

# Fair Practice **NEWS**

## Commissioner's Message

### Three important achievements for the Fair Practices Commission in 2006–07

In September, the Fair Practices Commission released its annual report for the period from April 1, 2006 to March 31, 2007. The full report, in English and French, is available on the Commission's web site. Please contact our office if you would like a printed copy.

As we noted in the report, we had three important achievements this year. The first was to work closely with the newly-established Program Development Division to identify and address systemic issues in the operations side of the WSIB. The report sets out the significant number of process changes that are aimed at reducing delays, improving the decision-making process and improving communications. These changes show the real commitment of the WSIB to addressing system-wide issues and will have a positive effect on many workers, employers and service providers.

The second achievement was our investigation into occupational disease process issues. As

a result of the investigation's findings, I made 10 recommendations that the WSIB acted on immediately. Consequently, I was able to report to the WSIB Board of Directors that the issues identified in the investigation have been satisfactorily addressed. A summary of the investigation is included in the annual report.

Our third important achievement was reducing by half the time we take in handling individual complaints. Our staff have worked diligently to reach this goal. Intake staff resolve 92 per cent of all calls the same day. The average age of cases closed at the specialist level is 9.6 days, compared with 16.2 days last year.

As we enter our fifth year of operation, we will be conducting open houses throughout Ontario to talk to you about our work and to hear your ideas about how we can improve our services. Please let us know if you want the Commission to visit your community.

*Laura Bradbury*

**FAIR  
PRACTICES  
COMMISSION**

an independent office working to ensure fair practices  
at the Workplace Safety and Insurance Board of Ontario

**Annual Report  
for 2006–2007**

**FPC  
CPÉ**

Fair Practices  
Commission  
Commission des  
pratiques équitables

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**BY THE NUMBERS****Activity from January 1 to September 30, 2007**

The Fair Practices Commission received 1361 complaints from January 1 to September 30, 2007, a decrease of 8.1 per cent from the same period last year when there were 1480 complaints.

The Commission sees the decrease as a reflection of our ongoing work with the WSIB Program Development Division to address systemic concerns.

Specialists inquired into 27 per cent of the complaints within our mandate. This is an increase from 22 per cent over the same period last year.

Workers, their representatives and family members continue to bring most of the complaints (92 per cent).

Delay continues to be the most serious issue for complainants. Concerns about delays increased to 41 per cent of all incoming complaints in this period, up from 37 per cent last year.

The top three delay issues are in

- adjudication
- return phone calls
- receiving benefit payments.

**Complaint Resolution Outcomes**

Advice given to complainant	237
Referrals to WSIB	
Mandate	402
Non-mandate	106
Inquiries made (including systemic issues)	
Action required by WSIB, complaint resolved	172
No action required by WSIB	40
File reviewed, no action required by WSIB	25
No current fairness issue identified	9
Right of appeal exists (non-mandate)	178
Issue under WSIB review	27
Issue under WSIB appeal (non-mandate)	18

*The above account for 90% of cases closed between January 1 and September 30, 2007.*

Fair Practice News is published by the Fair Practices Commission, an independent office working to ensure fair practices at the Workplace Safety and Insurance Board of Ontario.

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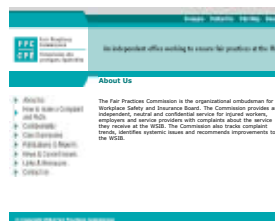
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## Available on the web site

### Fair Practices Commission



- guide and form for submitting a complaint
- case summaries
- annual report
- newsletters
- links and resources

**[www.fairpractices.on.ca](http://www.fairpractices.on.ca)**

## SYSTEMIC ISSUES

### Steps taken to improve telephone service

Commission staff met in July with the director of the WSIB call centre about their plans for a new system for handling telephone calls.

The new system provides better service to callers in two ways. First, calls are answered from a queue, ensuring faster response time. Second, the call centre now has access to imaged claim files to assist in answering questions. This last improvement followed the commissioner's recommendation.

These measures should reduce the

number of telephone calls to adjudicators and improve overall satisfaction with the WSIB's telephone response.

The Commission conducted an education session with new call centre staff on October 2. The session focused on fairness issues that may arise for staff, based on the Commission's experience.

### New process for files returned by appeals resolution officers to Operations

The Commission raised the issue of delays in cases that appeals officers

return to Operations. About 600 cases are returned to Operations each year (out of 10,000 appeals).

The concern was that the appeals process cannot continue until Operations has completed the required action. The Program Development Division found that no protocols existed for staff to follow up on these returned cases and, as a result, some cases were unduly delayed.

A new process was introduced in May 2007 and will be reviewed in November 2007.

## CASE SUMMARIES

### Decision-making process: Labour Market Re-Entry Program

A worker was in the second year of a four-year Labour Market Re-Entry (LMR) program when a newly assigned adjudicator calculated his long term rate earnings. Since the worker's recalculated earnings were significantly less than what the LMR plan was based on, the adjudicator determined the WSIB could no longer sponsor that LMR program and ordered the service provider to develop a new plan based on the recalculation.

The worker was upset and complained to the Commission about the significant economic and emotional impact of the decision and about what he perceived as an unfair process. The Commission could not look into the correctness of the WSIB decision to change the worker's LMR plan;

however, the Commission contacted the manager to inquire about the decision-making process. The manager reviewed the process with the adjudicator and collected additional information. The worker's LMR program was reinstated after the worker and the accident employer provided additional earnings information.

The manager reported that since this case came to their attention a new protocol has been implemented to ensure that the long-term rate is calculated and confirmed prior to developing an LMR plan.

### Delay addressed

A worker's representative contacted the Commission about the WSIB's delay in deciding whether an injured worker was entitled to benefits for her psychological disability. The worker's representative was concerned that her client's condition was deteriorating

rapidly and asked the Commission for assistance.

The Commission found that the representative had delayed in providing psychological information in support of the worker's claim. However, there was also a delay by the WSIB in obtaining a psychological consultation on the issue of work-relatedness once the representative provided the reports. As well, there was a delay in making a decision once the consultation report was received.

The WSIB manager responded to the Commission's inquiry by arranging a case conference for the next day. The conference included the manager, the medical consultant, the nurse case manager and the adjudicator. They reviewed all the medical information on file and decided to allow the worker's claim for psychological disability.

*more on page 4*

## 12 'fairness' sessions for WSIB staff

The Commission conducts Fairness Awareness education sessions for new WSIB decision-making staff and for staff who have regular contact with workers and employers.

The sessions focus attention on potential fairness issues and identify best practices for resolving them.

Commission specialists are delivering 12 sessions between August and December 2007 for new claims adjudicators, new call centre staff and for WSIB investigators and their managers.

The feedback from one session included this comment: "It's very poignant to point out that we are responsible for people's livelihood—not only money but also their self-esteem."

The Commission also met with Learning and Development staff to provide input into the development of the WSIB's revamped training programs. As a result, fairness principles are now woven into the curriculum.

## CASE SUMMARIES *continued*

### Communication: Written explanation to an employer

The WSIB directed an employer to submit an outstanding payment on an account balance or they would take action to collect the amount owing.

The employer wrote to the WSIB requesting an explanation of the calculation as the company's records did not show an amount owing.

The WSIB sent the employer's request to the accounts manager who called the employer to explain the outstanding balance. The employer continued to ask for an explanation in writing as he could not understand the account manager's reasoning.

The employer called the Commission for assistance after waiting several months for a response.

The Commission made inquiries with the accounts manager and the manager about the employer's request for a written explanation.

The manager undertook a complete review of the account. The review showed an administrative error

in the WSIB's calculations. As a result, the manager decided to remove the reconciliation interest and late payment charges which had accrued since the error occurred. The manager sent a detailed letter to the employer explaining the steps taken to review the account, the amount still owing and the amount being credited. The manager also apologized for any inconvenience and confusion the WSIB may have caused the employer.

Now that the employer has received an explanation in writing, the company can decide whether to appeal the decision.

**Call us if you would like us to meet with your group or community.**

**416-603-3010  
1-866-258-43830  
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## Users' Comments

**"I don't know where to start to thank you for all your help. You've been great."**

– Injured worker

**"We just wanted to thank you for your assistance once again. I received a call from WSIB today to say that the claim had been decided."**

– Worker's representative

**"You are the office that has really helped me."**

– Injured worker

**"I feel the FPC is compassionate and tries to ensure people are treated fairly."**

– Injured worker

**"Thank you for your time and expertise.... you contributed so much to our event."**

– Outreach session