

ANNUAL REPORT 2013



FAIR PRACTICES OFFICE

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

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Fairness is:

Listening

Understanding

Timely answers

Reasons

Respect

MESSAGE FROM THE FAIR PRACTICES OFFICER

It is my pleasure to present the Annual Report of the Fair Practices Office for the year ending December 31, 2013. This is our ninth Annual Report. As we enter our tenth year we continue to look for ways to provide timely, workable and reasonable solutions to issues raised by workers and employers.

Effective January 1, 2014, *The Workers' Compensation Act, 2013* took effect. Several changes and amendments improved the legislation. The most significant change for our office is that the appointment of the Fair Practices Officer is now enshrined in legislation. From a practical perspective, it is business as usual within the Office.

Calls or complaints about WCB services dropped to a more typical level in 2013. We had 415 new calls and 38 reopened files for a total of 453 inquiries. This is slightly less than our five year average of 436 new inquiries and much fewer than our 2012 inquiries.

Our customers tend to have more than one concern or complaint when they call our Office. In 2013 we had 678 complaints, or on average 1.5 complaints per call. This is a trend we first saw in 2008. The most frequent complaint is that the caller does not agree with a WCB decision. Complaints about communication and service timeliness are on the increase. We provided information or clarification about WCB decisions about 75 percent of the time. We believe our direct efforts with callers and the feedback we provide to the WCB supports the organization's efforts to provide timely and quality services.

The Intake and Inquiry Officer and I are privileged to have the opportunity to speak with and listen to workers and employers about issues that are important to them and their families. We invite workers, their dependents and employers to contact us with any concerns they may have about WCB services or decisions.

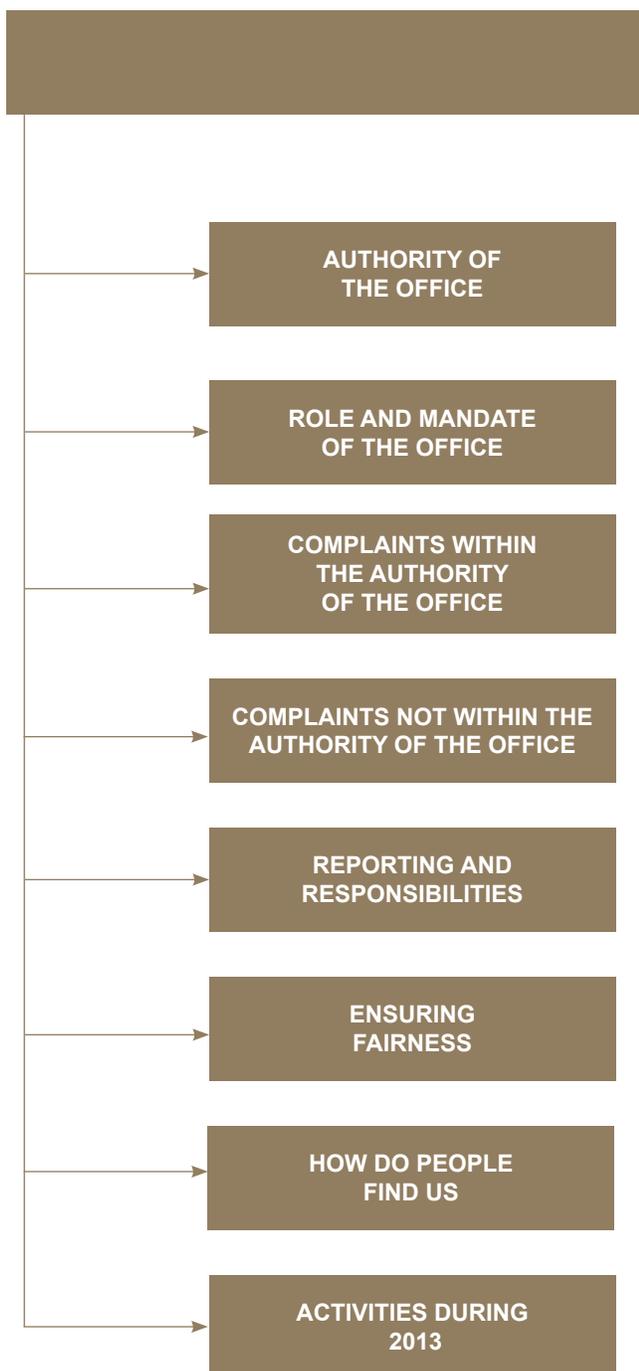
Our office maintains an effective working relationship with WCB staff, from front line to the Executive. We look forward to continuing to work together to ensure fair processes and fair treatment for all WCB stakeholders.



Dana Stutsky
Fair Practices Officer



OVERVIEW



Authority of the Office

The Fair Practices Office 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) & (3) of the Act and has the power to conduct inquiries pursuant to Section 25(2) of the Act. Policy 14/2013 is available in chapter 9.5 of the WCB's online policy manual (wcb.sask.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 matter will be raised to senior management

Service delivery is challenging. FPO welcomes complaints to review and improve services.

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 initially are 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
- Wrong application 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.
- 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 on operational performance supports achieving the Board's strategic objectives. The FPO keeps the Board informed of stakeholders' issues and concerns, monitors trends and systemic issues, and makes recommendations for improvements. Information also is provided to help assess the effectiveness of WCB policies, and to assist with the Board's role in the oversight of the WCB.

Working to ensure fair practices:

- Impartial
- Confidential
- Independent

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 the Provincial Ombudsman of 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.

SUBSTANTIVE PERSPECTIVE:

- Does WCB have the authority to make the decision.
- Is the decision based on relevant information.
- Is the decision just, and
- Does the decision follow the policy and legislation.

PROCEDURAL PERSPECTIVE:

- Was the decision clearly explained.
- Was the person provided an opportunity to present their information.
- Was the decision timely, and
- Were the reasons for the decision provided.

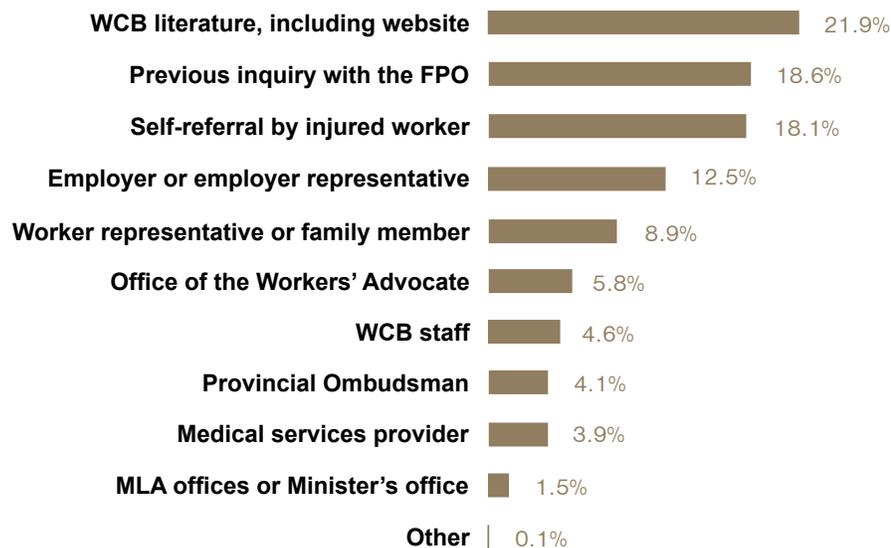
RELATIONAL PERSPECTIVE:

- Did WCB provide appropriate communication.
- Was WCB open, honest and transparent.
- Was there a response to all questions and concerns, and
- Were any mistakes acknowledged and where possible, corrected.

How do people find us?

Throughout 2013, we placed a priority on making 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 wcb.sask.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 2013

- Attended and hosted an information table at the WCB's Compensation Institute in Saskatoon (March).
- Attended the Saskatchewan Administrative Tribunal Association Annual General Meeting and Conference in Regina (May).
- Attended the WCB's Annual General Meeting in Regina (May).
- Attended 'The Fine Art of Fairness' workshop presented by the Provincial Ombudsman Office in Regina (May).
- Participated in regular teleconference meetings with the Fairness Working Group (counterparts in other WCBs from British Columbia, Manitoba, Ontario, and Nova Scotia).
- Attended the Forum of Canadian Ombudsman Conference in Halifax (June).
- Attended the WCB's Vocational Rehabilitation Conference in Waskesiu (September).
- Attended and hosted an information table at the Saskatchewan Federation of Labour Annual Convention in Saskatoon (October).
- Maintained Institutional Membership with the Forum of Canadian Ombudsman.
- Maintained Associate Membership with the International Ombudsman Association, and
- Participated in 'Essentials for Ombuds' Osgoode/ FCO Certificate program through Osgoode Law School in Toronto (September).

What some of our callers have said about our services

"Thanks for the advice and for everything you have done for me."

"It was nice to feel heard."

"Thanks so much as I was so lost on what to do when I couldn't get ahold of or hear back from anyone!"

"You've been a lot of help. Thanks for taking the time to talk to me."

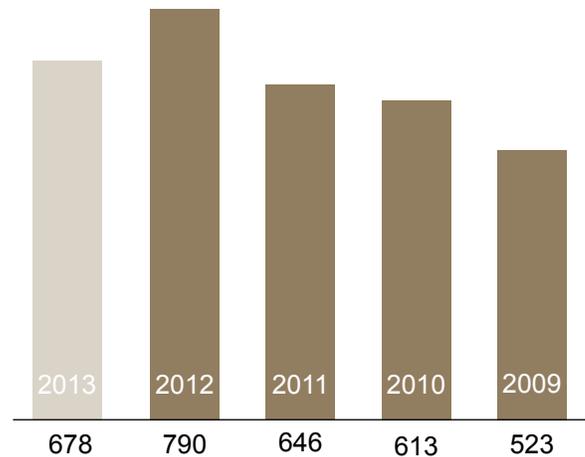
"I do appreciate your listening. I felt heard for the first time."

"Thank you for taking the time with me. It helps so much... understanding what is going on is very helpful."

"Without the action from the Fair Practices, none of this would be getting done."

FAIR PRACTICES ISSUES

Injured workers and employers contact us with a variety of concerns and issues. In 2013, 678 issues were raised.

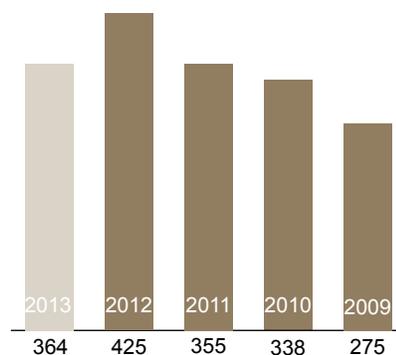


For reporting purposes, issues are grouped into five general categories:

1. Disagreement with decisions
2. Information requests
3. Timeliness and process delays
4. Communication/service issues
5. FPO issues (systemic)

DISAGREEMENT WITH DECISIONS

This category of complaint accounts for more than half of the issues from workers and employers. Many decisions are made over the course of a claim, so there are many times when there may be a disagreement with a decision. If the disagreement can't be resolved, information on other options is provided to the caller.

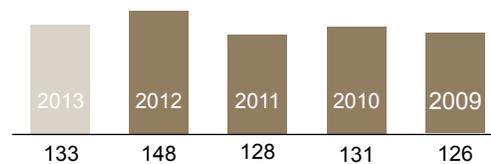


The following are examples of some of the issues:

- A worker sustained an injury and following treatment, returned to work. About a year later the work injury recurred. The WCB felt the need for further treatment was not due to the work injury and further coverage was denied. The worker explained that their doctor advised the condition was one that had progressed/deteriorated over the last year and was directly related to the work injury. We assisted the worker with understanding the information needed, which the worker obtained and presented to the WCB. After the information was reviewed by the WCB's Medical Consultant the recurrent claim was accepted and paid.
- A worker received notice about an overpayment that he felt was inaccurate. The worker had been off work due to a work injury, but hadn't notified the WCB about the date when he returned to work and so was paid wage loss benefits beyond the period to which he was entitled. When we looked into the overpayment amounts it was discovered the worker had three separate claims, which complicated the situation. We also noted the Case Manager had responded appropriately to the worker's concerns and had recalculated the overpayment, reducing it by approximately \$800.
- A worker called to say she felt it was unfair that she wasn't paid her full travel costs to attend treatment. A review by us revealed the worker was given the choice of treatment centers and the worker chose a location further away from her home. It also was noted the worker had been advised at that time that her full travel costs would not be paid, but that she would be paid costs to the closest treatment center.
- An employer representative called saying he disagreed with a decision denying cost relief with no explanation provided by the Case Manager. The representative also was upset about the lengthy delays in providing him with the information. Our review revealed the decision to deny cost relief was appropriate as the claim was related to a dependent spousal claim. Staff was encouraged to provide timely and specific information to inquiries, including requests for cost relief.

INFORMATION REQUESTS

Sometimes the value of our Office is to provide additional information or a clearer explanation to callers. Workers and employers call with questions about the status of a claim, what policy or procedure may apply to their situation, or they may have questions related to how a wage loss payment was calculated. Also, we routinely provide information specific to that claim.

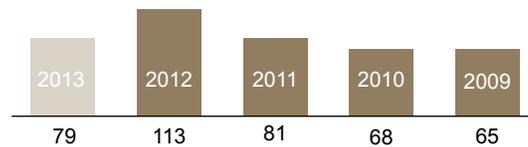


Some examples of information requests are:

- The worker called saying he did not agree with the original calculation of his wage rate. He had been receiving WCB benefits for many years but felt he had never received an appropriate explanation. English was a second language for the worker and he wanted to know the legislation or WCB policy, that described how his wage loss benefits were calculated. We were able to provide a copy of the applicable policy to the worker.
- An employer representative called asking for information on how he could request a copy of a file in preparation for an appeal. He also had questions if an appeal had to be filed prior to requesting the file information. He was advised that employers must have a disputable issue to obtain selected file documents specific to that issue, but that the request for file information can pre-date filing the appeal.
- A worker called looking for information on how to file an appeal. The worker was directed to online appeal information. He was also provided with contact information for the Office of the Workers' Advocate, to assist with the appeal submission.
- We received a call from a worker looking for information related to the WCB's obligation to provide notice to an injured worker prior to arranging a medical assessment. The worker was advised every effort is made to ensure adequate verbal and written notice advising of an assessment is provided to a worker.
- A worker called looking for information about the status of her claim. The worker advised she had filed her claim and hadn't heard if it was accepted. A review of the file indicated the worker had submitted her claim about a month earlier; however, her injury had first surfaced many months earlier. In view of the delayed reporting, additional information was required which delayed the decision on claim acceptance.

TIMELINESS AND PROCESS DELAYS

During 2013, the WCB experienced several service delays in the adjudication area. We received many calls regarding the delays, as this often caused workers to have concerns about whether their claim was accepted, if additional information was needed, and what they were going to do about their finances. A concerted effort was made to bring the delays to the attention of the appropriate staff member and ensure the claims were attended to as soon as possible. Additionally, discussions were held with the management of the Operations division regarding the increasing number of delays with initial claims adjudication.

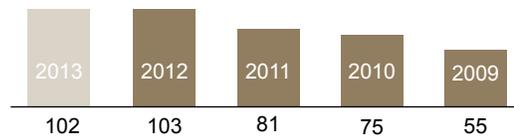


The following are examples of issues in this category:

- A worker called with concerns that she had filed her claim more than two months earlier and had not yet received a decision. A review of the file indicated there were a number of concerns with the claim. At our request, a claims adjudicator spoke with the injured worker the next day and obtained the required information so that a decision could be made on the claim.
- A worker complained to our office that he had submitted a claim more than five months earlier. He had been able to continue to work in an accommodated position with no wage loss, but he hadn't been told if the claim was accepted. This was delaying his treatment. The worker was contacted by adjudication staff. It was revealed that additional information was needed before a claim decision could be made. Within a week of our call, the appropriate information was obtained, a claim acceptance decision was made and the worker was notified.
- We received a call from a worker who felt that his permanent functional impairment (PFI) should have been assessed and had concerns that WCB had forgotten about the assessment. A review of the file indicated the worker had surgery a little over a year earlier and his Case Manager had sent the file for PFI assessment one year after the surgery. The Medical Consultant felt that the worker hadn't yet reached maximum medical improvement and suggested the assessment be completed at two years after surgery. At our suggestion, this information was relayed to the worker so he was aware of the reason for the delay and was assured that the assessment had not been forgotten.

COMMUNICATION/ SERVICE ISSUES

Workers and employers contact us when they experience communication problems that cause service issues with the WCB. Usually information needs to be gathered and exchanged. We are often able to help establish appropriate communication.



The following are examples of these issues:

- A worker called saying he disagreed with his wage rate but more importantly he wasn't sure how it was calculated. At our recommendation, a clear letter was sent to him outlining the information used to establish this wage base. Once the worker understood the information used, he was able to provide additional information about his pre-injury earnings to increase his wage rate.
- An employer was upset to be told he didn't have coverage when he had been told two weeks earlier that he did have coverage as long as he faxed in his invoices, which he did. We learned the correct information had been sent to the WCB, but because of an error, the information hadn't been received by the appropriate WCB staff member. At our request, the employer was called to clarify that his coverage was in order and to apologize for the error.
- A long time WCB client called because his monthly benefit cheque was \$146 less than expected and he had not received any information from the WCB about a change to his benefit rate. After review, we determined there were actually two issues:
 1. There had been an administrative calculation error over the last 10+ years equaling a \$136 overpayment to the worker, which was to have been forgiven.
 2. Due to a change in the worker's tax status, his monthly benefit would decrease by about \$10 per month.

Due to our recommendations, the \$136 overpayment was forgiven and that amount was paid back to the worker. He continued to disagree with the decrease due to the change in his tax status. Now that he understood why his benefit rate had decreased, he was able to proceed with the appeal option.

FPO ISSUES

In addition to responding to individual complaints or concerns, we can initiate, investigate, identify and make recommendations on systemic issues that may affect a broad group of stakeholders. In 2012 the issue of the caution designation system that the WCB uses was brought to our attention. This issue was investigated and recommendations were presented to senior management.

For the safety and security of staff and customers, the WCB developed a caution designation process and an administrative policy was developed in 2005 as per a recommendation from the FPO. The policy was updated in 2008.

The policy outlines the process to follow if the health, safety or security of a WCB staff member is threatened, the communication restrictions imposed due to safety and security concerns, and the process for the review of those restrictions.

Our investigation revealed the following:

- The list of the caution designated files was outdated.
- The policy wasn't always followed when assigning a caution designation to a particular file or customer.
- The policy wasn't always followed when managing the file after the designation was assigned.
- There was a lack of adequate oversight or review once a file had a caution designation assigned.
- The WCB was using restrictions that weren't outlined in the policy.

Once the investigation was complete, the FPO recommendations included the following:

- Review and update the policy to ensure the policy reflects the internal practices.
 - Status:** This is currently being done. We recently participated in drafting the revised policy. The revised policy has now gone to the Vice President of Operations for review.
- Ensure staff is aware of and follows the policy requirements.
 - Status:** This is an ongoing process for the WCB. This is particularly important for the Operations division, especially when reviewing the files for maintenance of or altering the ongoing caution designations.

COMPARATIVE STATISTICS

for the calendar years 2009 through 2013

Number of Complaints / Inquiries Received

	2013	2012	2011	2010	2009
Complaints received	415	484	432	425	407
Re-opened	38	47	35	33	25
Total	453	531	467	458	432

Source of Complaints / Inquiries (%)

	2013	2012	2011	2010	2009
Injured workers	85.5	88.6	88.4	93.2	92.9
Employers	14.5	10.5	10.2	5.9	6.9
Other	0.0	0.9	1.4	0.9	0.2
Total	100.0	100.0	100.0	100.0	100.0

Category of Complaints / Inquiries*

	2013	2012	2011	2010	2009
Disagree with decision	364	425	355	338	275
Information requests	133	148	128	131	126
Timeliness & process delays	79	113	81	68	65
Communications/service issues	102	103	81	75	55
FPO issues (systemic)	0	1	1	1	2
Total	678	790	646	613	523

* More than one complaint can be registered per inquiry.

Resolution (closed files)

	2013	2012	2011	2010	2009
Completed by FPO without referral	265	284	243	262	276
Called WCB for clarification	41	76	52	52	30
Referred to WCB for review	109	123	133	111	101
Total	415	483	428	425	407

Note: One file remained open at the end of 2012, and 4 files remained open at the end of 2011.

Outcome of Referrals to WCB

	2013	2012	2011	2010	2009
Decision changed	16	20	28	20	23
New action taken	84	93	92	81	74
Reviewed – no change	9	10	13	10	4
Total	109	123	133	111	101

Response Time to Close (%)

	2013	2012	2011	2010	2009
0-7 days	74.4	72.9	73.1	71.5	75.2
8-30 days	15.2	17.8	17.8	19.1	16.0
Over 30 days	10.4	9.3	9.1	9.4	8.8
Total	100.0	100.0	100.0	100.0	100.0

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