

# Workers' Advocate Office

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## *2010 Annual Report*

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ANNUAL REPORT OF THE WORKERS' ADVOCATE OFFICE 2010

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Authorized by the Yukon Workers' Advocate Office

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**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 the workers' compensation appeals process, the Workers' Advocate Office (WAO) provides independent assistance to and representation for workers who have suffered a work-related disability. We seek to ensure that the needs of injured workers and their families are understood, addressed and resolved quickly and fairly so that the medical, psychological and financial hardships associated with workplace injuries are minimized.

Specifically, our dedicated team is committed to:

**Advocating** for injured workers to ensure that they receive their entitlements under the *Yukon Workers' Compensation Act* and policies, and in accordance with the Charter of Rights & Freedoms and the rules of natural justice.

**Ensuring** that workers receive high quality service (timely, fair, consistent, and communicated) from the WAO during the early intervention, hearing and appeal process.

**Ensuring** that injured workers are treated with dignity and respect in their dealings with the workers' compensation system.

**Ensuring** that all workers understand their rights and responsibilities regarding compensation in the event of workplace injury and returning to work.

**Recommending** improvements to the Yukon Workers' Compensation Health and Safety Board's (YWCHSB) appeal process to enhance simplicity, timeliness and fairness.

**Working** with the YWCHSB to help understand current issues and trends so that they are addressed for future clients.

**Investigating** and utilizing other dispute resolution mechanisms (such as preliminary conferences) to improve the quality of issue identification and resolution.

**Working** with the YWCHSB, labour and employer groups in raising the level of awareness of the impact of the appeal process on workers and their families.



The year 2010 was a year of building capacity within the office, and facing new challenges in the area of advocacy.

### **Capacity and Resources**

The focus for the office during 2010 was to build internal capacity. To that end the WAO hired a First Nations Training Corps Deputy Worker Advocate. In the fall the office entered into negotiations with the YWCHSB to establish the budget for the upcoming year.

### **Communication and Education**

Educating workers on their rights and responsibilities under the *Workers' Compensation Act* continues to require a significant commitment of staff time. In addition to one on one meetings, the WAO continues to introduce the office to workers through the delivery of the course entitled, "Your Union and You".

The role of the office continues to be discussed at the "Return to Work" course that is offered by the Yukon Federation of Labour.

The staff of the WAO concentrated on their own training as well with specific focus on the study of administrative law during the year.

### **Relationship with the YWCHSB**

The office continues to focus on resolving issues with the YWCHSB on behalf of workers in a more informal and timely manner. This approach appears to be useful to injured workers in certain circumstances. Significant effort continues to be attached to preparing worker appeals at both the hearing officer level and in front of the Workers' Compensations Appeals Tribunal. It appears that this trend will likely continue.

### **Strategic Planning & Performance Management**

Work continues on the implementation of the strategic plan. In order to keep performance indicators relevant, they are always undergoing fine tuning. This framework continues to be critical to the office and its stakeholders to identify expectations, training requirements in key areas, and for outlining where results have been achieved for injured workers and their families.

Continuing to build upon its 2009 strategic plan, in 2010 the Workers' Advocate Office continued its commitment to public accountability by adopting a 'managing by results' focus. This will allow stakeholders to make informed decisions as to whether the WAO is making a difference in the Yukon.

'Managing by results' involves identifying the differences or impacts that the WAO seeks to make or influence in the lives of injured workers and their families. Measurable indicators can then be identified, which allow the WAO to track where these differences are being achieved over time. This approach helps the WAO to identify its business plan activities, and target them to areas where results require improvement.

Below we list our performance targets and the results that would define success for the office.

**Why the WAO Matters** – The WAO helps injured workers receive the benefits and services to which they are entitled.

**How We Will Know** – Early intervention – a majority of issues are resolved without the need for a formal Hearing Officer Review or Appeals Tribunal.

**Why the WAO Matters** - Injured workers and their families receive quality customer service from the WAO.

**How We Will Know** – 90% client satisfaction with five customer service-related indicators.

**Why the WAO Matters** - Injured workers are treated with dignity and respect in dealings with the WAO.

**How We Will Know** – 90% client satisfaction with three dignity and respect-related indicators.

These two case studies represent the types of situations explored by the WAO and how they are typically resolved.

## Case Study 1

A worker visited his construction site to inspect the siding of a structure. He fell from the second floor to the first floor, sustaining a work-related injury. YWCHSB denied the claim stating the supervisor did not instruct him to inspect the siding, resulting in the worker removing himself from employment, further resulting in not being defined as a “worker” at the time of the accident.

The WAO conducted extensive corporate research and reviewed the relevant legislation and policies. The WAO also worked with the employer both before and during the appeal process. The subsequent evidence was used to attempt informal resolution prior to the filing of an appeal. YWCHSB did not change the decision which resulted in the WAO filing a first level appeal with the Hearing Officer.

The Hearing Officer agreed with the WAO, ruling the worker was in the course of his employment and that he was a “worker” as defined under the YWCHSB legislation. 10 months after the injury, compensation benefits with interest were paid retroactively to the worker.

## Case Study 2

A worker sustained an injury at work when a mirror fell off the wall, striking the worker in the head. The head and facial injuries were severe, leaving the worker unable to return to work, further causing a seizure disorder that did not exist prior to the accident. The claim was initially accepted for a short period of time, with the YWCHSB closing the claim. The final decision stated the ongoing pain and symptoms resulting from the seizure disorder were not work-related.

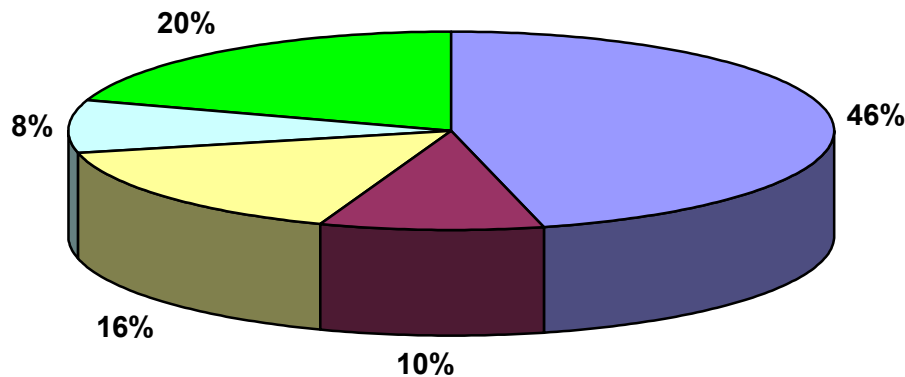
The WAO attempted to resolve the issue informally prior to referring it for review in front of the Hearing Officer. The Hearing Officer wrote that the worker suffered only a minor head injury and that there was insufficient information on file to estimate the biomechanical force of the mirror as it fell. The Hearing Officer also relied on the speculation that the worker was destined to have a seizure disorder.

The WAO filed the claim to the second level of appeal. The Workers’ Compensation Appeal Tribunal overturned that decision. As a result, 19 months after the day of the initial injury the worker was awarded retroactive benefits with interest and ongoing rehabilitation to assist in the recovery from the work-related injury.

**Why the WAO Matters** – The WAO helps injured workers receive the benefits and services to which they are entitled.

**How We Know** – Early intervention – a majority of issues are resolved without the need for a formal Hearing Officer Review or Appeals Tribunal.

**Resolution of Issues, 2010**



There were a total of 189 issues in 2010:






- 46% = 87 issues (WAO alone)
- 10% = 18 issues (with Claimant Services)
- 16% = 30 issues (with Hearing Officer)
- 8% = 16 issues (with Appeals Tribunal)

... and 20% = 38 issues remain under investigation by the WAO.

**What this shows:**

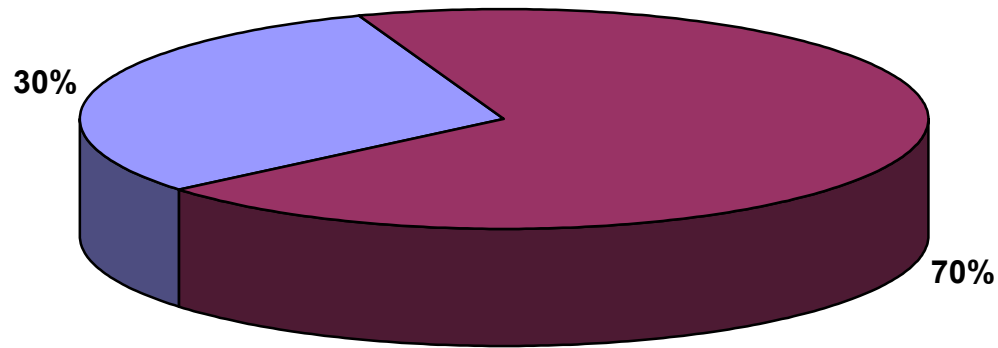
This chart shows that, for 2010, nearly one-half (46%) of client issues were resolved by the WAO without the need to involve the YWCHSB or go through a formal hearing process. 10% of issues were resolved informally during discussions with YWCHSB.

Only 24% of issues required resolution at either the Hearing Officer level or the Appeals Tribunal level.

-  resolved by WAO alone
-  resolved by WAO in discussion with Claimant Services
-  resolved at Hearing Officer level
-  resolved at Appeals Tribunal level
-  remain under investigation by WAO

**Why the WAO Matters** - The WAO helps injured workers receive the benefits and services to which they are entitled.

**How we know**- 30% of issues referred to formal hearing resulted in the decision of the adjudicator being overturned.



- Decision of the adjudicator overturned
- Decision of the adjudicator confirmed

**What this shows:**

This chart shows that, for 2010, 30% of the issues that went through the formal review process led to a reversal of the original decision of the adjudicator.

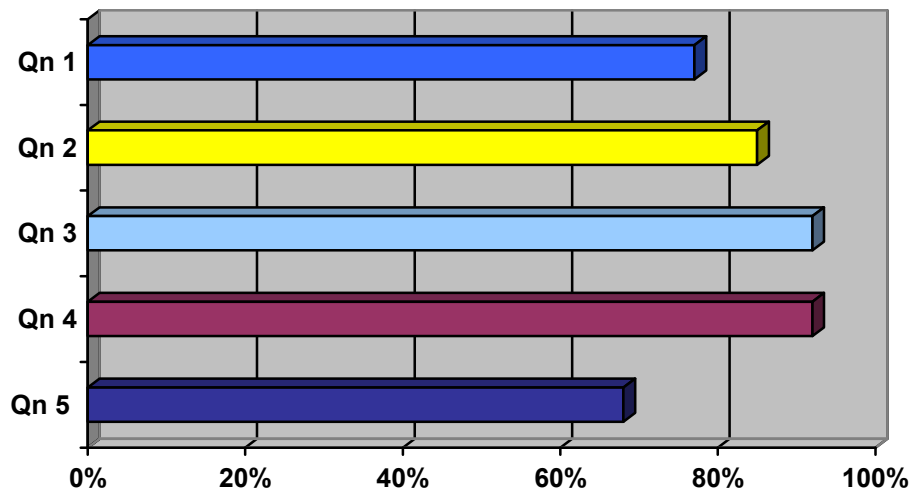
Of the 46 issues heard through the formal process, 16 were heard by the Appeals Tribunal.

Overall, this information shows that WAO representation makes a difference in ensuring that injured workers receive their entitlements by representing them in the appeal process.

**Why the WAO Matters** - Injured workers and their families receive quality customer service from the WAO.

**How We Know** – 83% of clients were satisfied with the service that they received from the WAO.

**WAO Client Satisfaction**



**What this shows:**

In January 2011, a random survey of Workers' Advocate clients was conducted in order to obtain feedback on these indicators.

This chart shows the WAO achieved an overall client satisfaction rating of 83%.

The survey had a response rate of 44%.

Question (Qn) 1 – 77% client satisfaction that the WAO clearly explained decisions related to their file.

Question (Qn) 2 – 85% client satisfaction that the WAO provided quality, professional, timely and courteous customer service.

Question (Qn) 3 – 92% client satisfaction that the WAO has value.

Question (Qn) 4 – 92% of clients agree that their concerns were heard and listened to by the WAO.

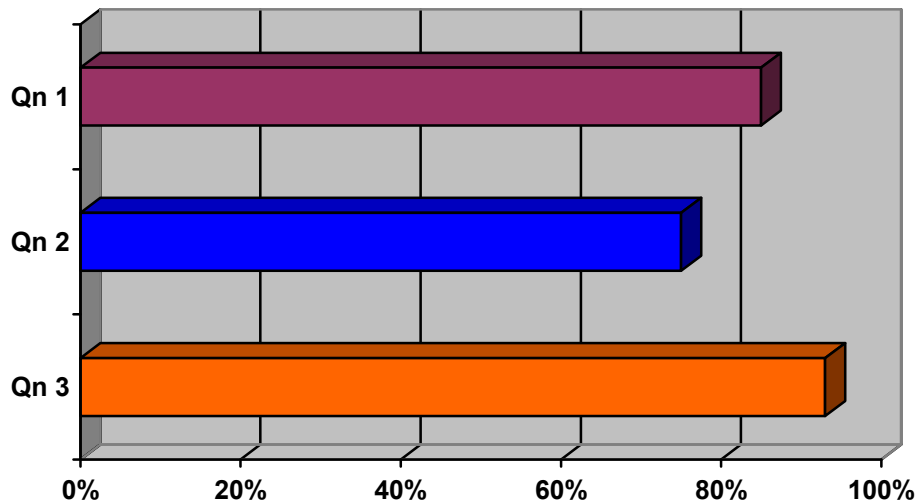
Question (Qn) 5 – 68% client satisfaction that the WAO helped them to receive what they were entitled to, including not being entitled under the *Workers' Compensation Act*. WAO continues to work with the YWCHSB to improve the clarity of their communications and decisions. We are also committed to working with our clients to assist them to develop a better understanding of their rights and entitlements as well as YWCHSB decisions.

and ... 100% of clients were met by WAO staff within 15 business days of date of receipt of file and within 5 business days of date of receipt of decision.

**Why the WAO Matters** - Injured workers are treated with dignity and respect in dealings with the WAO.

**How We Know** – 84% of clients felt satisfied that they were treated with dignity and respect.

### Worker Feedback



#### What this shows:

In January 2011, a random survey of WAO clients was conducted in order to obtain feedback on these indicators.

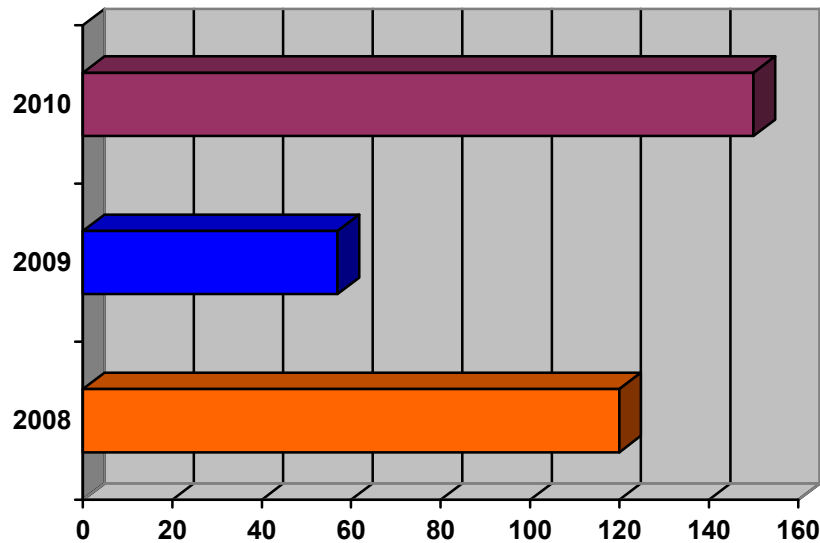
This chart shows the WAO achieved an overall worker feedback rating of 84%.

Question (Qn) 1 – 85% of workers who sought the assistance of the WAO believe that they were treated with dignity and respect.

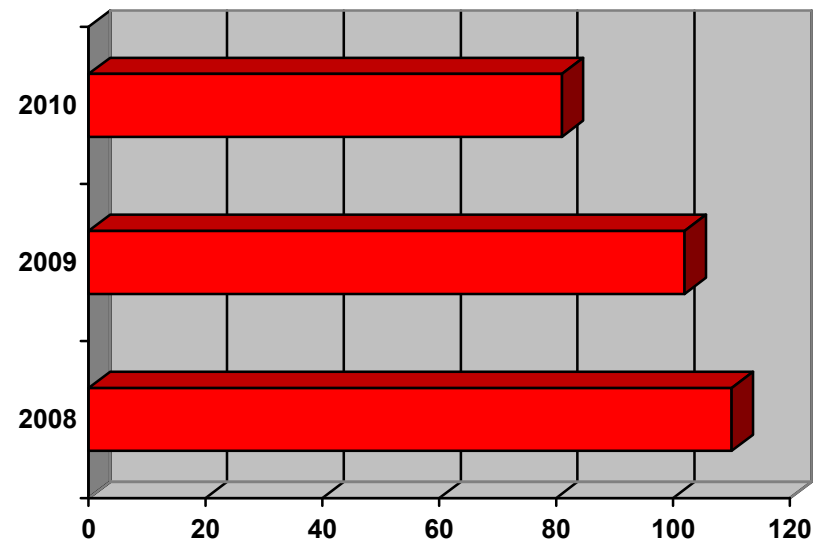
Question (Qn) 2 – 75% of workers who seek the assistance of the WAO agree that they were kept informed and up-to-date of the status of their file.

Question (Qn) 3 – 93% of injured workers agree that their concerns were heard and listened to by the WAO.

Number of Closed Files



Number of Clients



**What this shows**

Overall, the workload of the WAO has continued to experience consistent growth. In 2010, the office represented 81 new clients\* along with 38 existing clients carried forward from 2009. We represented these clients on 189 issues. The issues increased significantly from 2009. In addition, the office responded to 19 general inquiries from other injured workers. General inquiries involve providing legislation and policy advice to injured workers along with the gathering of additional information they require.

Of noted importance, this indicator does not reflect the increasing complexity of the claims that the office is dealing with.

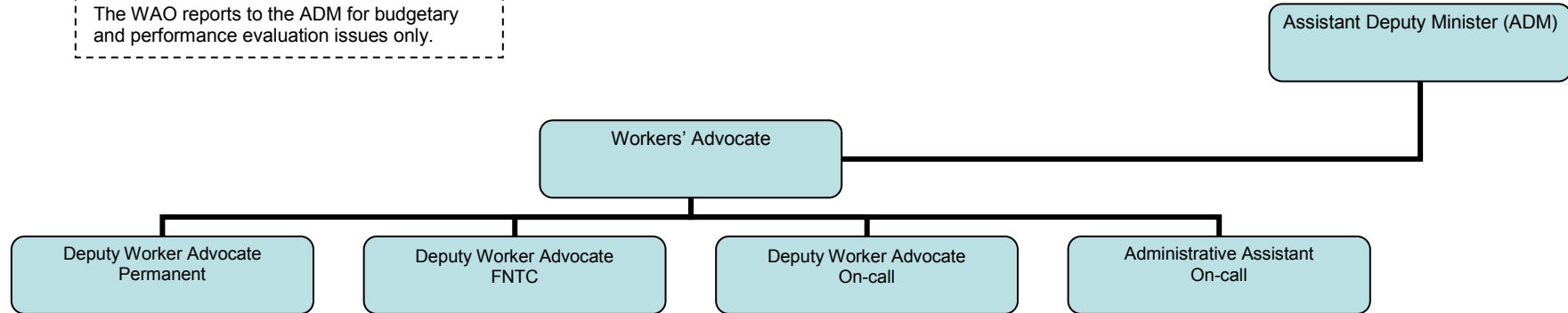
**Notes:** \* A client is defined as an individual who signs an affidavit requesting that the Workers' Advocate investigate their issue or concern. The WAO also deals with 'general inquiries', workers who contact the WAO for informal information but do not sign an affidavit.

The Workers' Advocate Office is funded annually by the YWCHSB in accordance with Yukon *Workers' Compensation Act*.

Summary of Expenditures	Actual Expenditures (\$)				Approved Budget (\$)
	2007	2008	2009	2010	2010
Personnel	249,118	290,399	264,645	284,390	287,000
Office & Operation	44,920	38,738	34,701	52,993	44,300
Supplies & Services	17,634	76,223	13,065	13,303	22,700
<b>Total</b>	<b>311,672</b>	<b>405,360</b>	<b>312,411</b>	<b>350,686</b>	<b>354,000</b>

The report is adjusted to account for rounding, and based on the calendar year.

The WAO reports to the ADM for budgetary and performance evaluation issues only.



### Yukon Workers' Advocate Office

P.O. Box 2703 Q-1 Whitehorse, Yukon Y1A 2C6  
 Telephone: 867-667-5324 Fax: 867-393-6346  
 Toll Free: 1-800-661-0408  
[www.justice.gov.yk.ca/prog/ms/wad](http://www.justice.gov.yk.ca/prog/ms/wad)

### Canadian Association of Workers Advisors and Advocates

[www.cawaa.org](http://www.cawaa.org)

### Yukon Federation of Labour

867-667-6676 or [www.yukonfed.com](http://www.yukonfed.com)

### Ombudsman & Information and Privacy Commissioner

867-667-8468 or [www.ombudsman.yk.ca](http://www.ombudsman.yk.ca)

### Yukon Workers' Compensation Health and Safety Board

401 Strickland Street, Whitehorse, Yukon Y1A 5N8  
 Telephone: 867-667-5645, Fax: 867-393-6279  
 Toll Free: 1-800-661-0443  
[www.wcb.yk.ca](http://www.wcb.yk.ca)

### Persons with Disabilities Online

1-800-622-6232 or [www.pwd-online.ca](http://www.pwd-online.ca)

### Yukon Council On Disability

867-668-6703

### Yukon Human Rights Commission

867-667-6226 or 1-800-661-0535