

Business Plan

2014

The Workplace Safety and Insurance Appeals Tribunal (WSIAT) is a highly regarded, specialized, independent adjudicative agency within the Ontario administrative justice system that hears appeals from final decisions of the Workplace Safety and Insurance Board (WSIB) and other matters as assigned under the *Workplace Safety and Insurance Act, 1997* (WSIA).

The Tribunal succeeds in implementing its mandate within the spirit of the guiding principles through the leadership of the Chair and the senior management team and the professional and dedicated work of staff, full time OIC adjudicators, and part time fee for service OIC adjudicators. The adjudicator team is comprised of full time and part time Vice-Chairs, Members representative of workers and Members representative of employers who are appointed through a competitive, merit based process through Ontario's Public Appointments Secretariat.

Program: Appeals Adjudication

The Tribunal's primary activity is final decision making in the workplace safety and insurance system with respect to worker benefits issues and employer/revenue issues. While it uses a variety of mechanisms to resolve appeals, it does so primarily through a hearings-based adjudication process.

Pre-hearing preparation is carried out by staff in the Office of the Vice-Chair Registrar and, in more complex cases, by Tribunal counsel. This consists of notifying the Board and parties of record of an appeal; organizing the documents in the appeal record and obtaining necessary additional evidence when the appeal record is incomplete; coordinating the collection of evidence and submissions, and identifying issues for the parties. Staff work to ensure that the hearing process before an adjudicator will complete at the first hearing in the majority of cases, thereby effectively utilizing OIC resources.

Hearings take place before Order-in-Council appointees (a Vice-Chair sitting alone or a tripartite panel consisting of a Vice-Chair, member representative of workers and a member representative of employers) through either a written or oral hearing process. Adjudicators issue a written anonymized and public decision disposing of an appeal. The WSIA requires the Tribunal provide written decisions and the WSIB requires written decisions for implementation. Hearings of the Tribunal take place in Toronto and in regional centers throughout the Province of Ontario. Vice-Chairs and panels receive legal assistance from lawyers in the Office of Counsel to the Chair.

Pre-hearing staff use a variety of dispute resolution mechanisms to dispose of appeals without a hearing. They determine whether there are jurisdictional or evidentiary issues that would prevent the Tribunal from deciding an appeal. Mediation services are offered where both parties participate in the appeal, and there are no complex factual, medical

or legal issues under consideration. Mediations that result in recommendations must be reviewed by a Vice-Chair and confirmed by decision in order to be implemented by the WSIB.

Shared Services

The Tribunal provides services on behalf of several labour agencies pursuant to a Shared Service Agreement. These consist of photocopying, mail, and hearing room services and the administration of the Ontario Workplace Tribunals Library.

Environmental Scan and Strategic Directions, 2014-2016

Appeal Volumes

In 2013, the Tribunal has continued to experience a high number of incoming appeals from the WSIB.

In 2013, the Tribunal's active caseload is projected to end the year at approximately 7,500 appeals. Due to the volume of incoming appeals from the WSIB and the need to increase the number of available adjudicators, the active inventory is expected to increase further, likely through 2016, before declining. The Tribunal will work to mitigate the increase.

The Tribunal plans for the number of final decisions to increase and for the number of incoming appeals to gradually reduce. Both these factors play a role in addressing the high active inventory.

For 2014, the Tribunal forecasts that the number of incoming appeals from the WSIB will remain high, yet not increasing. The new process at the WSIB's Appeals Division has not yet been in place a full year, which makes it difficult to forecast incoming appeal figures.

Achieving decision targets is contingent on a roster of knowledgeable OICs who are prepared to spend time on Tribunal work.

Over the three year period of 2014 to 2016, the Tribunal will work to increase final dispositions from 2,500 per year to 3,300 per year. This target is integrally connected to a roster of available and knowledgeable Vice-Chairs and members. Increasing the OIC complement to include 60-65 active Vice-Chairs is required, with the possibility of a further increase. The Tribunal is projecting that the OIC complement will release an average of 13 decisions per active Vice-Chair per quarter.

High Quality Decisions - Changing complement of OIC appointees

Attrition of adjudicators through retirements, resignations and illness continued throughout 2013. At the end of September 2013, the Vice-Chair roster was 49 Vice-Chairs (who released 1 or more decisions in the quarter). In comparison to 2010, the

Tribunal's Vice-Chair roster has decreased by 14% mainly through the loss of experienced Vice-Chairs.

The Tribunal needs 60 to 65 active Vice-Chairs to effectively address the increase in the active caseload and to meet final decision targets. In 2013, five (5) new Vice-Chairs were appointed.

In the past 18 months, the Tribunal has held four (4) merit based competitions in a concerted effort to add to the OIC complement. Testing of the candidates who applied to the competitions did not produce the quality results the Tribunal seeks. It is crucial to locate qualified and experienced candidates in the area of workplace safety and insurance law who have an understanding of the justice system, administrative law and the concepts of natural justice in order to uphold quality adjudication, confidence and finality in the system, and service delivery standards.

The Tribunal will continue to work towards adding to the OIC complement throughout 2014, particularly the part-time Vice-Chair complement, to address ongoing adjudicator attrition, the increase in the active caseload and the risk of future loss of experienced OIC due to the PAS 10 year term limit for appointments.

An issue of concern is the loss of experienced and most competent adjudicators due to implementation or interpretation of the 10 year term cap imposed by the OPS Government Appointees Directive. By 2017, 31 of the 50 Vice-Chairs on the Tribunal's current roster will have reached the 10 year limit.

To deal with the caseload and issue quality decisions, it is an essential and pragmatic business solution to attract and retain the most competent adjudicators. It makes no business sense to eliminate competent OICs after 10 years.

The Tribunal's excellent judicial review record is evidence of the need to attract and train the most knowledgeable and most competent adjudicators, and it attracts attention from boards and tribunals across Canada. It is a valuable business practice that needs to be continued and supported to effectively deal with the volume of appeals and to provide quality service to employers and injured workers.

The part time Vice-Chair roster provides both flexibility and cost savings in comparison to a complement comprised only of full time appointees.

Staffing complement

For the duration of the high appeal inventory, including 2014 through 2016, the full staff complement in the production areas will be required to process and to provide client service for the high volume of appeals. The Tribunal must be able to move cases through the process and to the hearing schedule in a volume that the OIC complement can sustain.

The Tribunal must maintain the technological environment to support and facilitate effective and efficient case processing.

Objective

The Tribunal's primary object is to provide high quality adjudication, both in the hearing process and in written reasons, in accordance with the principles of natural justice and within a reasonable timeframe.

Risks

- A. OIC Complement (Strategic and Workforce risk)
- B. Appeal Volumes (Operational risk)

Strategies

The Tribunal has identified several strategies to continue to achieve the Tribunal's mandate and mission in keeping with the guiding principles. To continue to provide high quality adjudication in a high volume environment the Tribunal will:

- recruit knowledgeable and available adjudicators;
- attract and retain employees;
- continue the OIC training and mentoring programs.

Case Management Plan

At the Tribunal, appeals proceed through a two-part application process. To start an appeal and meet the time limits in the legislation, an appellant files a Notice of Appeal form (NOA). Appeals remain at this "notice" stage while preliminary information is gathered and until the appellant indicates readiness to proceed toward an appeal hearing. The appellant indicates readiness by filing the Confirmation of Appeal form (COA). Once the COA is received at the Tribunal, the appeal enters the second, or "resolution" processing stage.

The Tribunal has in place the case management tools to monitor the appeal inventory, caseload reduction and associated timelines.

Overview for 2014 to 2016

The Tribunal's focus for 2014 through 2016 will be to

- Prepare cases for the hearing schedule;
- Schedule hearings at a rate the OIC adjudicator complement can tolerate without increasing decision writing times;
- Continue to seek pre-hearing dispositions; and
- Increase assignment of written cases when feasible

It is expected that the active inventory will continue to rise during this planning period, with the peak active inventory forecast to occur in 2015-6 before starting a gradual

decline. Returning the active inventory to the range of 4,000 (+/- 5%) is estimated to take until 2024.

The level of the Tribunal's active inventory is affected by three factors: the number of incoming appeals in a year, the number of appeals that are confirmed as ready to proceed that year and the number of hearings and other appeal dispositions that are achieved in the year.

At the end of 2012, there were 5,595 active cases at the two processing stages; at Q3-2013, there were 6,967 active cases at these stages.

2014 forecast and targets

- 5,550 forecast total incoming cases
- Target of 4,150 total dispositions

Vice-Chairs

The Tribunal has experienced an attrition of adjudicators through retirements, resignations and illness. In 2012 and in 2013, new Vice-Chairs and members were added to the roster and the Tribunal Chair is working to increase the complement to 60-65 active Vice-Chairs. A further increase may be required. OIC candidates will be sought using the competitive, merit based process run by the Public Appointments Secretariat.

The Vice-Chair roster and decision release data shows that the average number of decisions released per quarter varies between 11 and 15. The Tribunal's goal is for an average of 13 decisions per active Vice-Chair per quarter. This is an aggressive goal because the availability of Vice-Chairs has been known to fluctuate. Past data indicates that the goal is achievable assuming a similar mix of Vice-Chair availability.

In 2013, the Tribunal planned for 2,700 case closures from adjudicator decisions; however, the Tribunal will not achieve this target due to Vice-Chair availability. In 2013, the Tribunal received five (5) Vice-Chair appointments.

In 2014, the WSIAT will continue to recruit new OICs. The addition of new OICs to the current roster, particularly new Vice-Chairs, is a critical factor to increase hearing assignments to meet decision targets.

Performance Measures

Active inventory

At the end of Q3-2013, the Tribunal's active inventory was 6,967. The Tribunal's steady state goal for the active inventory is 4,000 +/- 5%. At the end of 2014, the estimated level for the active inventory is 8,923 appeals.

Measuring timeliness

Final decisions released in 120 days

The Tribunal's goal is 85% of final decisions released in 120 days. At the end of the third quarter of 2013, the Tribunal has released 86% of final decisions in 120 days.

Long term target: 65% of cases closed in 9 months

The Tribunal's long term target is 65% of cases closed in 9 months. At the end of the third quarter 2013, 31% of cases were closed in 9 months. This figure is primarily influenced by two factors: the availability of representatives to accept hearing dates; and the number of available, experienced adjudicators. The Tribunal's hearing schedule volume must balance Vice-Chair availability and writing time. Too high a caseload adversely affects writing time, which leads to decisions over 120 days old.

Time to hearing

The Tribunal measures the median interval of the first hearing date offered to the parties. At Q3-2013, the median time was 10.4 months.

Planning for 2015 and 2016

In 2015 and 2016, the Tribunal's production planning calls for 3,000 and 3,300 final decisions respectively. These are significant targets intended to reduce the level of the active inventory. The Tribunal projects that this volume of final decisions will need to be maintained through 2024-25 to return to an active inventory level to 4,000 (+/- 5%).

Achieving these targets is contingent on a roster of knowledgeable OICs who are prepared to spend time on Tribunal work. The Tribunal is seeking to recruit new OICs; the addition of new OICs to the current roster, particularly new Vice-Chairs, is a critical factor to meet targets.

These targets have several planning implications.

- Additional hearing rooms will be required in Toronto;
- Hearing room rental and travel costs associated with regional locations will rise; and
- Department staffing and vacancies will need to be monitored carefully and adjusted as necessary to follow caseload volume through the process.

Financial Resources

Table 1: WSIAT budget request: 2014

Summary	2013 Approved Budget	2013 Projection	2014 Budget Request	2015 Projection	2016 Projection
Operating Expenses					
Salary & Wages	11,107	11,239	12,125	12,125	12,125
Benefits	2,194	2,301	2,425	2,425	2,425
Transportation & Communication	1,043	923	1,013	1,013	1,103
Services	6,962	6,570	6,957	6,957	6,970
Supplies & Equipment	416	465	396	400	390
Total – WSIAT	21,722	21,498	22,916	22,920	22,923
Services – WSIB	500	510	510	510	510
Revenue	-	(10)	(10)	(10)	(10)
Total Expenditures / Budget Request	22,222	21,998	23,416	23,420	23,423
One-Time Expenses	300	105	300	300	300
Grand Total Expenditures / Budget Request	22,522	22,103	23,716	23,720	23,723

October 31, 2013
WSIAT