Yukon Workers' Advocate Office

Annual Report 2022

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ANNUAL REPORT OF THE WORKERS' ADVOCATE OFFICE 2022
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Our Vision and Mission

Our Vision

All injured Yukon workers receive the benefits and services to which they are rightfully entitled.

Our Mission

From early intervention and education to representation during a worker's reconsideration or appeal process, the Workers' Advocate Office (WAO) provides independent assistance to and representation for workers who have suffered a work-related injury. We seek to ensure that the needs of injured workers and their families are understood, addressed, and resolved quickly so that the medical, psychological, and financial hardships associated with workplace injuries are minimized.

Our dedicated team is committed to:

- Advocating for injured workers to ensure that they receive their entitlements under the *Workers' Safety* and *Compensation Act* and policies, and in accordance with the principles of administrative justice.
- Ensuring that workers receive high quality service (timely, fair, consistent, and communicated) from the WAO during the early intervention, reconsideration, and appeal processes.
- Ensuring that injured workers are treated with dignity and respect in their dealings with the WAO. Ensuring that all workers understand their rights and responsibilities regarding compensation in the event of workplace injury and returning to work.
- Working with the Workers' Safety and Compensation Board (WSCB) to help understand current issues and trends so that they are addressed for future clients.
- Investigating and utilizing other dispute resolution mechanisms to improve the quality of issue identification and resolution.
- Working with the WSCB, labour, and employer groups in raising the level of awareness of the reconsideration and appeal processes for workers and their families.

From the Workers' Advocate

2022 – Year at a Glance

During 2022 the Workers' Advocate Office (WAO) has adapted to challenges that we share with both the Workers' Safety and Compensation Board (WSCB) as well as our workers advocate and advisor colleagues throughout Canada. Namely, there has been an increase in the number of psychological injury claims reviewed by WAO, and new legislation and policy changes for WSCB which reflect a greater understanding and recognition of psychological injuries. The new *Workers' Safety and Compensation Act* came into force midway through the year on July 1st, 2022.

The avenue for the first level of appeal, which was previously referred to as Hearing Officer Review, is now called Reconsideration. Over the 2022 period, WAO's caseload has remained consistent as compared to past recent years. During 2022 we have had a fair amount of success in both early case resolution with WSCB and representation of clients on appeal.

> ***"New legislation and policy changes for WSCB reflects a greater understanding and recognition of psychological injuries."***

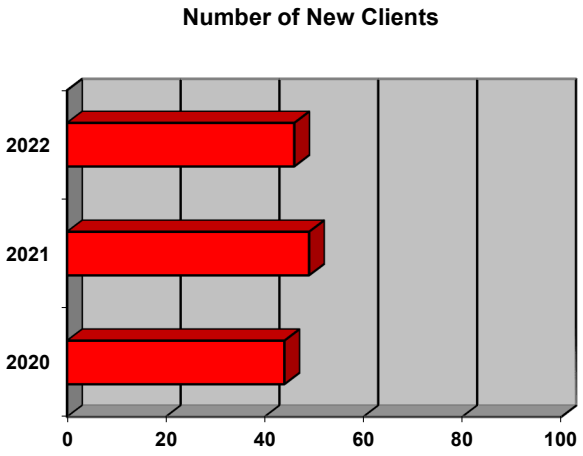
WAO has developed a new policy and procedures manual, as well as a new service commitment and standards document which is provided to clients on intake.

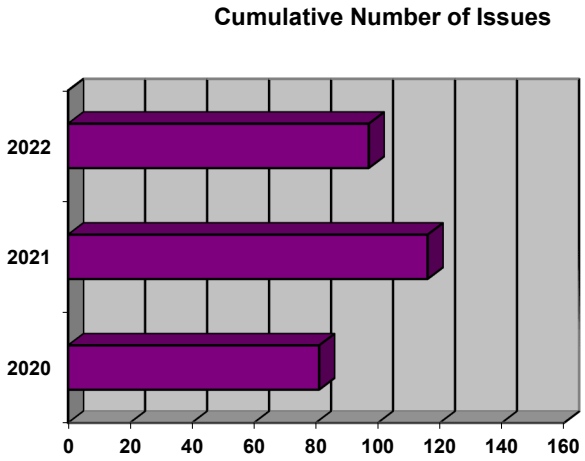
Given our role, we are positioned to take notice of both positive practices and areas that could use improvement within WSCB. Although we review only a small percentage of WCSB claim decisions, we take note and have track issues such as inadequate written reasons and policy compliance issues in adjudication. That said there are also some really great examples of compassionate service, fair practices in adjudication, and exceptional support by WSCB to their clients. We are committed to ongoing dialogue with WSCB in order to share our concerns and provide the opportunity for the board to use the information in their own management and quality assurance processes.

As of April 4, 2023 WAO will be located at 4141 C 4th Avenue. This move will take effect on April 4, 2023. During the move there will be no interruption in services, and we look forward to serving workers at our new location.

Eric Stevenson
Workers' Advocate

New Clients/Issues





What This Shows

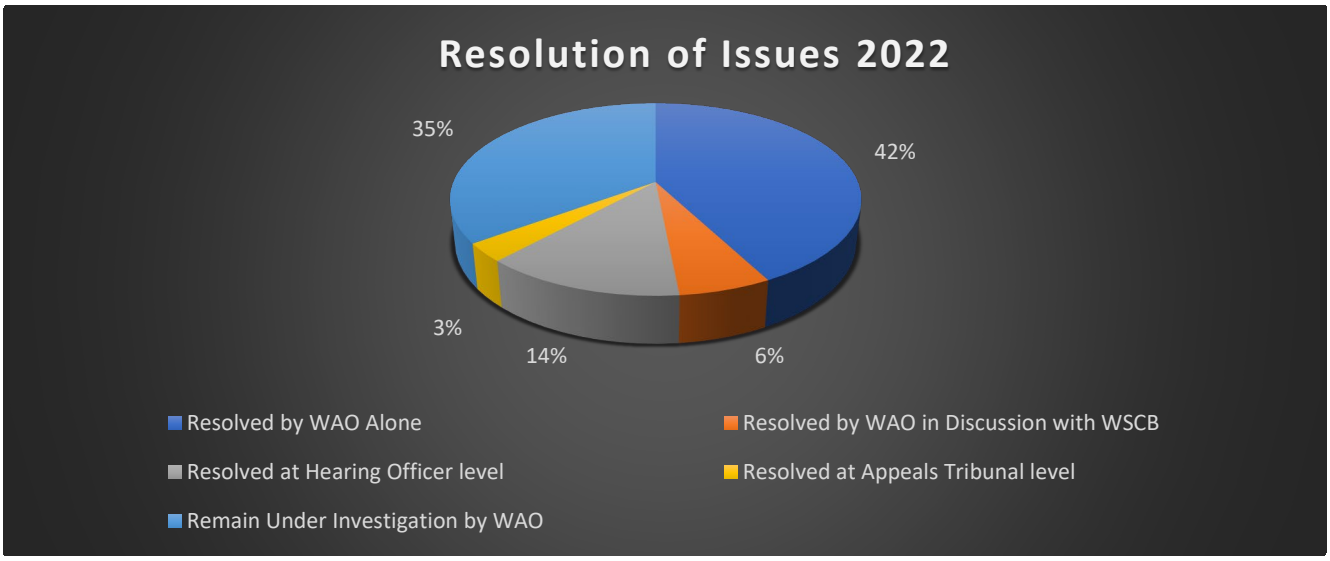
Overall, the demand for services of the Workers' Advocate Office is consistent year-over-year. In 2022, the office served 82 clients including 46 new clients along with 36 existing clients whose active files were carried forward from 2021. There were 97 issues handled over the year. In 2021 WAO served 49 new clients and 28 existing clients, with a total of 116 issues.

A client is defined as an individual who signs an authorization form requesting the Workers' Advocate investigate their concern and, if warranted, represents them in reconsideration or appeal. The office also deals with general inquiries, workers, or employers who contact us for information on WSCB processes, procedures, *the Workers' Safety and Compensation Act,* or WSCB policies. General inquiries do not always translate into new clients and their inquiries are usually handled within a few short conversations. In addition, the office responded to 17 general inquiries in 2022.

There was an increase in psychological injury claims brought to WAO for review in 2022. Given this trend WAO is taking part in training focused on enhancing our ability to provide advice and representation in this area. Psychological injuries are often a subject of discussion with our colleagues within the Canadian Association of Workers' Advocates and Advisors (CAWAA). These discussions have led to WAO taking part in training with one of our fellow offices within CAWAA. WAO continues to enhance our tracking of emerging issues so that we can better understand and adapt to workers unique circumstances.

Resolution of Issues

It is important to note that the number of clients is not completely reflective of the number of issues reviewed by the Workers' Advocate Office. An example of this is representation we provided for one client on three different issues. The graph below represents a summary of our work on resolution of issues in 2022:



Issues WAO Reviews on Behalf of Clients Include:

Overall File and Decision Review
Acceptance - Physical Injury
Acceptance – Gradual Onset Musculoskeletal Disorder (GOMD)
Acceptance - Psychological Injury
Acceptance - Occupational Disease
Acceptance - Covid 19
Ongoing Entitlement
Wage Loss Review
Return to Work Accommodation
Worsening Injury
Short Term to Long Term Wage Loss Review
Permanent Impairment Review
Annuity Review
Deeming
Fraud Investigation
Employer Appeal

There Were a Total of 97 Issues Handled in 2022:

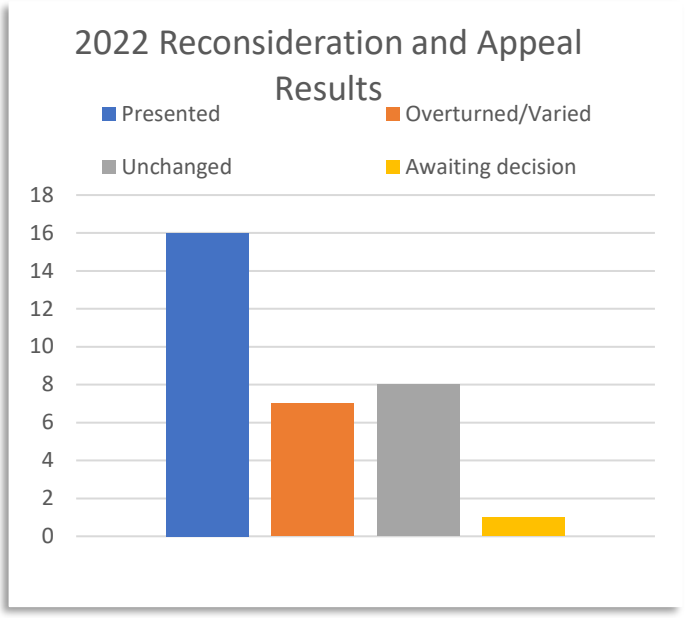
42% = 41 issues were resolved by WAO alone
6% = 6 issues were resolved by WAO with WSCB
14% = 13 issues were presented by WAO to the Hearing Officer
3% = 3 issues were presented by WAO to the Appeals Tribunal
35% = 34 issues remained under investigation by the WAO

Reviews and Appeals

Reflecting changes within the *Workers' Safety and Compensation Act* for claims after July 1st, 2022, a worker can apply for reconsideration (appeal) or to the tribunal up to 12 months after the decision. The previous *Workers' Compensation Act* stated that a worker had 24 months to appeal a decision on their claim. An appeal can be in the form of a documentary review or an oral hearing. An employer can also appeal a decision. The Workers' Safety Compensation Appeal Tribunal (WSCAT) is the final level of appeal available to workers through the *Workers' Safety and Compensation Act*.

The WAO can represent workers in reviews before a Reconsideration Officer, and at the WSCAT.

An analysis of WAO appeals demonstrates that 44% (7 of 16) were overturned in favor of the worker. Approximately 50% (8 of 16) were upheld, with one outstanding at year-end.



- Reviews and Appeals presented by the WAO: **16**
- Decision overturned or changed in the worker's favor: **7**
- Decision remained unchanged after reconsideration or appeal: **8**
- Awaiting decision as of December 31, 2022: **1**

Financials

The Workers' Advocate Office is funded annually by the Workers' Safety and Compensation Board through employer contributions as outlined in the *Workers' Safety and Compensation Act*. The financial operations for the 2022 year were as follows:

	Budget	Actual Expenditures
Personnel	**$330,324**	**$283,668**
Office and Operations	**$50,874**	**$39,593**
Total	**$381,198**	**$323,261**

The figures above are adjusted to account for rounding and are based upon the calendar year, the fiscal year of the Workers' Safety and Compensation Board. The administration fee of $38,120 paid to the Department of Justice is not included in the budgeted amount or the actual expenditures.

The Budget amount for 2023, presented and approved by the Workers' Safety and Compensation Board of Directors is **$433,898**. This increase from last year is due to moving costs, a new copier and printer, and flexible case management capacity.

Yukon Workers' Advocate Office (WAO)

Service Commitment and Standards

PURPOSE

This service commitment sets out the standards you can expect from WAO, and what we expect from you. This commitment supports WAO's policy, and procedures, public sector ethics, cross jurisdictional best practices and reflects the governing legislation.

OUR COMMITMENT TO WORKERS

WAO commits to providing workers with a fair, client focused experience while adhering to the core values of our work and expectations of the public.

What You Can Expect from Us

- Provide a safe and respectful environment for you to share your perspective.
- Act honestly and in good faith with you, YWSCB, WCAT and other relevant parties.
- If applicable, guide you through the appeal processes.
- Provide clear and timely advice.
- Respect your privacy, subject to the applicable laws.
- Maintain independence from YWSCB and the WCAT.
- Manage actual or perceived conflicts of interest.
- Withdraw from serving you if you ask us to help you break the law, demonstrate abusive or disrespectful behaviour, or repeatedly fail to follow this Service Commitment.
- Provide a fair, consistent, and transparent process for filing a complaint about us.

What We Cannot Do for You

- Guarantee an outcome from YWSCB or WCAT.
- Represent you in a court of law.
- Represent a worker seeking to overturn another worker's claim.
- Represent you if there is a lack of evidence supporting your claim.
- Represent a client who already has a formal representative other than WAO.
- Represent you if you take action(s) that are not consistent with our advice.
- Break the law, further unethical or frivolous conduct, or abuse the workers' compensation system.

What We Expect from You

- **Commitment:** Review this Service Commitment to understand what is expected from you.
- **Respect:** Treat us with respect, including in emails, in letters, and on phone calls.
- **Transparency:** Tell the truth and not withhold information from us.
- **Openness:** Provide us the information that is requested by us or related to your claim file.
- **Partnership:** When we need your help to obtain information about your claim, help us get that information.
- **Communication:** Timely responses to our phone calls, email messages, or letters to help meet deadlines.