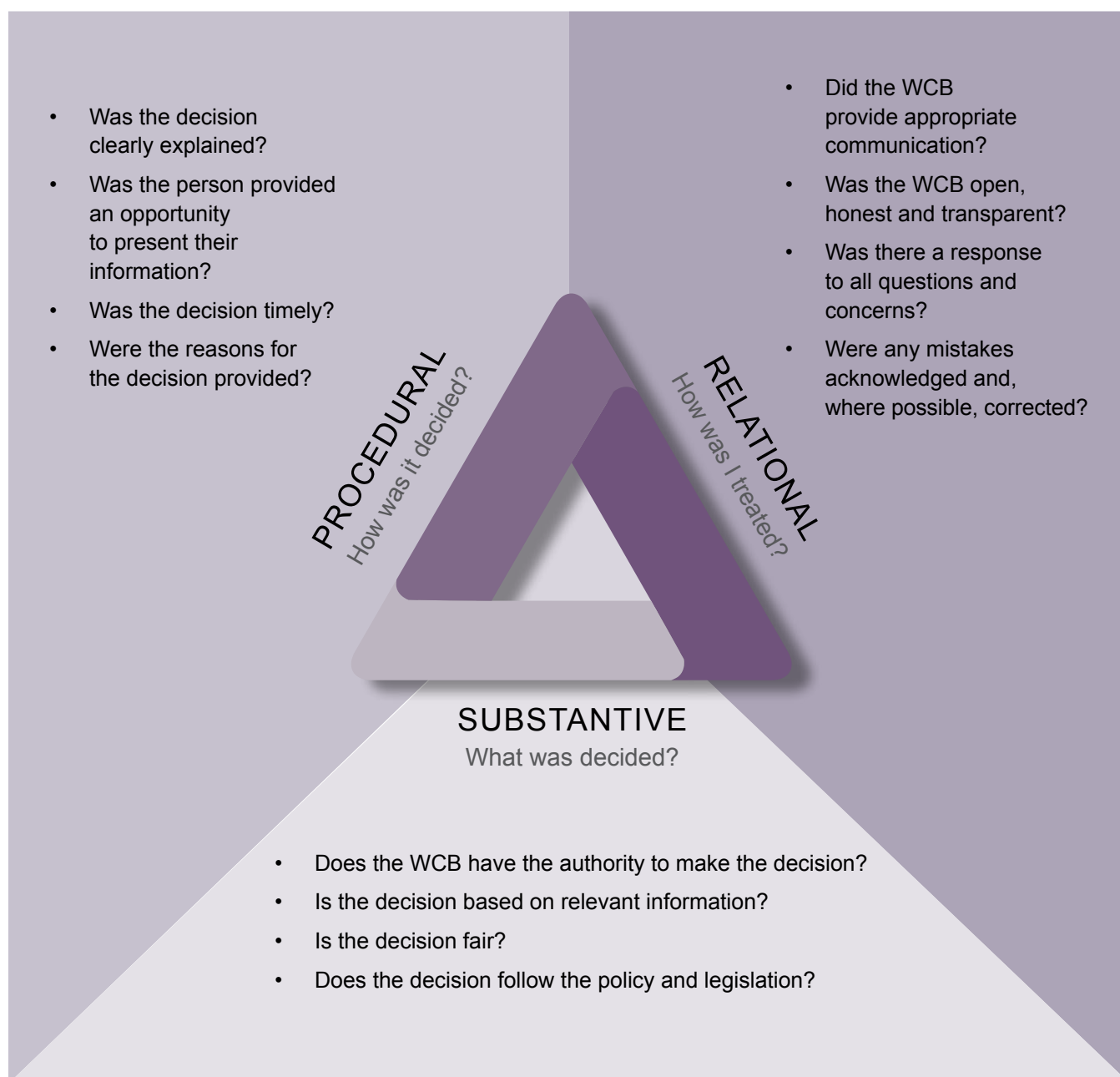
People contact the FPO because they want to express their concerns and connect with a human being.

Ensuring fairness

The Fair Practices Office looks at a three-part decision making process to ensure fairness. If one of the three parts fails, unfairness in the decision could be perceived.

Our Office models our service delivery on a design similar to that used by Ombudsman Saskatchewan. When we look at the question of fairness, we first look at the substantive perspective, or what was decided. Next, we look at how the decision was made. Most of the complaints raised with the FPO have a component of relational issues, or how the complainant feels they were treated. We consider those as well.

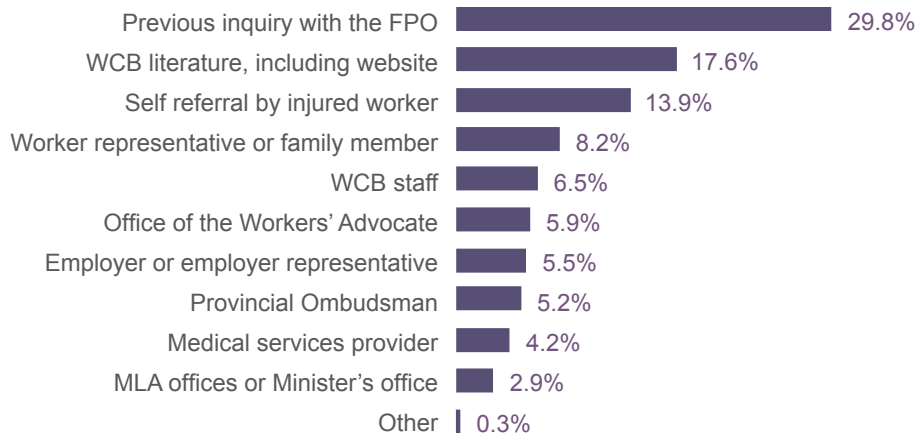
THE FAIRNESS TRIANGLE



How do people find us?

We continue to make efforts to make certain that the stakeholders who might benefit are aware of our services. This is done through internal and external communications, including information sessions and hosting information tables at events. We are available by telephone, letter or email and also can meet with complainants if needed. Contact information is on the WCB website at www.wcbask.com and on the back cover of this report.

During the year we asked people how they learned about us. This is how they replied:



Activities during 2015

Due to the nature of the work, we have a certain level of isolation and are exposed to ethical dilemmas where good judgment needs to be exercised on a regular basis. As a result we need to keep abreast of developments in the workplace and obtain insight from peers. Additionally, self-reflection and evaluation are important as well as sometimes difficult. Professional development and interaction with peers are essential to maintaining a solid grounding.

- Attended and hosted information tables at:
 - Saskatchewan Association of Rural Municipalities Annual Convention
 - The WCB's Annual Compensation Institute
 - Saskatchewan Federation of Labour Annual Convention
 - Service Employees International Union Conference
- Participated in:
 - Saskatchewan Administrative Tribunal Association Annual General Meeting
 - International Ombudsman Association Annual Convention
 - Forum of Canadian Ombudsman Biannual Conference
 - The WCB's Annual Meeting and Case Management and Vocational Rehabilitation Conference
 - Association of Workers' Compensation Boards of Canada Staff Learning Symposium
 - Regular teleconference meetings with the Fairness Working Group (counterparts in other WCBs from British Columbia, Manitoba, Ontario and Nova Scotia)
 - International Ombudsman Association Membership Categories Task Force
- Presented information to:
 - Saskatchewan Federation of Labour Annual Occupational Health and Safety Conference
 - The WCB's Committee of Review and Annual Compensation Institute on *Fairness, What Is It?*
- Maintained Membership with:
 - Forum of Canadian Ombudsman and International Ombudsman Association

Some of the typical complaints our clients share with us

"My employer says they are accommodating my work injury but they really aren't."

"My case manager isn't calling me back."

"Why won't WCB pay for my medical treatment?"

"I haven't received my wage loss payment."

"My doctor and I disagree that I'm recovered."

"I disagree with the decision. How can I appeal?"

"My benefits have been suspended."

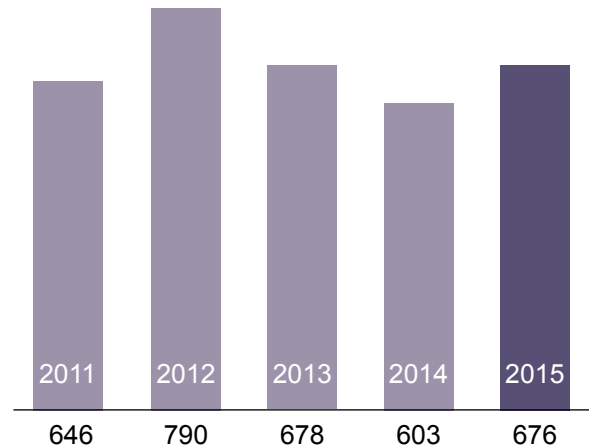
"Why was my wage loss payment reduced?"

"I disagree with the return-to-work plan."

"I can't afford to pay for my medication."

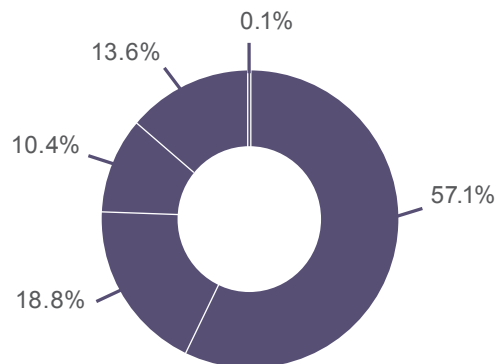
FAIR PRACTICES ISSUES

Injured workers, employers and other stakeholders involved in WCB services contact us with a variety of complaints and concerns. In 2015, 676 issues were raised.



For reporting purposes, issues are grouped into five general categories (shown as percent of 2015 issues below):

1. Disagreement with decisions (57.1%)
2. Information requests (18.8%)
3. Timeliness and process delays (10.4%)
4. Communication/service issues (13.6%)
5. FPO issues (systemic) (0.1%)



DISAGREEMENT WITH DECISIONS

This category of complaint accounts for more than half of all issues raised by workers and employers. In 2015, there were 386 complaints in this category out of 676 total complaints, or 57 percent of all complaints. This is a slight increase from 2014 which had 55.2 percent of complaints in this category and also increased from 2013, which accounted for 53.7 percent of all complaints.



The following are examples of issues in this category:

- We received a call from a worker who said she was told she had to attend treatment at a clinic that was very difficult to access. The worker explained she was working partial hours and attended treatment the other half of the day. The worker took the bus from work to the treatment centre. Due to the locations of each, it would take more than an additional 30 minutes each way. She indicated there was a treatment centre within walking distance of her home she could attend. She said her doctor agreed with the change in clinic as they felt walking to treatment would be beneficial and the long bus ride each day would have a detrimental effect. We raised this with the supervisor who agreed to change the treatment clinic.
- An employer complained he had been charged WCB premiums for three years, which he thought was unfair. He explained he started a small business three years before but hadn't registered his business with the WCB, nor paid any premiums. Once he registered the business, the WCB has the authority to assess and collect premiums for up to three years prior. At our request, Employer Services staff called the employer to explain the policy and to make arrangements for payment of the premiums owing.
- A worker called as she thought it was unfair she was told she had to repay wage loss benefits that had been overpaid to her over a period of many years. She said she had faithfully reported her earnings to the WCB since she had returned to work in a lesser capacity. Each year, the WCB sent her a letter explaining what ongoing wage loss benefits she was entitled to. A review indicated that although the worker had provided specifics of the income, it had been misread by the WCB thereby causing an incorrect calculation and overpayment. The policy governing recoverable overpayments stipulates that they are not recoverable if the worker is unaware they are not entitled. As the worker would not have known the amounts paid to her were in error, the overpayment was written off.
- A worker called disagreeing with the travel allowance paid. After his injury, he moved where it was cheaper to live and had to travel for medical treatment. The WCB pays travel expenses if they exceed a worker's normal work expense at the time of the injury. The worker's travel expenses were greater because he had moved further away from the treatment centre, therefore he was not entitled to any additional travel expenses.

INFORMATION REQUESTS

Workers and employers call our office for information. We can provide additional information or a clearer explanation to callers about a variety of issues. We may provide information about the status of a claim, what policy or procedure may apply to their situation or perhaps answer a specific question such as how to file an appeal. A very common information request is about wage loss benefit calculations. Often workers don't know what information was used or have questions about the calculations. We raised this as an overall concern with the Operations division. In response, an information insert was developed which is being provided to all workers in receipt of wage loss benefits, starting in 2016.

In 2015 we handled 127 information requests, which is close to our five-year average of 125.



The following are examples of issues in this category:

- We received a call from a woman whose husband was fatally injured years ago. She had questions about payments made to disenfranchised widows, wondering why she had never received any information or payments in this regard. We confirmed that the legislation for widows changed in 1989, just prior to her husband's death, so she should have been entitled to additional benefits. A review of the payments made indicated that her payments had been made under the wrong payment code and when additional payments were made, this claim was missed. The payments were calculated and paid to the widow within three weeks.
- A worker called looking for information about how her wage loss payments were calculated. She also had concerns with her treatment team. Information was provided about how wage loss payments were calculated and once this was explained, she agreed that the calculation appeared to be correct. Regarding her treatment team, she was advised that depending on her concerns, she could discuss them with her treatment team, her Case Manager or possibly her primary practitioner.
- A worker called with questions regarding his vocational retraining program. It was explained that the aim of his retraining program was to allow him to earn income at the same rate he was earning at the time of his injury. That led to him questioning how his wage rate was calculated. Upon review it was determined that this wage rate had not been calculated accurately. This meant that not only was he entitled to additional wage loss benefits, but could lead to a change in his vocational program goal.
- We received a call from a worker wanting information about appealing a decision on her claim. General information was provided including how to contact the Office of the Workers' Advocate, which may be able to assist the worker with an appeal.

TIMELINESS AND PROCESS DELAYS

Due to a concerted effort in the Operations division to reduce adjudication delays and ensure there were appropriate resources and processes in place to provide timely decisions, complaints in this area are on the decrease. Initial delays can cause many other issues such as timely treatment and early return to work, therefore this improvement will positively affect claims going forward.

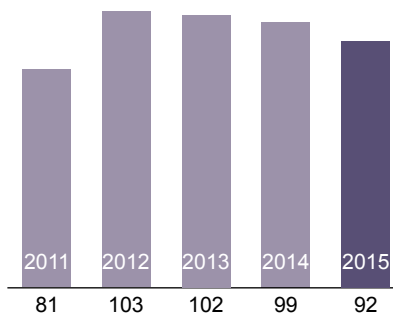


Some examples of issues in this category are as follows:

- A worker called with a complaint that she'd been waiting for a decision letter about her claim for a number of months. She explained that this letter was to provide the explanation as to why her benefits had been terminated. Without the information, she didn't know on what basis her benefits had ended. She also wasn't able to proceed to appeal if she disagreed. At the FPO's request, the worker was sent the termination letter. Once the worker was advised, it was clear that the information from her doctor had been misinterpreted and her benefits were reinstated.
- We received a call from an employer representative that she'd been waiting more than nine months to learn whether cost relief would apply to a specific claim. She had maintained contact with WCB staff and despite assurances that the decision would be made, she was still waiting. Our office brought this to the attention of the appropriate staff and after two additional months, the employer representative was provided with a decision.
- A worker called with a concern about a delay with recalculation of her wage loss benefits. She was told in January 2014 that she was entitled to a recalculation and additional benefits for the time period between January 2009 and January 2012. She was also advised that due to staff resources, this recalculation was delayed. Additionally there was no indication of when this would be completed. We contacted the director of the area who agreed that this would be done on a priority basis. The calculation was done and the worker was paid an additional \$9,900.00 within a week of our contact.
- WCB implemented a new claims management system in February 2012. Due to the new system, any wage loss recalculations prior to that date are required to be completed on the previous system, and are referred to as Legacy Recalculations. As this appeared to be a larger systemic issue affecting many workers and employers, the FPO initiated an investigation. Please see information about this under FPO Issues on page 13.

COMMUNICATION/ SERVICE ISSUES

Until 2015, communication issues had been on the increase. During 2015, complaints in this area represented 13.6 percent of total complaints, compared to 16.4 percent in 2014, and 15 percent in 2013. Communication issues can cause service issues that may negatively impact claims processing for both workers and employers. The FPO assists by ensuring all parties have the tools and information needed for ongoing and appropriate communication. Often information needs to be gathered and exchanged.



The following are examples of these issues:

- A worker called with complaints about communication with WCB staff. He indicated he had submitted two different claims and had not received an answer if either claim were accepted nor what medical treatment was covered. The claims were from eight months and two-and-one-half months earlier. He indicated the staff on his claims changed often and due to that, he wasn't receiving timely service. A review indicated the staff on the claims had changed, and claims decisions had not yet been made. At the FPO request, staff reviewed the claims, and both claims were accepted. The worker was able to access appropriate treatment.
- We received a call from a worker with a complaint that WCB staff had been impolite to her and had not provided her with the information she needed. We reviewed the file and noted that the claim had been denied, however there was no indication there was any discussion with the worker about the reasons for the decision, the options available to the worker, or what she might consider going forward. We were able to provide this information to the worker, and she felt that she was going to appeal the decision regarding the denial of her claim.
- A worker called who indicated he was having communication problems with a WCB supervisor. He indicated he was told if he didn't attend an assessment his benefits would be suspended. He said his doctors did not support him attending the assessment. He also said that the assessment centre reported to WCB that he refused to attend the assessment, but that wasn't true. A review revealed the worker was hesitant to attend the assessment as he had attended previous assessments and treatment with no positive change in his condition. The specialist involved in his care provided approval to attend the assessment and then revoked the approval with no additional information for their decision. WCB processes do not require medical approval for a worker to attend an assessment (unlike attending treatment), but will consider objective information. As there was no information, nor is approval required, the worker's benefits were reduced, which follows appropriate policy and procedure. The worker appealed. The Appeal Department decision indicated it was reasonable to have the specialist's approval for the assessment due to the worker's medical history of 3 prior surgeries. His wage loss benefits were reinstated.

FPO ISSUES

The Fair Practices Officer can initiate, investigate, identify and make recommendations on systemic issues that may affect a larger group of stakeholders. During 2015 one prior issue was identified and one new issue came forward. This is in addition to responding to individual complaints or concerns raised by individual employers or workers.

- The caution designation system was first raised as an issue by our office in 2012. This was reported on in the FPO 2012 Annual Report. It again came forward as the new policy was not developed and implemented as was anticipated. The policy is once again in process to be updated and once completed, further staff training will occur. At the writing of this report, the updated policy is still in development but is expected to be completed in 2016.
- WCB introduced a new claims management system in February 2012, which includes calculation of wage loss benefit entitlements. For any recalculations of wage loss benefits that predate the new system implementation, the old system has to be used. These are called Legacy Recalculations. In August 2015, the FPO became aware that there were more than 400 recalculations outstanding. These are wage loss benefit recalculations from prior to February 2012. Since that time, the FPO has had discussions with the Operations division regarding the resources available for these tasks. Unfortunately, the plans to attend to these calculations have not come to fruition and currently there continue to be approximately 400 outstanding recalculations. These wage loss calculations can mean wage loss payments to workers and/or employers, as well as amounts owing to annuities and for calculation of employer premiums. As of the writing of this report, no resources are dedicated to the recalculations. The FPO continues to have discussion with WCB in this regard.

What some of our callers have said about our services

"You are one of the best I've spoken to about WCB."

"You have been a huge help."

"You've done a lot for me. Thanks very much."

"Thank you. You've been very helpful."

"Sincerely, I thank you very much."

"I've gotten a lot of information and am very impressed."

"Thank you very much. I appreciate your help."

COMPARATIVE STATISTICS

for the calendar years 2011 through 2015

Number of Complaints / Inquiries Received

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|---------------------|------------|------------|------------|------------|------------|
| Complaints received | 403 | 363 | 415 | 484 | 432 |
| Re-opened | 37 | 24 | 38 | 47 | 35 |
| Total | 440 | 387 | 453 | 531 | 467 |

Source of Complaints / Inquiries (%)

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|-----------------|--------------|--------------|--------------|--------------|--------------|
| Injured workers | 90.3 | 92.3 | 85.5 | 88.6 | 88.4 |
| Employers | 9.2 | 6.7 | 14.5 | 10.5 | 10.2 |
| Other | 0.5 | 1.0 | 0.0 | 0.9 | 1.4 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Category of Complaints / Inquiries*

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|-------------------------------|------------|------------|------------|------------|------------|
| Disagree with decision | 386 | 333 | 364 | 425 | 355 |
| Information requests | 127 | 87 | 133 | 148 | 128 |
| Timeliness & process delays | 70 | 80 | 79 | 113 | 81 |
| Communications/service issues | 92 | 99 | 102 | 103 | 81 |
| FPO issues (systemic) | 1 | 4 | 0 | 1 | 1 |
| Total | 676 | 603 | 678 | 790 | 646 |

* More than one complaint can be registered per inquiry.

Resolution (closed files)

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|-----------------------------------|-------------|------|------|------|------|
| Completed by FPO without referral | 237 | 206 | 265 | 284 | 243 |
| Called WCB for clarification | 45 | 44 | 41 | 76 | 52 |
| Referred to WCB for review | 119 | 109 | 109 | 123 | 133 |
| Total | 401 | 359 | 415 | 483 | 428 |

Note: Two files remained open at the end of 2015, four files at the end of 2014, one at the end of 2012 and four at the end of 2011.

Outcome of Referrals to WCB

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|----------------------|-------------|------|------|------|------|
| Decision changed | 20 | 18 | 16 | 20 | 28 |
| New action taken | 93 | 87 | 84 | 93 | 92 |
| Reviewed – no change | 6 | 4 | 9 | 10 | 13 |
| Total | 119 | 109 | 109 | 123 | 133 |

Response Time to Close (%)

| | 2015 | 2014 | 2013 | 2012 | 2011 |
|--------------|--------------|-------|-------|-------|-------|
| 0-7 days | 57.9 | 47.6 | 74.4 | 72.9 | 73.1 |
| 8-30 days | 26.4 | 32.3 | 15.2 | 17.8 | 17.8 |
| Over 30 days | 15.7 | 20.1 | 10.4 | 9.3 | 9.1 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Fair Practices Office

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