

O W A

Office of the Worker Adviser

Helping Injured workers

B C T

Bureau des conseillers des travailleurs

Au service des travailleurs blessés



About the Office of the Worker Adviser



OWA's services and partnerships in
support of vulnerable workers

by Alec Farquhar, OWA Director

February 18, 2014

Areas to be covered

- OWA's mandate and services
 - WSIB
 - H&S reprisal complaints
- Funding, budget and resources
- Partnerships to help injured workers, occupational disease victims and their families

Brief History of OWA

1980

- Weiler Report recommends creation of arm's length OWA at Ministry of Labour

1985

- OWA created as branch of MOL
- Part of Bill 101 reforms, including independent appeals tribunal (WCAT, now WSIAT) and Office of the Employer Adviser

1992

- OWA becomes an agency of the MOL
- Arm's length relationship with MOL and WSIB

1998

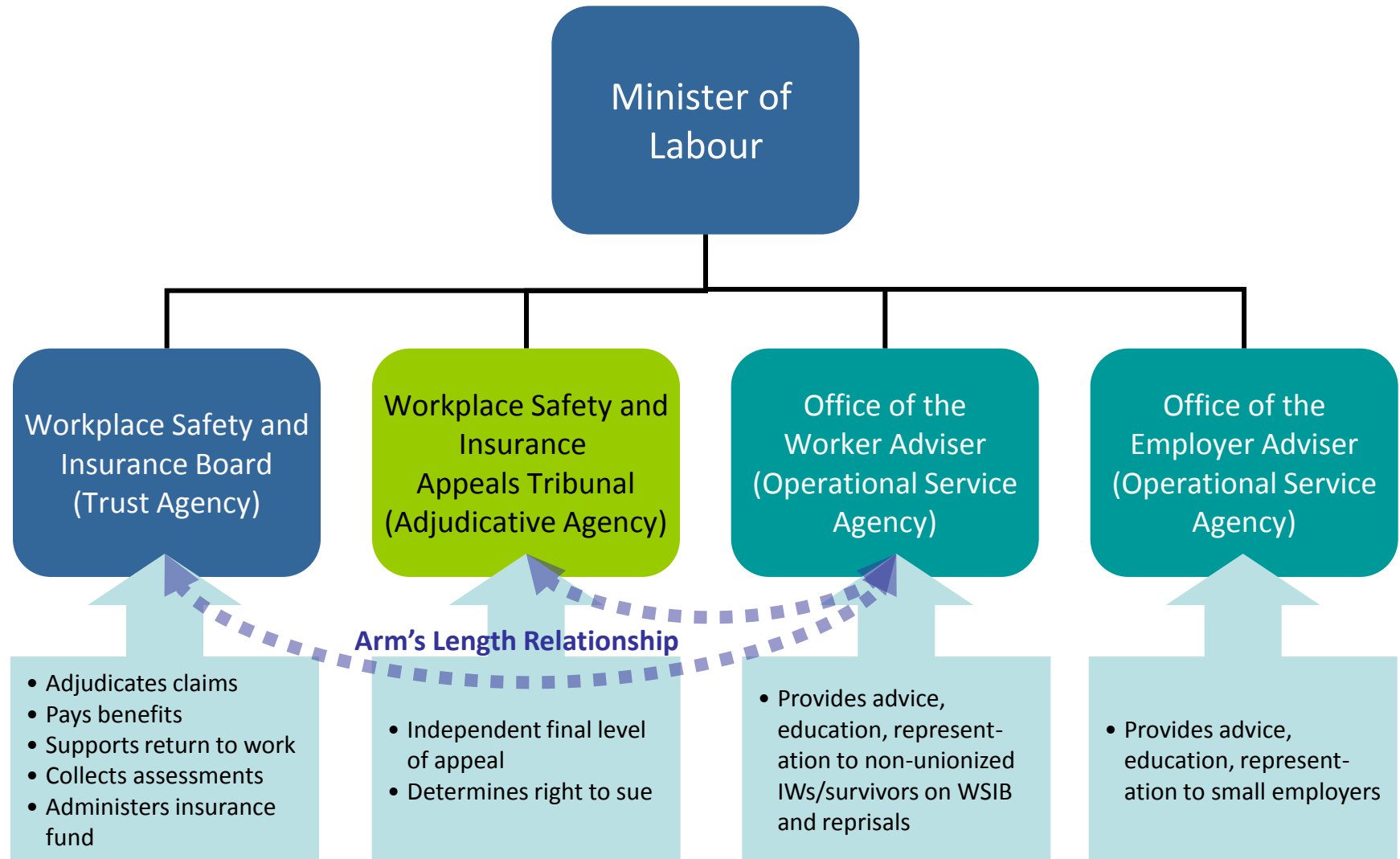
- Statutory mandate restricted to non-union workers and their survivors

2012

- OWA given mandate for H&S reprisal complaints

WSIB Mandate:

Agencies in Workplace Insurance System



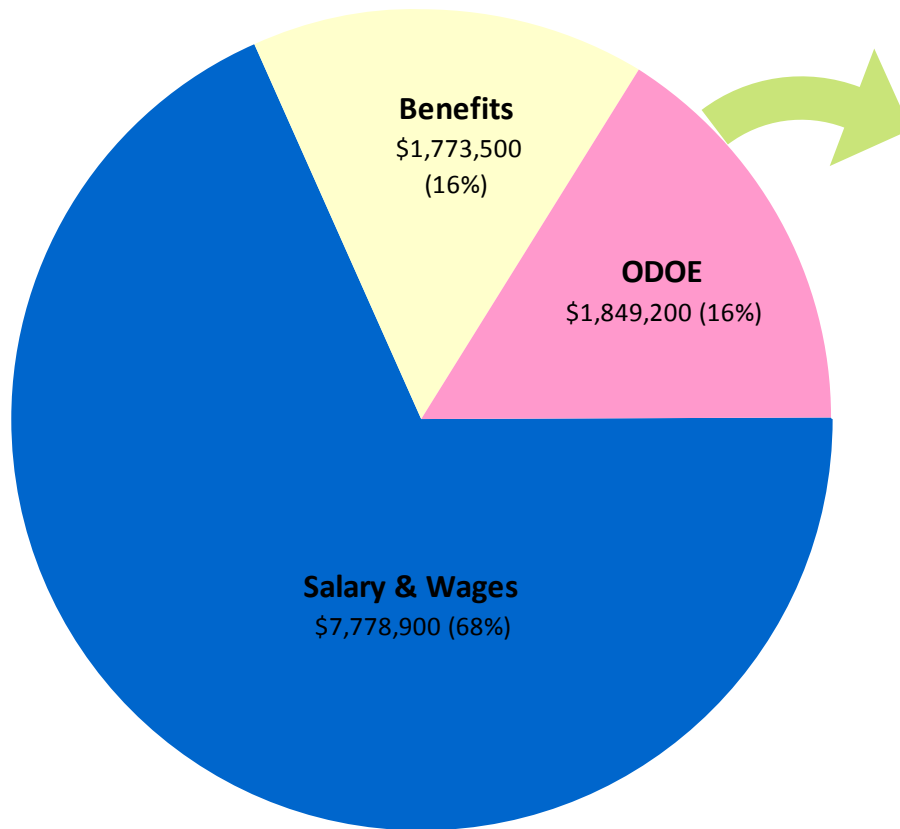
OWA Funding

Workplace Safety and Insurance Act, 1997, s. 176(3):

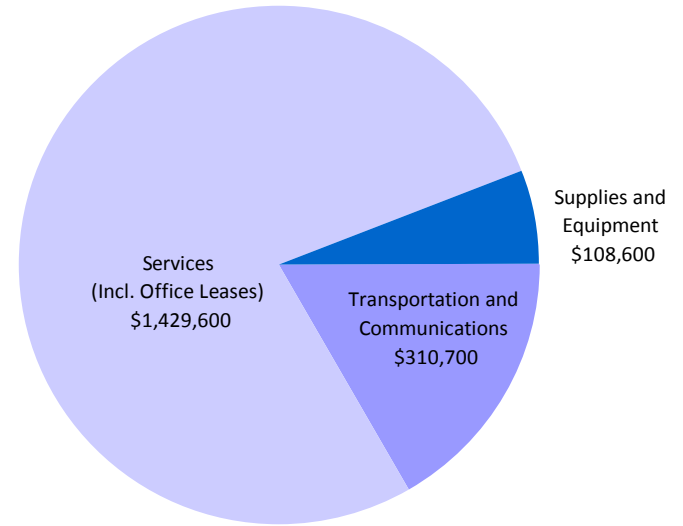
176. Costs — (3) The Minister shall determine the amount of the costs that may be incurred by each office in performing its functions and the Board shall pay them.

- OWA budget set by Ministry of Labour through Ontario government process
- Costs of operating the agency 100 per cent recovered from WSIB
- Paid out of WSIB insurance fund, which is funded exclusively by employers

OWA Budget 2013-14



TOTAL BUDGET



Other Direct Operating Expenses (ODOE)

Total Budget for 2013-14

\$11,407,600

Note: \$810,000 increase to base budget in 2007-08

Staff Complement

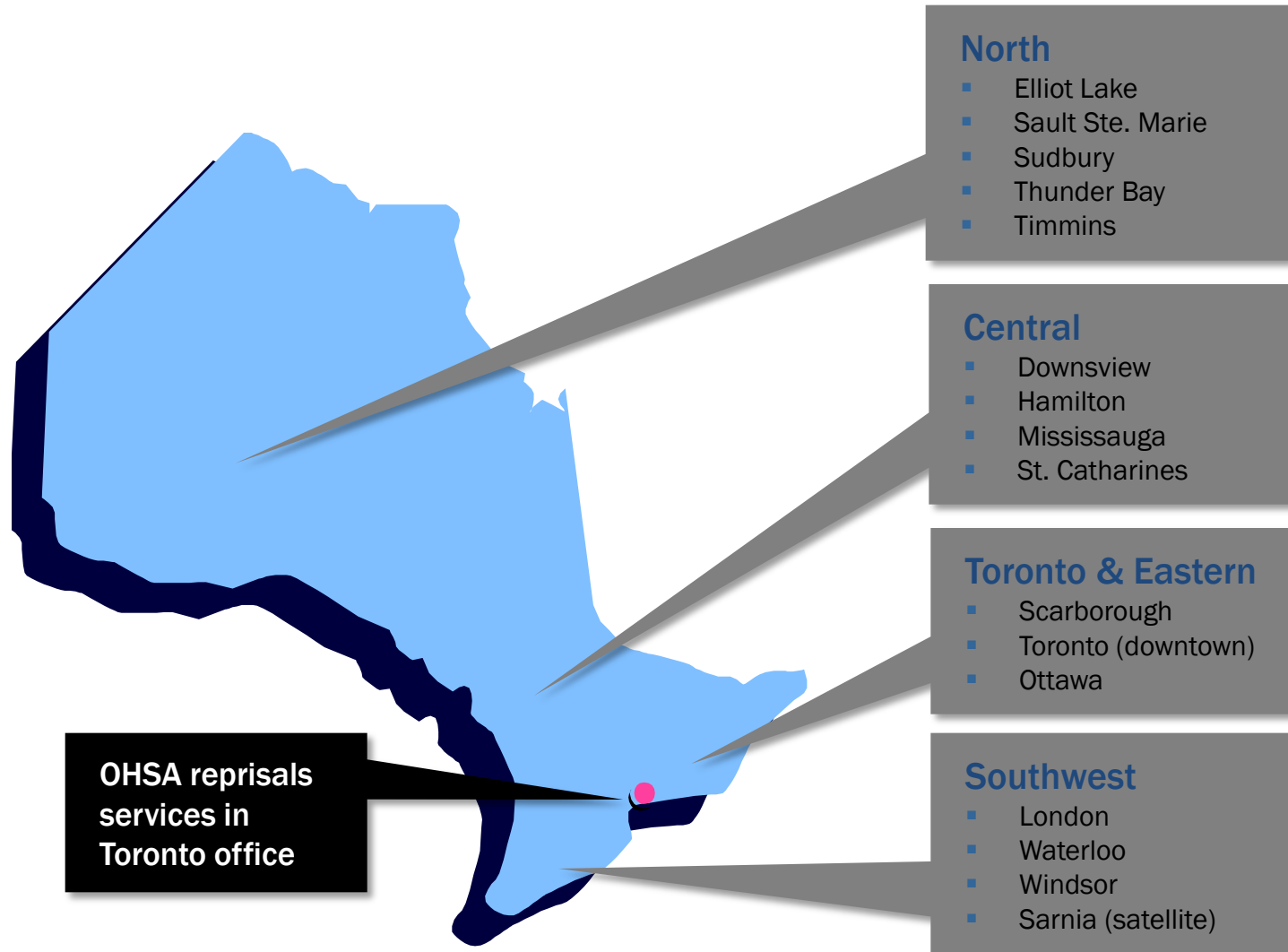
OWA Staffing

97.6

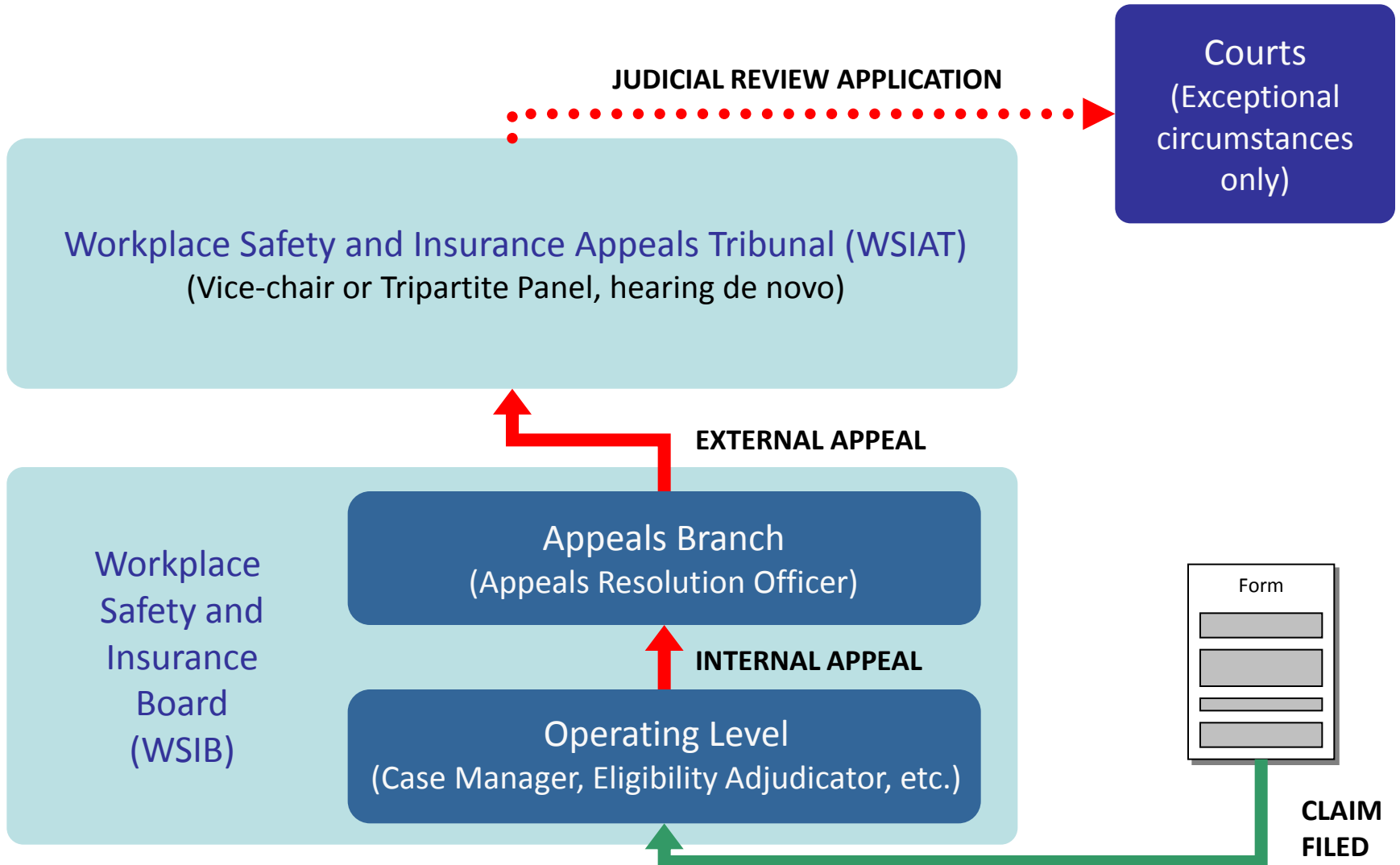
Full Time
Equivalents
(FTE)*

Position	FTEs
Director	1.0
Regional Manager	4.0
Manager Agency Administration	1.0
General Counsel, Manager CCSU	1.0
Worker Adviser	54.5
Client Service Representative	23.1
Regional Service Coordinator	4.0
Legislative Interpretation Specialist	4.0
Worker Representative	2.0
Other	3.0
TOTAL (*Approved level – 93.6)	97.6

OWA Offices



Adjudication of Claims



“Non-union” Criteria

- Intent of legislation that unionized workers obtain assistance from their unions
- OWA considers worker unionized if
 1. Currently bargaining unit member,
 2. In unionized workplace, and
 3. Injured in that workplace
- If worker is unionized, OWA will
 - Provide information about time limits
 - Refer back to union for help
- To ensure that no one falls through the cracks, OWA can assist workers who have no current connection with their former unionized workplace – e.g., workplace is closed; worker is retired
- If client unsure of status, OWA will make determination

Fulfilling Our WSIB and H&S Mandate

Education

- Public information materials on website
- Community information sessions
- Conferences and CLE events

Advice

- Telephone and in-person summary advice
- Public information materials on website
- Forms and information by mail

Representation

- Representation in WSIB and WSIAT appeals
- Return to work interventions
- Alternative dispute resolution
- Oral and written hearings at OLRB for reprisal cases
- Systemic issues and policy

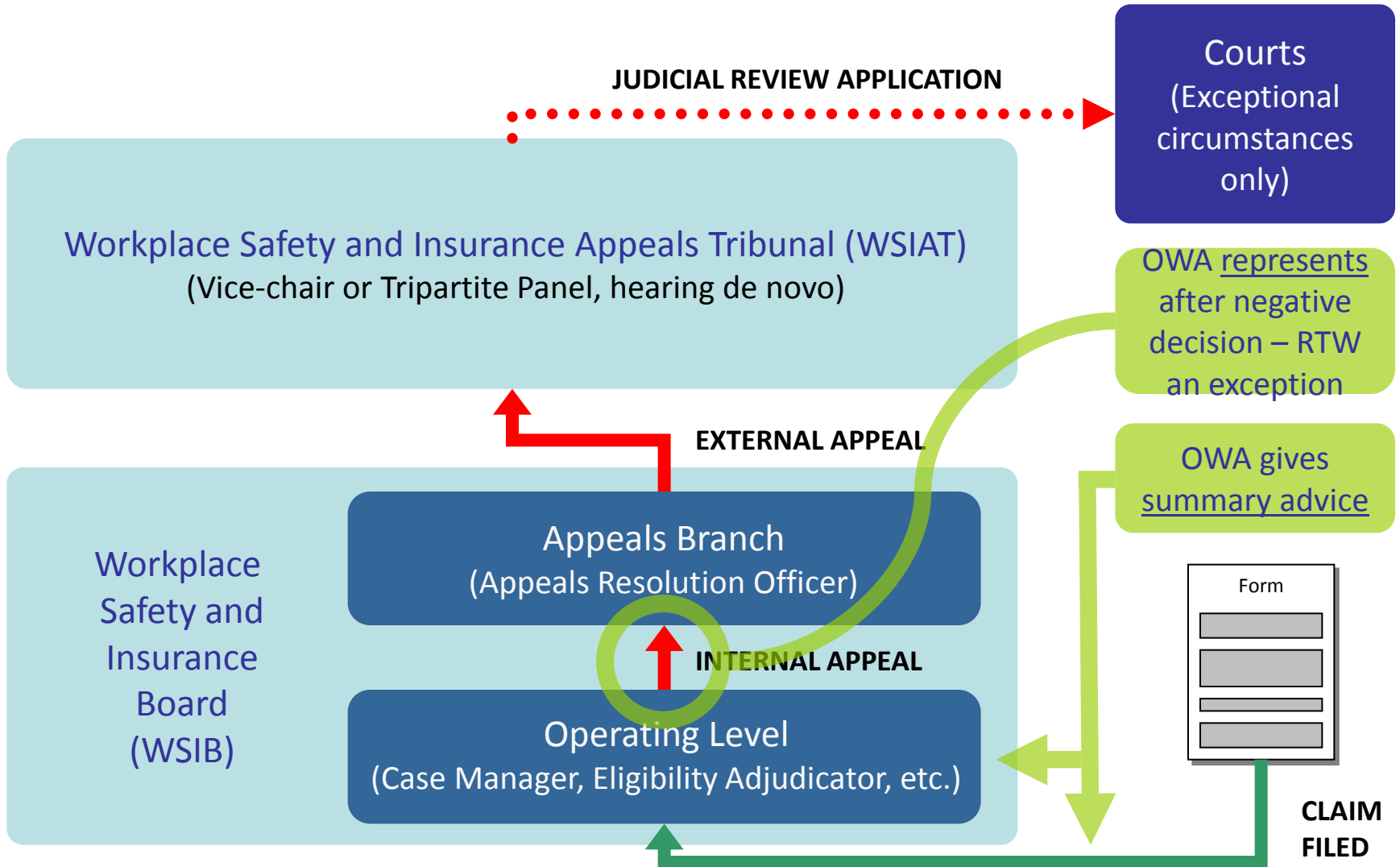
Free and Confidential Service

- OWA services are entirely free of charge
 - No fees, expenses or disbursements
 - OWA can pay for additional medical reports if needed for the case
- Services are completely confidential
 - OWA is covered by Ontario government privacy laws (FIPPA)
 - As an agency, OWA operates at arm's length from MOL and WSIB. WSIB does not have access to information in client's OWA files

Requirements for OWA Representation

<input checked="" type="checkbox"/>	Worker not member of trade union	Non-union mandate
<input checked="" type="checkbox"/>	Worker has negative decision	
<input checked="" type="checkbox"/>	Worker seeking representation on issue on which OWA provides representation	Case selection
<input checked="" type="checkbox"/>	Claim has “reasonable chance of success” on appeal	Case review (merit)
<input checked="" type="checkbox"/>	Sufficient evidence to support appeal exists or is reasonably procurable	Case review (merit)

Representation – Negative Decision



Selected Out Issues

- OWA will represent on most issues
- Narrow set of less serious issues where representation is not offered
- Can sometimes represent on selected out issue if the issue is combined with selected in issue

Issues Where OWA Does Not Represent

- Standalone NEL increases
- Commutations
- Straightforward SIEF issues
- Issues where benefits payable less than four weeks of LOE at minimum wage
- WSIB security letters

Case Review

- Worker seeking representation must provide current copy of WSIB claim file
- Reviewed by worker adviser
- Case review objective: to determine if claim is meritorious
 - Does the claim have a “reasonable chance of success” in the appeals system?
 - Is there sufficient evidence to support the appeal or is such evidence reasonably procurable?
- File may be opened to gather additional evidence
- Decision communicated to worker within 30 days

Client Service Representative

- First point of contact with the public
- Cannot provide legal advice
- Provide information on
 - General workplace insurance matters
 - How to appeal
 - How to get a copy of WSIB file for review
- Screen clients for eligibility (e.g., non-union, issue under appeal)
- Make referrals to other agencies, programs
- Provide free information materials (e.g. fact sheets)
- Refer workers to OWA website
- Provide file updates and other information to existing clients
- Support the work of worker advisers
- Located in every office and every region (not a call centre)



Regional Service Coordinator

One Regional Service Coordinator for each region:

- Coordinate front line service delivery
- Assist manager with HR administrative services
- Track and report regional activities to manager
- Support regional staff in compliance with OPS and OWA policies and procedures

Worker Adviser

- Provide advice and information to workers
- Do case reviews to determine whether OWA can represent
- Intervene with WSIB decision makers to resolve disputes without hearing
- Gather evidence, including medical evidence and opinions
- Represent workers at all levels of appeal
 - WSIB
 - WSIAT
- Contribute to community and system partnerships
- Conduct outreach and public education



Central Client Services Unit (CCSU)

- Provide internal legal advice and assistance to OWA managers and staff
- Provide advice and representation services for OWA clients in legally complex and/or precedent setting cases
- Participate in system improvement initiatives
- Develop educational sessions and resources for OWA staff and other worker-side representatives
- Develop educational materials for the public
- Located at OWA's Provincial Office

Advice and Representation Statistics

April 1, 2012 to March 31, 2013

Number of new requests for service	17,105
------------------------------------	--------

Number of cases reviewed	3,179
--------------------------	-------

<i>Number and %selected for representation</i>	<i>1,658</i>
------------------------------------------------	--------------

	52%
--	-----

Number of WSIB and WSIAT decisions obtained by OWA staff	3,532
-------------------------------------------------------------	-------

<i>Number of issues in those decisions</i>	<i>5,854</i>
--------------------------------------------	--------------

Current Trends

Percentage of allowed issues in OWA decisions at all levels of the Board appears to be decreasing; Tribunal steady compared to 2009/10 after recent increase:

% of issues allowed or allowed in part	2009-10	2010-11	2011-12	2012-13	% change 09-10 to 12-13
Operating Level	38%	34%	26%	25%	- 13%
Appeals Branch	51%	52%	47%	39%	-12%
WSIAT	60%	64%	67%	58%	-2%

Current Trends - 2

Timeliness of OWA service

	07-08	08-09	09-10	10-11	11-12	12-13
# of files on the waiting list at end of the review period	57	29	76	115	110	121
# of representation files open at end of the review period.	3349	3478	3527	3602	3756	3709
Average age of waiting list (in months)	4.88	1.1	2.25	1.48	1.84	2.67

Working together to help injured workers, occupational disease victims and families

- **Overall**, OWA works with WSIB, WSIAT, OEA and MOL – and our many community partners - to ensure that the system is fair and responsive for injured workers and survivors and in maximum cooperation with employers
- **Improving initial adjudication and dispute resolution**
 - Working with WSIB on Adjudication Best Practices Working Groups
 - Working on improved approaches to dispute resolution at the WSIB operating and appeals levels. OWA Director co-leading ADR partnership with employers through the Ontario Bar Association.
- **Safe and sustainable return to work**
 - Effective cooperation of employers, workers and WSIB will bring major human and economic benefits. OWA is extensively involved with RTW, especially RTW dispute resolution and joint initiatives with employers.
- **Protecting vulnerable workers**
 - OWA works with partners to help ensure that vulnerable workers (especially young and new immigrant workers) have the support to enforce their rights under the WSIA and OHSA

Working together - 2

- FAIR (Fatal Injury - Immediate Response) partnership (OWA, WSIB, MOL, Threads of Life) to support families after traumatic fatalities, to ensure that there is a coordinated response by all system partners.
- Workers in crisis: OWA, WSIB, WSIAT protocol and collaboration to respond to workers who may pose a threat of harm to themselves and others and to protect them, their families and system staff.
- Assist MPPs and their staff
 - Referral and update protocol
 - Ongoing information and support to constituency office staff
 - Credit in OWA waiting list time for time spent by constituency staff helping the injured worker

Working together - 3

- **Partnerships around occupational disease clusters:**
 - There are 500+ new asbestos related cancers annually in Ontario; along with other occupational cancers. Some cases appear in local clusters. Examples: Sarnia (mainly asbestos), Peterborough (multiple exposures), Kitchener-Waterloo (rubber workers). Partners include:
 - Occupational disease victims and their families
 - WSIB
 - Occupational Health Clinics for Ontario Workers
 - Unions
 - Community groups
 - Health care providers

Working together - 4

- **Improving understanding and participation of health care providers in workers' compensation claims and return to work**
 - This is a major challenge in many parts of the province
 - Many health care providers don't understand the specific needs of our workers' compensation system; including the tough issues that arise when a health condition may be caused by two or more contributing factors
 - OWA playing a major role in joint employer/worker initiative by Ontario Bar Association to improve workplace party engagement with health care providers

Working together – 5

- **Helping injured workers navigate disability programs**
 - Many injured workers access disability programs other than WSIB, especially Canada Pension Plan – Disability, EI sick benefits, Ontario Disability Support Program. Sometimes there are adjudication delays or disputes, with the worker bouncing around among programs.
 - This can sometimes involve situations of extreme financial need and psychological impact.
 - OWA works across the province on effective referral and problem solving with the other disability programs
 - OWA is spearheading an initiative to improve provincial level collaboration. Also promoting engagement with the new Centre for Research into Work Disability Policy.

Working together – 6

- Research partnerships
 - Particularly over the past decade, OWA has entered into more and more research partnerships. This includes:
 - Working with the IWH/RAACWI on a number of fronts in its innovative work on the consequences of work injuries
 - An active role supporting stakeholder and champion engagement for IWH/CRWDP
 - Work with OCRC and CRE-OD on improving recognition of asbestos related lung cancer.
 - Extensive partnerships with CRE-MSD around work relatedness of MSDs

Important progress at WSIB

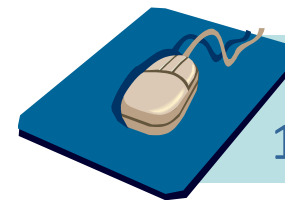
- **Irrebuttable presumption for mesothelioma (1993) and cooperation on occupational disease clusters**
- **Bringing labour market re-entry back within WSIB**
- **WSIB Stigma Initiative**
- **Coverage to independent operators in construction**
- **Using an independent third party for benefits policy consultation**
- **Decision to change appeals system approach regarding “downside risk”**

OWA Website

- English and French
- Public information materials
 - Fact sheets
 - Introductory fact sheet in 21 languages
 - FAQs
 - Self-help kits
 - Glossary
 - Links to other resources
- Office locations, phone numbers
- Summaries of OWA cases
- OWA clinics and events
- Questions via e-mail



www.owa.gov.on.ca



Hits per month
180,000–260,000

Contact Information

Alec Farquhar

Director

Office of the Worker Adviser



123 Edward Street, Suite 1300

Toronto, Ontario

M5G 1E2



416-326-9495



alec.farquhar@ontario.ca