



Workers' Advisor Office

Northwest Territories and Nunavut

2019

ANNUAL REPORT 2019

Prepared for:

**Minister Responsible for the Workers' Safety and
Compensation Commission (NT)**

The Honorable Katrina Nokleby

**Minister Responsible for the Workers' Safety and
Compensation Commission (NU)**

The Honorable George Hickey

Prepared and Submitted by:

Maia Lepage, Workers' Advisor

February 2020

Workers' Advisor Office Northwest Territories and Nunavut

ANNUAL REPORT 2019

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A MESSAGE FROM THE WORKERS ADVISOR

I am pleased to introduce the Annual Report for the Workers' Advisor Office of the Northwest Territories and Nunavut (WAO).

This year has been a successful year for the WAO. A permanent office in Yellowknife was established, a full time Executive Assistant was added to the staff and the WAO helped 131 unique clients navigate the WSCC system. There has been a strong foundation of teamwork established and it will be something that will continue to grow in to 2020.

Our feedback from workers has been positive. I am very proud of the accomplishments of the staff and I feel that everyone here has been working in an extraordinary fashion to address concerns and keep things flowing. I would like to commend them for a job well done.

The staff at WSCC should also be applauded for their dedication and work on behalf of the workers of Northwest Territories and Nunavut. While we do disagree on occasion, their overarching willingness to work with the workers and this office



is commendable. I am very encouraged by our interactions and look forward to further discussions.

The WAO is an important resource, not only to the workers who access it, but to their families and loved ones who are also looking for information and resources to help circumnavigate their loved ones injury.

We look forward to assisting more workers of the Northwest Territories and Nunavut in their recovery in 2020.

A handwritten signature in black ink that reads "Maia Lepage". The signature is written in a cursive, flowing style.

Maia Lepage
Workers' Advisor

1. Purpose of the Workers' Advisor Office

1.1 Who We Are

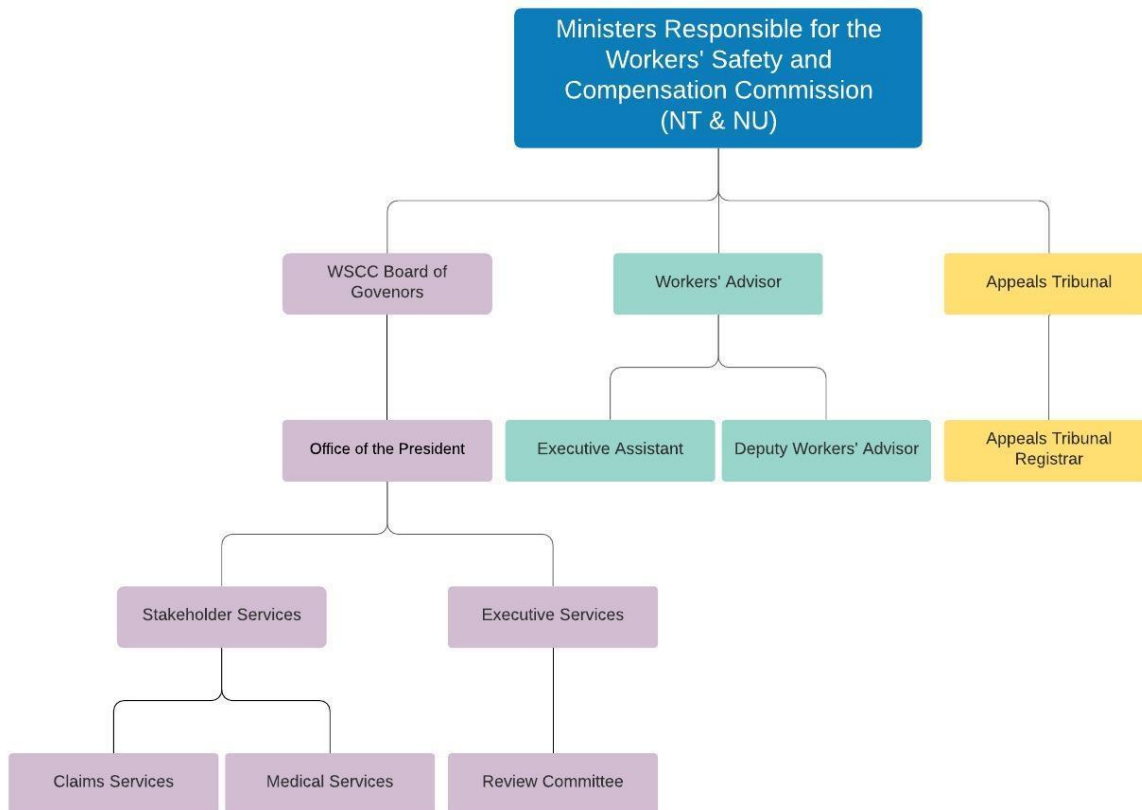
The WAO was established to assist workers and others to understand the Workers' Compensation Act and to make claims for compensation.

The office is established under Section 107 of the Workers' Compensation Act in both territories and is designed to be independent from the WSCC and the public service. The Ministers Responsible for the Workers' Safety and Compensation Commission appoint the Workers' Advisor, Deputy Advisor and staff. The Workers' Advisor reports

directly to the Ministers Responsible for the Workers' Safety and Compensation Commission on a quarterly basis.

To ensure the independence of the WAO, the legislation stipulates that funding for the Workers' Advisor Office be paid from the Workers' Protection Fund.

The WAO for the Northwest Territories and Nunavut is the only Workers' Advisor office in Canada to span two jurisdictions.



* Although there are more services within WSCC, only the divisions that the Workers' Advisor Office regularly works with are listed.

1.2 What We Do

The Workers' Advisor Office (WAO) provides a range of supports and assistance to workers injured in the Northwest Territories or Nunavut.

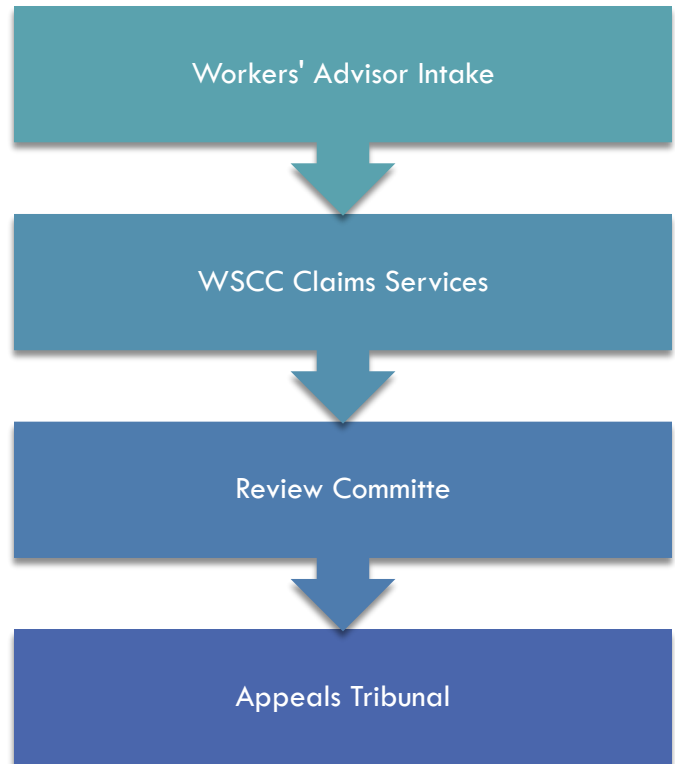
These services include:

- Obtaining information from the WSCC on their behalf;
- Helping clients communicate with the WSCC;
- Explaining the WSCC process and decisions;
- Reviewing file evidence, and assisting the worker to obtain further evidence that may be necessary to support their case;
- Assisting workers to prepare and present submissions to all WSCC decision-making levels; and
- Referring clients to other community services.
- Providing stakeholder feedback to WSCC re: policy and legislation changes

A worker's first contact with the WAO may take place at any stage of their WSCC process.

After discussing the worker's concerns, the WAO usually begins the process by obtaining and reviewing the worker's WSCC file. It is then possible for the WAO to advise the client of the options available to them.

The WAO aims to resolve issues at the Claims Services level, but in the circumstance where that is not possible, the WAO would also help prepare and represent the worker at the various decision-making authorities within the WSCC system.



The WAO may decline to further assist a client if it is clear there are no grounds on which to further their case. This may be the result of lack of objective medical evidence or a lack of statutory entitlement. In all cases, the WAO does a thorough review of a workers' file and assist as much as we can before declining further assistance.

“I wasn't expecting all the help that I received and was quite pleased with everything that was done for me. I know the office is busy so I am very thankful for the personal attention.” – Anonymous (Taken from the WAO Exit Survey Results)

2. Workers' Advisor Summary 2019

2.1 Workers' Advisor Office Summary

Highlights:

- On March 4, 2019, the WAO opened a permanent Workers' Advisor Office in the Bowling Green Building in Yellowknife.
- A full time Executive Assistant was recommended by the previous Workers' Advisor and accepted as part of the 2019 budget. The position took effect on March 4, 2019 allowing the office to address long overdue admin projects.
- The Workers' Advisor and Deputy Advisor's Office placed an emphasis on creating a more cohesive approach to handling workers issues, which included increased collaboration between the two offices. The increased communication has improved services and increased effectiveness. The WAO will be building on this trend moving forward.
- In the past year, the WSCC and the WAO have established new joint procedures for addressing worker concerns, which has improved WSCC response times for concerns presented by the WAO. Our collaboration with WSCC Claims Services has been very encouraging and has been instrumental in making huge strides in many complex files, with 86% of our resolved cases never having to go through a formal review process.
- The Workers' Advisor Office was influential in helping WSCC recognize a policy gap regarding incarcerated individuals. Once identified, WSCC staff was very diligent in addressing the gap and re-working the policy. It was very encouraging. It is a clear example of how these offices can work in tandem in the best interests of the workers.
- The Workers' Advisor Office obtained "Google Certification," in July, which means that the office is now recognized on Google Maps and our info is available through the Google search function. Between July and December 20, 2019, the Workers' Advisor Office has been noted on 593 searches.
- In September, Maia Lepage traveled to Newfoundland for the 2019 Annual General Meeting for the Canadian Association of Workers' Advisors and Advocates (CAWAA). This was the first time that the Northwest Territories and Nunavut were represented at the national level at an AGM.
 - During the elections for the executive council, Maia Lepage was voted in as Vice Chair for a 3 year term.
 - The 2020 CAWAA AGM has also tentatively scheduled for Yellowknife.

Overview:

The purpose of the WAO is to assist workers and others to understand the Workers' Compensation Act and to make claims for compensation. Through our work, it is also our intention to rebuild workers relationship with WSCC and help them to have faith in the compensation system. Due to confidentiality, the WAO cannot comment on individual cases but there are reoccurring themes present in many worker interviews.

Overwhelmingly, there is a common perception that WSCC is an “insurance company” that represents employers over workers. These perceptions are difficult to overcome and instilling any faith in the WSCC becomes quite the challenge, especially since many workers feel personally targeted. 30% of Workers that contact the WAO cite that they reached out for help because they felt there was a lack of communication from their case worker or that WSCC was non-responsive to their communication. Although workers may always have residual trepidations regarding interactions with WSCC staff members, the WAO has noticed a shift in attitudes and anxieties as worker issues are addressed in a timely manner.

Workers need to feel that they have been heard. Patience and empathy are paramount in understanding their concerns. While WSCC does provide decision letters detailing why a decision has been made, it is not always clear to the worker what the policy and legislation mean, or why they may have been denied. In many circumstances, resolution of an issue is as simple as explaining a process or a decision.

When timelines are not met by WSCC, workers are not always informed by their case managers and this has been a source of persistent complaint from workers. If a worker does not meet a timeline, the worker could face harsh penalties, such as being suspended from their compensation. If WSCC does not meet a timeline, it is still the worker who often suffers. Workers’ have expressed feeling angry and frustrated.

The Workers’ Advisor Office’s relationship with WSCC has been predominantly positive and WSCC has been responsive to WAO concerns on all levels. In July, Maia Lepage and Lauren Snyder met with Peter Therrien and all the case

managers in the Northwest Territories and Nunavut to discuss how our offices could better work together. This led to a change in WSCC protocols which now allows the Workers’ Advisor to contact Case Managers directly. This shift has ensured that workers needs are addressed in a timely manner while not monopolizing the time of the Manager of Case Management and Pensions, which historically managed all requests from the WAO.

Unfortunately, the WSCC Review Committee encountered unforeseen staffing issues this year, which prolonged reviews well past what is normally expected. According WSCC, the average review should conclude within 50 business days. Prior to the staffing issues, Review Committee decisions were rendered in an average of 61.25 days*. While there are a number of reviews that have been postponed, currently, the WAO is involved in a review submission that has been with the Review Committee for 90+ business days and counting. This specific delay has been a detrimental for the worker involved, putting them in a terrible financial bind and they have lost everything in the process. Again, while the WAO recognize that the circumstances with the Committee were not foreseen, this has identified gaps in service for workers, as well as highlighted the need for mental health/suicide prevention training for WAO staff.

Given the nature of the WAO and the potential for change, the creation of a Policy and Procedure (P&P) manual for the office is now in progress. The office has received copies of P&P manuals from other jurisdictions, thanks to our participation in CAWAA, and these will be used as a template to move forward. It is the WAOs intention to have a working copy of a dedicated manual by 2021.

*Only cases where the WAO was involved were considered in this average.

2.2 Recommendations

A) Recommendations for WSCC:

- 1) Policy 03.09: Psychiatric and Psychological Disorders is represented in 25% of cases that appeared in the WAO in 2019. We believe that this policy should be reviewed and the following taken into consideration:
 - a) Post-Traumatic Stress Disorder should be presumed as part of a claim involving traumatic events
 - b) Many workers' claims for harassment are denied because the policy places the onus on the worker to prove harassment. For most suffering from diagnosed psychiatric/psychological disorders, this approach poses a giant obstacle, as often, an employer will not hold themselves liable. Although the policy is discretionary in regards to external investigations, alternatives like complaints to the Human Rights Commission or Union Grievances have long wait times for a final decision. This policy should be revisited and reasonable alternatives considered to help process legitimate claims so workers are able to access supports sooner.
 - c) According to this policy, a worker is not entitled to compensation for disabilities that result from mental stress caused by the workers' relations with WSCC. The WAO feel that if there is a diagnoses confirming further injury was caused by the relations between a worker and WSCC, then the worker should be entitled to compensation. This would be in line with other policies, such as 04.02: Medical Aid and Associated Costs, which allow for compensation in the event of further injuries resulting from treatment.
- 2) While policy 10.04: Preventing and Investigating Abuses and Offences does discuss investigations of workers, the policy is buried in the Finance section of the policy manual. The possibility of investigations and video surveillance should be discussed clearly with workers at the onset of their claim as many workers, especially those with already fragile mental states, are further traumatized by this perceived violation of their privacy. At present time, workers are not entitled to compensation to address any physiological traumas arising from their interactions with WSCC.
- 3) Several workers have raised Policy 00.06: Third Party Actions and section 64-66: Commission's Rights of Action in the Workers Compensation as being an issue. The WAO feel that in the event of a successful third party action, a worker should be entitled to 25% of the settlement upfront. Secondly, legal, medical, and pension costs can then be recouped by WSCC, and if there are remaining funds, these would be awarded to the worker. The current policy is ambiguous and discretionary whether any remaining funds will return to the worker.
- 4) For reasons unknown to the WAO, findings from WSCC investigations or summaries of third party actions are not contained in worker disclosure. In the spirit of transparency, conclusions from these actions should be included as part of a workers disclosure file.
- 5) The Review Committee should attempt to have at least one member, or alternate member, hired from outside of WSCC claim services so that issues with conflicts of interest can be managed in a timely manner.

- 6) WSCC should consider a policy which would provide discretionary emergency financial assistance to workers who are stalled in the Review/Appeal Process due to staffing or internal issues.
- 7) In the event that a worker requires an escort for any purposes relating to any aspect of their WSCC claim, there should be an official agreement between WSCC, the worker and the escort outlining the responsibilities assumed and potential liabilities, such as coverage in the event of an accident, so that all parties are aware of the risks.
- 8) Often workers that are referred to the WAO are looking for clarification of a decision and what they are supposed to do next. While WSCC decision letters should continue to be thorough, there should be an emphasis on follow up conversations between the worker and the decision maker to discuss outcomes, address questions and inform worker of steps forward.
- 9) Just as WSCC expects timeliness from workers, workers should be able to expect the same from WSCC.
 - a) If WSCC staff expresses a deadline to a worker, the staff should have a commitment to meet that deadline.
 - b) If further work on the issues shows it is not possible to complete within the timeframe identified, the case manager or decision maker should have an obligation to communicate that with the worker.

B) Recommendations for Workers' Advisor Office:

- 10) The Workers' Advisor Office budget should have funds allocated for staff training, specifically Mental Health and Suicide Prevention training, given the conversations the WAO have with clientele on a daily basis.
- 11) Workers' Advisor Office should have a Policy and Procedures Manual to ensure consistency and transparency.
- 12) Workers' Advisor Office should continue to take part in the Canadian Association of Workers Advisors and Advocates.
- 13) The WAO must preserve independence from both government and WSCC.

C) Recommendations for Joint Actions between WAO and WSCC:

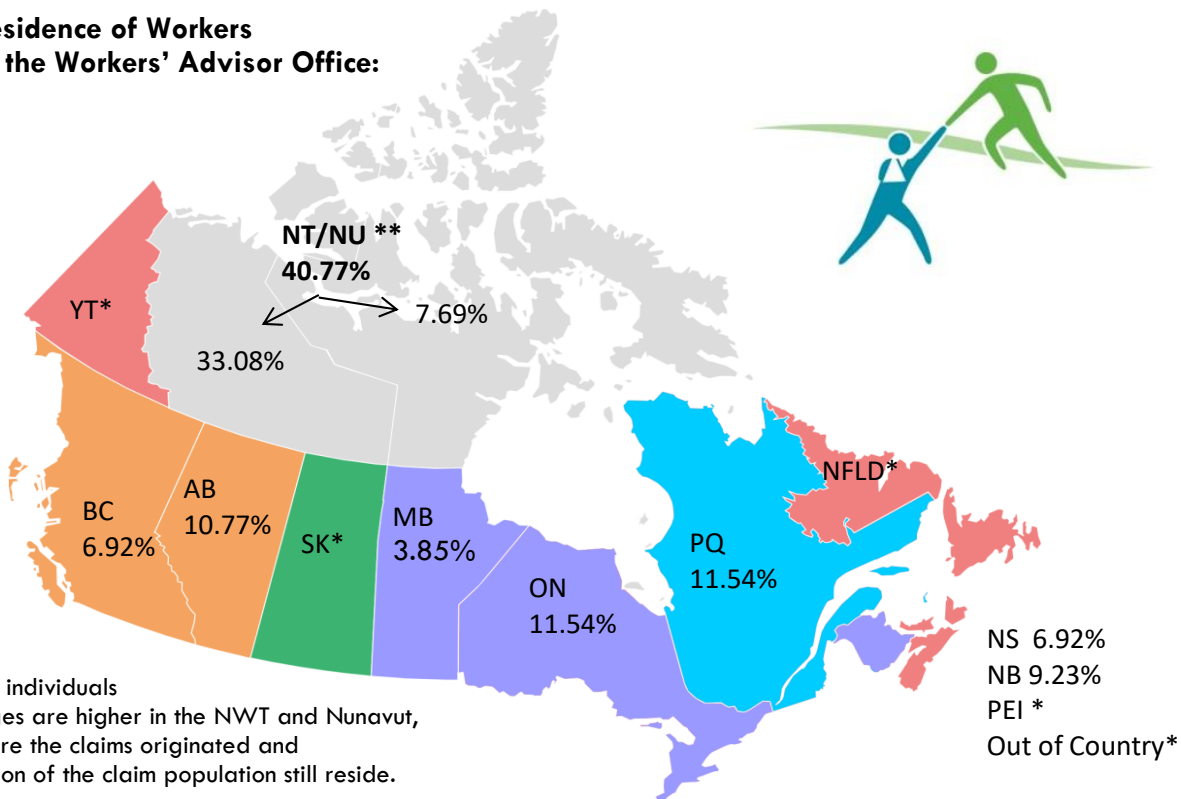
- 14) WSCC Case Managers and the WAO should continue to meet on a semiannual basis to discuss common issues brought up by workers and best practices.

3. Statistics and Demographics for 2019

3.1 2019 at a Glance

<h1>131</h1> <p>Clients Served</p>	<h1>1299</h1> <p>Issues Addressed</p>	<h1>51</h1> <p>Client Files Closed</p>
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Current Residence of Workers Accessing the Workers' Advisor Office:



<h1>90.92</h1> <p>Average # of Days a file is open</p>	<p>Workers' Advisor Office participated in</p> <h1>17 Reviews</h1> <h1>1 Appeal</h1>	<h1>86.3%</h1> <p>of files closed were resolved without a Review or Appeal</p>
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3.2 Northwest Territories Demographics

<p style="text-align: center;">78</p> <p style="text-align: center;">WAO Cases originated in the NWT</p>	<p style="text-align: center;">43</p> <p style="text-align: center;">Clients retained their residence in the NWT</p>	<p style="text-align: center;">26</p> <p style="text-align: center;">NT Client Files Closed</p>
<p style="text-align: center;">28.21%</p> <p style="text-align: center;">Clients the NWT Self-Identified as Female*</p>	<p style="text-align: center;">Workers' Advisor Office participated in</p> <p style="text-align: center;">5 Reviews 1 Appeal</p> <p style="text-align: center;">For files originating in NWT</p>	<p style="text-align: center;">71.79%</p> <p style="text-align: center;">Clients from the NWT Self-Identified as Male*</p>

3.3 Nunavut Demographics

<p style="text-align: center;">53</p> <p style="text-align: center;">WAO Cases originated in Nunavut</p>	<p style="text-align: center;">10</p> <p style="text-align: center;">Clients retained their residence in Nunavut</p>	<p style="text-align: center;">25</p> <p style="text-align: center;">NU Client Files Closed</p>
<p style="text-align: center;">30.77%</p> <p style="text-align: center;">Clients from Nunavut Self-Identified as Female*</p>	<p style="text-align: center;">Workers' Advisor Office participated in</p> <p style="text-align: center;">12 Reviews 0 Appeal</p> <p style="text-align: center;">For files originating in Nunavut</p>	<p style="text-align: center;">69.23%</p> <p style="text-align: center;">Clients from Nunavut Self-Identified as Male*</p>

*The Workers' Advisor Office uses data provided by clients for identifying gender. In 2019, only male and female genders were identified. The

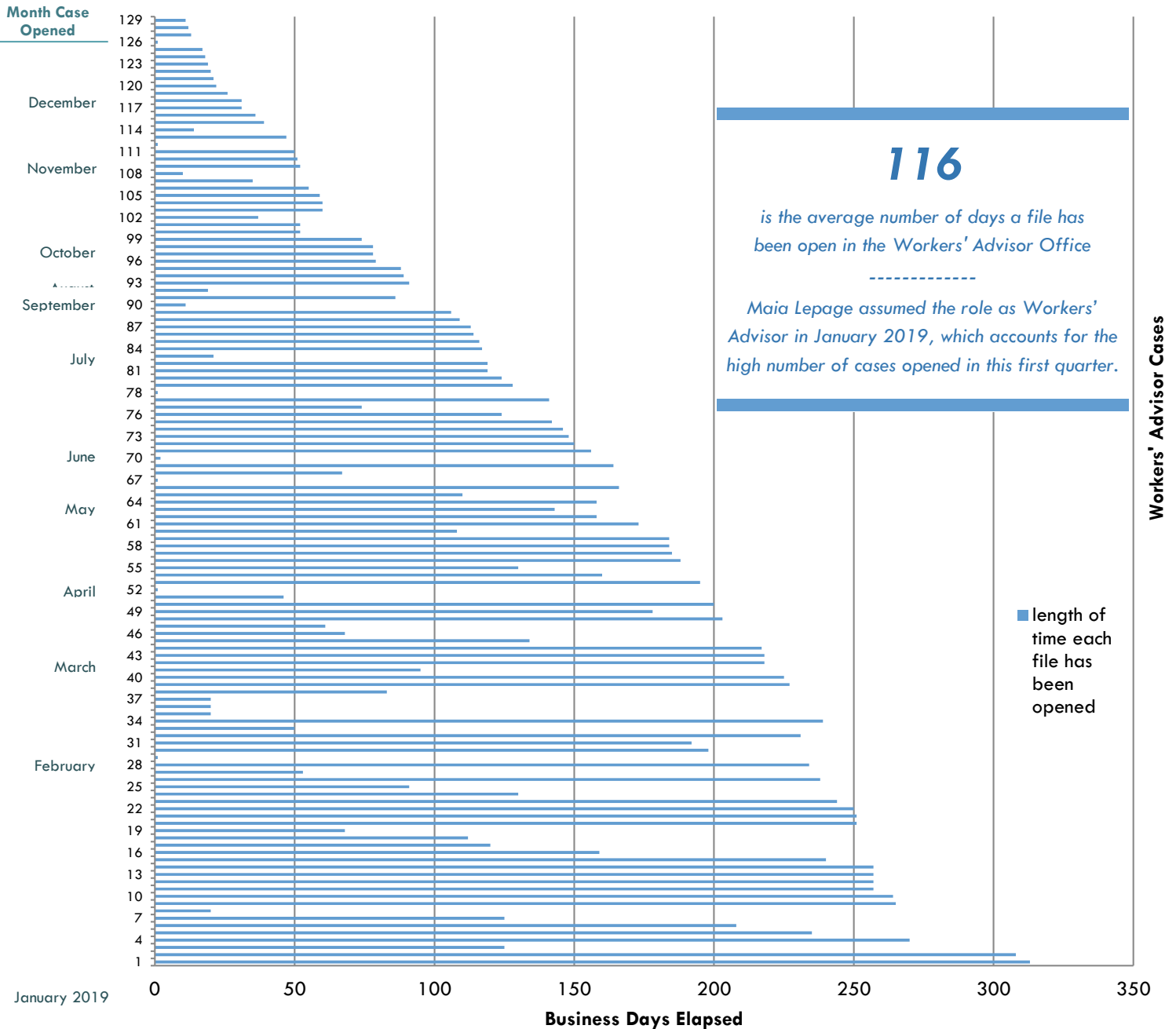
Workers Advisor Office is gender inclusive and will use all gender identities in future reports as they are self-identified.

3.4 Case Management

A case is considered opened when a worker first contacts the WAO. The case remains open until issues are resolved, the worker indicates that they are no longer requiring the services of the WAO, or there has been no contact from a

worker in several months. Cases open longer than the average 116 days are not necessarily indicative of complex matters, as the duration could be because of volume of issues. Every case is treated as unique.

Duration of Cases in the Workers' Advisor Office



Once a case is opened, issues are identified through discussions with the worker and through an extensive file review conducted by the WAO. On average, there are 7 issues identified per worker. The 3 most common issues addressed are

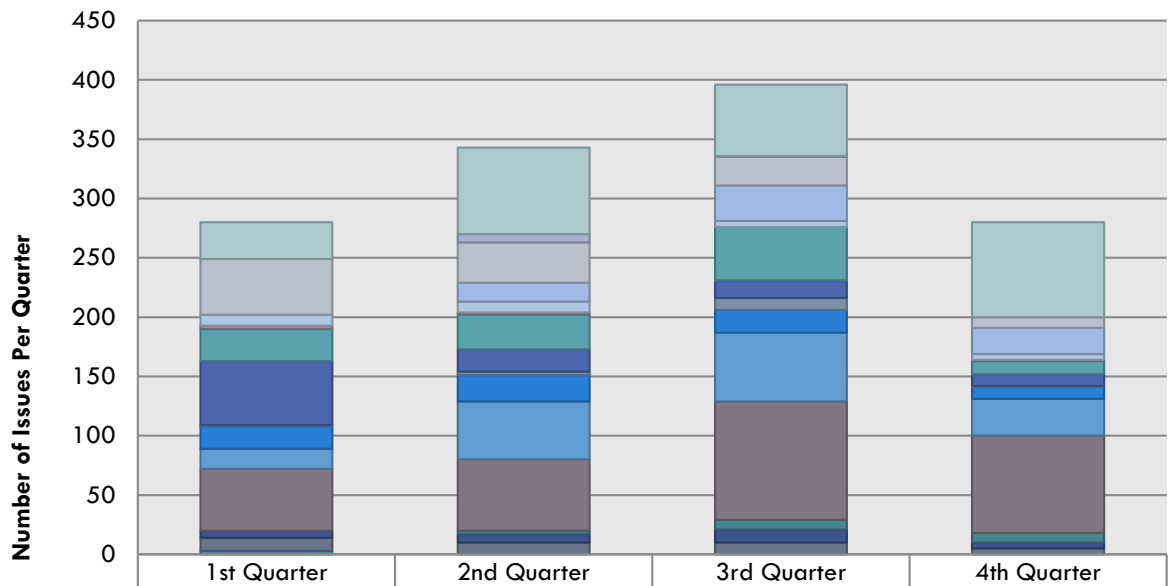
Assistance with File, Denial of a Claim and Assistance with Reimbursements/Payments. These 3 categories account for 42.11% of the workload in the Workers' Advisor Office.

Issues Addressed	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL
Denial of a Claim	27	42	45	37	151
Acceptance of Dependent Claim	0	0	0	0	0
Assistance with File	103	64	65	43	275
Assistance: Addition to Claim	0	15	25	18	58
Assistance: Pension	7	11	31	27	76
Assistance: Reimbursements /Payments	0	24	51	46	121
Assistance: Return to Work	0	9	13	9	31
Assistance: Review/Appeal	0	33	27	17	77
Benefits Advance	4	0	0	0	4
Change in Disability % Level (PMI)	14	16	17	9	56
Explanation of WSCC processes	46	27	14	15	102
Increase in Benefits Amount	27	13	8	7	55
Medical Evidence	10	14	24	14	62
Medical Treatment Requested by Client	18	27	33	16	94
Suspension or Termination	0	7	13	9	29
Vocational Rehabilitation program	24	24	20	11	79
WSCC Not Responsive to Client	0	17	10	2	29
TOTAL ISSUES ADDRESSED	280	343	396	280	1299

The WAO assists the worker to address their issue in the timeliest manner possible. While some issues are able to be resolved same day, such as explanation of a WSCC process, others may take several months and go through several phases. Each stage is dependent on the collection of data

from different sources such as decisions from WSCC, reports from workers' doctors' offices and in rare circumstances, legal opinions from outside council. Each issue is unique and will require information specific to the worker.

Status of Issues at End of Quarter



	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
Resolved	31	73	60	80
WSCC: Investigation ongoing	0	7	1	0
WSCC: Awaiting Info	47	34	24	9
WSCC: Awaiting Decision	0	16	30	22
WAO: Preparing RC submission	9	9	5	5
WAO: Preparing AT submissions	3	2	0	1
WAO: Investigation ongoing	27	29	45	11
WAO: File Review	54	19	15	10
Other: Awaiting info	1	3	10	1
Health Care: Awaiting information	19	22	19	10
Client to Provide instruction	17	49	58	31
Client to Provide Info	52	60	100	82
Awaiting RC hearing	0	3	8	8
Awaiting RC decision	6	7	11	5
Awaiting file from Client Services	11	10	10	5
Awaiting AT hearing	0	0	0	0
Awaiting AT decision	3	0	0	0

The status of an issue may fluctuate on a daily basis but, for reporting purposes, these statuses are captured as a snapshot on the last day of each month. The stats are then grouped into quarters to give a picture of the progress in the WAO over the course of the year. The addition of an EA to the office has allowed the WAO to better track issues and follow up on a regular basis. Waiting on information or instructions from

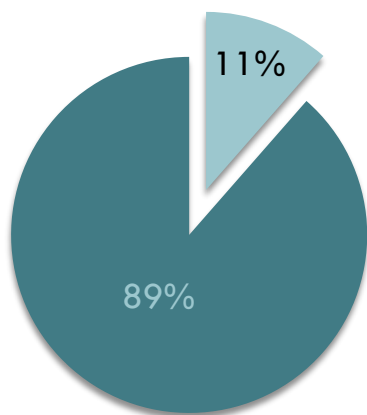
workers represents an average of 33.75% of issues statuses on a quarterly basis. WSCC's response time over the course of this year has shown dramatic improvement, due in large part to change in protocols and the monthly follow up by the Director of Claims Services. Overall, the WAO is satisfied with how the majority of issues progress.

The WAO may make representations on behalf of a worker in support of their WSCC claim. This applies to submissions to Claims Services, the Review Committee or the Appeals Tribunal.

86.3% of issues resolved in 2019 were able to be addressed without entering a formal review or appeals process.

	Issues Addressed		Review Submissions		Appeals Submissions	
	Issues Actioned	Issues Resolved	Reviews Requests	Favorable Outcome	Appeals Requested	Favorable Outcome
January	50	Unknown *	1	0	1	0
February	35	Unknown *	1	*		
March	74	18	1	0		
April	90	27				
May	111	27				
June	108	19	3	1.5		
July	124	27	4	3		
August	126	10	3	1*		
September	134	35				
October	136	15	2	*		
November	146	39	1	*		
December	134	41	1	*		
		* Resolved issues were not tracked as part of reporting until March.	*Due to staffing at Review Committee, Reviews have been delayed and no decisions have been rendered.			

3.5 Division of Cases between Workers' Advisor and Deputy Workers' Advisor



■ Deputy Advisor ■ Workers Advisor

The Workers' Advisor and Deputy Workers' Advisor offices work closely together, but very few workers realize that position of Deputy Workers' Advisor is a .20 position.

The WAO have been collaborating on more cases in 2019 and having both Advisors' weigh in on complex issues have helped to ensure consistency in the office and provide a foundation for cohesiveness.

At the moment, although the division of labour is weighted to the Workers' Advisor, the division of cases between the offices is manageable. In the future, if client trends continue to increase, there would be a business case to increase the Deputy position to a .5 or higher.