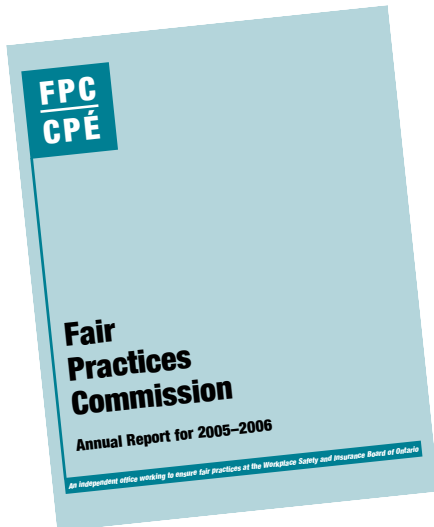


# Fair Practice **NEWS**

*Commissioner's Message*

## Commission releases 2<sup>nd</sup> Annual Report



The Fair Practices Commission released its second public annual report on August 18, 2006. The report covers the fiscal year from April 1, 2005 to March 31, 2006.

As I wrote in the report, the Commission's arm's-length relationship with the WSIB, and its impartial per-

spective, presents a unique opportunity to identify systemic concerns and recommend solutions.

Systemic issues the Commission addressed in the reporting year:

- consistent decision making in the final 72-month loss-of-earning review
- notice to older survivors about reduction in benefits
- earnings of injured young workers
- faster decision making in traumatic mental stress cases
- establishment of guidelines for the appeals officers to consider in retroactive experience rating claims
- access to worker files by transfer-of-cost employers.

Several of these have been long standing issues in the worker and employer communities. Their resolution shows the Commission's value in assisting the WSIB to improve the fairness and equity of its services.

The Commission distributed 515 copies of the report: 300 to external stakeholders, 102 to MPPs and 113 to WSIB staff and the WSIB information centre.

The report, in English and French, is available on the Commission's web site. It is also available through CONNEX for all WSIB staff.

The report has been well received by the WSIB and stakeholders. I welcome your feedback too.

*Laura Bradbury*

123 Front Street West  
Toronto ON M5J 2M2

## BY THE NUMBERS

### Activity from January 1 to September 30, 2006

The Fair Practices Commission received 1480 complaints from January 1 to September 30, a 30 per cent increase over the same period last year when there were 1143 complaints.

The Commission now receives 44 complaints a week on average, compared with 32 per week a year ago.

Specialists inquired into 22 per cent of the complaints within our mandate. As before, most complaints (91 per cent) came from workers, their representatives and family members.

Average age for all cases at closing was 2.9 days.

If a case merited the attention of a specialist, the average age at its closing was 9.1 days.

Delay continues to be the most serious issue, accounting for 37 per cent of all incoming complaints.

The top three delay issues are now in:

- making initial entitlement decisions
- returning telephone calls
- reimbursing expense payments.

Many of the complaints are resolved individually but some complaints show us that there are broader, system-wide issues.

### Complaint Resolution Outcomes

Advice given to complainant	230
Referrals to WSIB	
Mandate	478
Non-mandate	131
Inquiries made (including systemic issues)	
Action required by WSIB, complaint resolved	197
No action required	29
File reviewed, no action required	20
No current fairness issue identified	22
Right of appeal exists (non-mandate)	197
Issue under WSIB review	18
Issue under WSIB appeal (non-mandate)	18

*The above account for 91% of cases closed between January 1 and September 30, 2006. The other 9% of complaints are under WSIAT appeal, or not about the WSIB, or were abandoned by the complainant.*

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

Fair Practices Commission  
123 Front Street West  
Toronto ON  
M5J 2M2

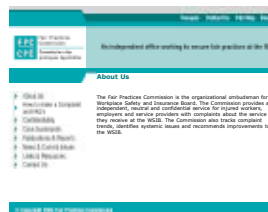
Phone: 416-603-3010 or  
1-866-258-4383

TTY: 416-603-3022 or  
1-866-680-2035

Fax: 416-603-3021 or  
1-866-545-5357

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

## Available on the web site Fair Practices Commission



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

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

## SYSTEMIC ISSUES RESOLVED

### Surveys added at Regional Evaluation Centres

A Commission specialist met with the vice-president of Health Services on April 13 to review a physician's complaint about the treatment of his patients at several Toronto Regional Evaluation Centres (RECs). The vice-president and the director of Clinical Services telephoned the physician to discuss his concerns.

In September, the WSIB informed the Commission of changes they made.

New contracts will require RECs to conduct worker satisfaction surveys. The vice-president will ensure these surveys provide workers with information about how and where to lodge specific concerns about an assessment or about the institution.

The Commission and the phys-

ician are satisfied with the outcome of the complaint.

### Participant forms improved

An employer representative raised a concern about the WSIB's employer participant form. In this case, the WSIB failed to give the employer notice of the appeal even though the employer had sent in the form months earlier. As a result, the hearing was held without the employer.

The commissioner reviewed the issue and met with the acting director of the Appeals Branch and the chief corporate services officer about two concerns.

First, the form does not state the consequences of a worker's or employer's failure to return it. The consequences are serious, as a party does not generally receive notice that an ap-

peal is proceeding unless the form is returned. The comparable WSIAT form sets out the consequences of failing to return it.

Second, there is currently no follow-up at the Appeals Branch to ensure that workers or employers are informed when there is an appeal.

To resolve the concerns, the WSIB put a notice on its web site to inform workers and employers of their rights to participate in the objection and appeal processes and the importance of completing and sending in the participant forms.

WSIB staff revised the form to include information about the consequences of not returning the form.

They also drafted a letter for Appeals Branch staff to tell parties that an appeal is in process, giving them another chance to send in the form.

## CASE SUMMARIES

### Delays in dental consultations

The Commission received two complaints about delays in making decisions that occurred as a result of delays in obtaining dental consultation reports. Delays of three months or longer were reported.

On August 9, a Commission specialist met with the professional practice leader-dental and the director of Clinical Services to review the backlog in dental consultations and the steps being taken to eliminate it.

The Clinical Services director confirmed that a backlog of 177 cases existed as of June 30. The professional practice leader reviewed the steps being taken in an effort to eliminate the

backlog by the end of 2006. These steps include the use of external consultants, streamlining the dental referral process and training for adjudicators in selected sectors on dental issues.

The WSIB reports that the actions taken to address this concern have been successful and there is now no backlog in dental consultations.

### Notice to worker when benefits suspended

A worker was scheduled to attend a Regional Evaluation Centre (REC) assessment, but left a voice mail for the claims adjudicator that she could not attend because of a family emergency. The claims adjudicator suspended loss-of-earnings (LOE) benefits for non-cooperation as a result of

the missed appointment. Not until several days later did the worker receive proper notice about what information she was obliged to provide to justify her absence.

The Commission contacted the manager about the worker's perspective that it was unfair to suspend benefits before providing proper notice. After reviewing the file, the manager and claims adjudicator agreed that the LOE suspension date should have coincided with the date the worker was given proper notice of her reporting obligations. The benefit was adjusted accordingly.

The worker and the Commission were satisfied with the outcome.

*more on page 4*

## CASE SUMMARIES

### Returning loss of retirement income forms

A worker called the Commission when his loss-of-earning (LOE) benefits were terminated without notice. The worker had been receiving LOE benefits for almost 12 months.

All workers receiving LOE benefits for 12 months get a letter giving them a choice to contribute five per cent from their benefits towards a loss of retirement income (LRI) benefit, which the WSIB pays to workers after age 65.

When the worker did not receive his biweekly benefits, he called the claims adjudicator who said that benefits could not continue until the worker returned his LRI election form.

The worker did not want to contribute to the LRI. There was nothing on the election form letter that said he had to return it. The letter says, "If you do not make an election, the default

option of 'No' will be chosen for you. Default: NO optional 5% contributions will be made to the LRI Fund."

The worker called the manager who confirmed that LOE benefits could not be continued until the WSIB received the LRI form.

The Commission contacted the director of Program and System Development Services. The director said that, when a worker does not return the LRI election form, the claims adjudicator must prompt the payment system with a "no" so that LOE benefits continue. If the worker later chooses to contribute to the LRI benefits, the election is changed and the five per cent contribution begins from the date of the election.

The director sent a reminder memo to front line staff on proper LRI procedures so that no worker has benefits suspended if the form is not returned.

## OUT AND ABOUT

Commissioner Laura Bradbury met with the staff of the Office of the Employer Adviser on September 19 to provide an update on the Commission's work and a review of systemic issues raised by employers. The commissioner and a specialist also presented a workshop at the Schedule 2 Employers' Conference on September 27.

The commissioner is meeting with the staff of the Office of the Worker Adviser on November 29.

### Open House and Clinics

On October 3 and 4, Commission specialists Mary Carl and Tom Irvine held open houses and clinics in Ear Falls and Red Lake.

Open houses and clinics are planned for the spring and fall 2007. Watch for dates and locations on the Fair Practices Commission web site.

## The most common concerns that complainants bring to the Fair Practices Commission

- They want timely attention to their issues.
- They want to feel respected and listened to.
- They want phone calls returned and mail answered.
- They want fair process to determine reasonable plans for returning to their jobs.
- They want to understand how their wage loss benefits have been calculated.

## Users' Comments

"I wasn't expecting you to call right away. This is fantastic."

"The Commission is doing good work. It's the best thing that has happened in WSIB in five years."

"Thanks to [the Commission's] intervention... circumstances and resulting delays with my appeal have been put aside and we are moving forward."