

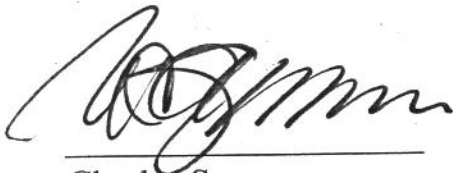
MEMORANDUM OF UNDERSTANDING

Between:

The MINISTER OF LABOUR
(hereinafter referred to as the "Minister")

and

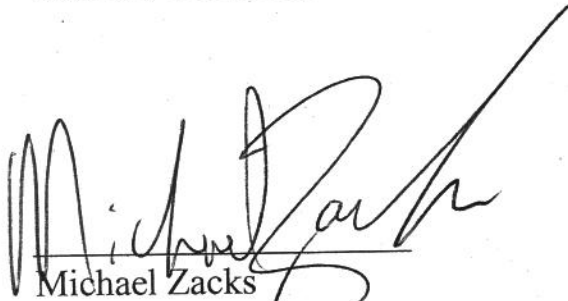
The DIRECTOR,
OFFICE OF THE EMPLOYER ADVISER
(hereinafter referred to as the "Director")



Charles Sousa
Minister of Labour

March 23 '2011

Date



Michael Zacks
Director - Acting
Office of the Employer Adviser

March 24 2011

Date

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

PREAMBLE

The *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c.16 (the “Act”) establishes the workplace safety and insurance system as a financially viable insurance plan for workplace injuries and illnesses, which is oriented toward prevention and return to work, the elimination of duplication in administration and service delivery, and the promotion of less adversarial relations between employers and workers in Ontario in the resolution of claims and appeals.

The workplace safety and insurance system is based on:

- the prevention and management of workplace injuries and occupational diseases,
- the provision of fair benefits for workplace injuries and occupational diseases,
- greater certainty and less complexity, litigation and duplication in its administration,
- a commitment to superior quality service to workers, employers and other stakeholders, and
- effective and efficient co-ordination in the administration of this system.

In accordance with these principles, the Act continues the Office of the Employer Adviser (“Office”) as one of several agencies (i.e. the Office of the Worker Adviser, the Workplace Safety and Insurance Appeals Tribunal (“Tribunal”), the Workplace Safety and Insurance Board (“Board”)) in the workplace safety and insurance system. It is necessary and desirable to clarify and establish effective co-ordination of the various agencies’ roles within the system.

1. LEGISLATIVE AUTHORITY AND MANDATE

- 1.1 The Office is established by section 176 of the Act. The Office is an operational service agency of the Government of Ontario. The Office reports to the Minister and the Minister is responsible for the Act.

MEMORANDUM OF UNDERSTANDING

Office of the Employer Adviser

- 1.2 The Office educates, advises and represents primarily those employers with fewer than 100 employees in the management of workplace insurance claims and proceedings. The Office performs the duties conferred upon it by the Act. The Office plays an important role in the workplace safety and insurance system by promoting cooperation between workplace parties, and in preventing and resolving disputes between the workplace parties in workplace insurance and related matters.
- 1.3 The Office is specifically responsible for promoting the resolution of workplace insurance disputes through:
 - i. the provision of advisory and educational services on workplace insurance and related matters and appeals to primarily those employers with fewer than 100 employees; and,
 - ii. the provision of independent representation services for primarily those employers with fewer than 100 employees, in workplace insurance proceedings and related matters before the Board and the Tribunal.
- 1.4 The Office shall work with the Ministry of Labour (“Ministry”) and the Board in the development, reporting and ongoing evaluation of performance targets and operational measures aimed at improving dispute resolution and the adjudication of claims and appeals in the workplace safety and insurance system.

2. MEMORANDUM OF UNDERSTANDING

2.1 Purpose of the Memorandum of Understanding

- 2.1.1 The purpose of this Memorandum of Understanding (“MOU”) is to clarify the Office’s accountability to the Minister and the Government of Ontario, and to set out the expectations for information exchange and working relationships that support the accountability requirements within a framework which recognises the independence of the Office from the Ministry.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

2.1.2 The MOU establishes:

- the roles of the Minister, the Deputy Minister of Labour (“Deputy Minister”), and the Director;
- the independence of the Office from the Ministry and the accountability of the Office to the Minister;
- financial management and administrative practices and arrangements for the efficient and effective operation of the Office, including staffing;
- the extent to which specific Management Board of Cabinet Directives and Guidelines apply to the Office;
- the applicability of directives issued pursuant to the *Public Service of Ontario Act, 2006* (“PSOA”)
- reporting requirements; and
- accountability relationships including audits.

2.1.3 The MOU does not supersede the provisions of any legislation governing the Office. This MOU shall not affect, modify, limit or interfere with any of the responsibilities of the Minister and of the Office established by law. In the event of a conflict between the MOU and a provision of any legislation respecting the Office, the legislation prevails.

2.2 Duration of Agreement

2.2.1 This MOU becomes effective on the date the Minister and the Director sign the MOU. The MOU shall remain in effect for five years from the date of signing or until a new MOU is agreed to by the parties.

2.3 Review and Amendment

2.3.1 The MOU may be reviewed at the request of either of the parties, and shall be reviewed in the event that a new Minister or a new Director is appointed, the Office’s governing legislation is amended, or any other significant changes to the Office are contemplated.

2.3.2 This MOU must be reviewed at the expiry of its term.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

3. ROLES AND RESPONSIBILITIES

The Minister

- 3.1 The Minister is accountable for the Office to the Government of Ontario and is responsible for representing the Office in Cabinet and its Committees, in the Legislative Assembly, and before Committees of the Legislature.
- 3.2 The Minister is accountable to the Legislature for the Office's fulfillment of its mandate and its compliance with government administrative policies, and for this purpose shall report to the Legislature concerning the activities of the Office.
- 3.3 The Minister is accountable for the coordination of the various agencies falling within his or her jurisdiction and is responsible for ensuring that those agencies operate in a manner consistent with their enabling statutes while at the same time avoiding duplication of efforts or the promulgation of policies amongst agencies which are inconsistent with one another.
- 3.4 The Minister recognizes that the Office is a statutory entity performing duties in accordance with its legislative mandate. The Minister acknowledges the independence of the Office in the execution of its mandate.
- 3.5 The Minister is responsible for assessing whether the Office is fulfilling its legislative mandate and for ensuring the policies and operational initiatives which are developed and implemented are in accordance with the Office's mandate.
- 3.6 The Minister is responsible for formulating and carrying forward amendments to the Act.
- 3.7 The Minister is responsible for providing direction on government and ministry operational priorities for inclusion in the Office's business plan. The Minister is responsible for the review and approval of the Office's annual business plan, and for the annual allocation of resources to the Office in accordance with the Ministry and government's annual budget approval and resource allocation process.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

- 3.8 The Minister may also exercise such other responsibilities as may be determined by the Management Board of Cabinet's Agency Establishment and Accountability Directive, and consistent with Article 3.4 of this MOU.
- 3.9 The Minister shall table the Annual Report of the Office in the Legislative Assembly in accordance with the Standing Orders of the Legislative Assembly.

The Director

- 3.10 The Director acknowledges that accountability to the government in exercising the Office's mandate is a fundamental principle to be observed in the management, administration and operations of the Office. The Director acknowledges that accountability of the Office to the Government of Ontario means direct accountability to the Minister.
- 3.11 The Director acknowledges that, in order for the Minister to perform the duties set out in this MOU, the Minister must be informed of the existence or emergence of issues relating to the Office's mandate, and the Director shall inform the Minister of such issues upon their emergence and on a regular basis as required.
- 3.12 The Director shall provide leadership and strategic direction to the Office, and is responsible for the overall management and administration of the Office. The Director shall direct the affairs of the Office within the mandate as defined in Articles 1.2 and 1.3 of this MOU and in accordance with the approved business plan.
- 3.13 The Director is accountable to the Minister for ensuring that the Office carries out the responsibilities assigned or delegated to it under the Act, the PSOA and any other applicable legislation, and complies with all applicable legislation, Management Board of Cabinet Directives and Guidelines, Cabinet Office Communication Directives, Public Service Commission Directives and this MOU.
- 3.14 The Director is responsible for signing an annual Certificate of Assurance, which includes attesting to the Office's compliance with the mandatory requirements set out in the Management Board of Cabinet's Agency Establishment and Accountability Directive.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

- 3.15 The Director shall present the Office's annual report to the Minister in accordance with the Agency Establishment and Accountability Directive.
- 3.16 The Director shall:
- (i) promote the objectives of the Act without duplicating the efforts of the Board and the Tribunal ;
 - (ii) promote compliance with the Act through public information and education;
 - (iii) ensure there is a timely, effective and efficient caseload management system for the Office; and
 - (iv) ensure that the Office has an effective performance measurement and management system.
- 3.17 The Director is accountable to the Deputy Minister for the day-to-day management of the Office's operations in accordance with accepted business and financial practices and standards. The Director shall assist the Deputy Minister with program evaluation as directed.
- 3.18 The Director has been delegated human resources authority under the PSOA as described in Article 5.5 of this MOU.
- 3.19 The Director is prescribed as the Ethics Executive under the PSOA for public servants of the Office as described in Article 5.7 of this MOU.
- 3.20 The Director is responsible for ensuring that all staff of the Office are familiar with the applicable conflict of interest rules under the PSOA and will promote ethical conduct by Office staff pursuant to section 64 of the PSOA. If the Office decides to adopt its own conflict of interest rules, instead of the rules in the PSOA, the Office will provide the Deputy Minister with a copy of the proposed conflict of interest rules before they are submitted for approval to the Conflict of Interest Commissioner.
- 3.21 The Director is responsible for ensuring that all staff of the Office are aware of their obligations and rights under the PSOA related to political activity and the disclosure and investigation of wrongdoing.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

The Deputy Minister

- 3.22 The Deputy Minister is responsible for ensuring that the Ministry is providing the administrative, financial, human resources and information technology support services required by this MOU to the Office, and shall also commit to the Minister that the support or services provided to the Office are of the same quality and standard as provided to the Ministry's own divisions and branches.
- 3.23 The Deputy Minister is accountable to the Minister for: reviewing the Office's business plan; ensuring the Office's compliance with applicable Management Board of Cabinet and Ministry of Finance Directives and Guidelines, Public Service Commission Directives, conflict of interest rules and Cabinet Office Communications Directives; ensuring that the Minister is aware of any additions or amendments to the Office's policies or operational initiatives which affect the Office's mandate; providing advice to the Minister concerning Office issues and initiatives of importance relevant to the Office's mandate; and informing the Minister of the requirements of the applicable Management Board of Cabinet and Ministry of Finance Directives and Guidelines, Public Service Commission Directives, conflict of interest rules and Cabinet Office Communications Directives.
- 3.24 On behalf of and in conjunction with the Minister, the Deputy Minister shall assess whether the Office is fulfilling its legislative mandate, and recommend ways to resolve any issues or problems that are identified as barriers to the delivery of the Office's mandate.
- 3.25 The Deputy Minister is responsible for providing a framework for assessing whether the Office's business planning, performance measurement processes and goals are developed and implemented in accordance with approved government policies.
- 3.26 The Deputy Minister is responsible for ensuring that all accountability and reporting requirements as provided for by this MOU are met.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

4. INFORMATION EXCHANGE

4.1.1 The Minister and the Director recognise that timely information exchange concerning the operations and administration of the Office is essential to:

- i) enable the Minister to be accountable for the Office in the Legislature;
- ii) enable the parties to discharge their respective responsibilities; and
- iii) ensure the consistency of the Office's operational initiatives with the strategic directions of the Government of Ontario, as for example, meeting the government's standards of a high quality public service.

4.1.2 At the Minister's discretion meetings will be held with the Director to:

- (i) discuss issues relating to the delivery of the Office's mandate;
- (ii) review matters provided for in this MOU;
- (iii) discuss initiatives and issues that affect the Office and the Ministry's common stakeholder communities;
- (iv) ensure that the Director has the opportunity to make the Minister aware of any policy or operational initiatives that the Director feels should be implemented to facilitate the Office's ability to achieve it's mandate; and
- (v) discuss any other issue considered appropriate.

4.1.3 The Director shall advise the Minister prior to embarking upon the preparation of any public discussion papers and/or research papers intended for discussion purposes to allow the Minister to determine whether the paper in question:

- (i) is being prepared by the appropriate agency;
- (ii) should more appropriately be prepared by the Ministry or some other third party chosen by the Ministry in consultation with the Director;
- (iii) should receive input from other agencies potentially affected by the issues dealt with in the paper;
- (iv) follows appropriate guidelines;
- (v) duplicates studies and/or research already conducted by other agencies; and/or
- (vi) needs to be prepared at all.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

4.2 Meetings

- 4.2.1 The Deputy Minister shall meet with the Director on a regular basis, and as required to discuss matters of mutual importance to the Office and the Ministry, such as the services provided by the Ministry to the Office, the implementation of corporate Ministry policies, and issues relating to the efficient operation of the Office, and to review matters provided for in this MOU.
- 4.2.2 The Director shall keep the Minister advised of all planned events, as well as issues or events that concern or can be reasonably expected to concern the Minister in the exercise of his or her responsibilities and shall keep the Deputy Minister informed and up-to-date on all program operating matters.
- 4.2.3 The Ministry, wherever possible, shall consult with the Office as appropriate when initiatives are being undertaken to amend the legislation or regulations which may affect the Office's mandate or operations. This commitment includes consultation, wherever possible, on any review of the Office's mandate or any consideration of alternative means of delivery of its services. The Minister shall advise the Director of those policy decisions of the Government of Ontario relevant to the administration of the Office's operations.
- 4.2.4 The Director shall forward information in a timely fashion concerning any issue that affects the Office's operations or may require the Minister's attention. This may include issues which:
- (i) have a significant impact on individual clients or stakeholders;
 - (ii) raise questions in the Legislature, or are raised by the media or stakeholders;
 - (iii) involve the development, modification, or implementation of any policy or operational initiative which affects the Office and the fulfillment of its mandate; or
 - (iv) require reports to Cabinet, Treasury Board/Management Board of Cabinet other Cabinet Sub-committees or other government agencies.
- 4.2.5 The Deputy Minister shall inform the Director of the policies of the Ministry and the government that apply to the Office, such as financial,

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

administrative, human resources and other corporate policies, including policies in respect of French language services, freedom of information, workplace harassment and equal opportunity.

- 4.2.6 The Office and the Ministry may publish and distribute any material and reports considered to be necessary to inform the public of the Office's operations. The Office shall share any publications and related communications strategies with the Ministry in a timely fashion. Prior to publishing any material, the Ministry shall consult with the Office to ensure accuracy of the information.
- 4.2.7 The Office shall not release its annual report to the public until the Minister has tabled the report in the Legislature. Upon tabling the report in the Legislature, the Office shall circulate the report to its stakeholder community.

4.3 Consultations and Communications to Stakeholders

- 4.3.1 The Office shall consult with the Ministry on communication strategies and shall co-operate with the Ministry to ensure consistent and co-ordinated communications to stakeholders and the public regarding workplace safety and insurance.
- 4.3.2 The Ministry, the Office and the Board shall work to promote co-operation and information exchange across the workplace insurance system to ensure that their clients' needs are met effectively and efficiently.
- 4.3.3 The Minister, the Chair of the Board, and the Director shall consult with each other with respect to release to the public, via the media or otherwise, of any policy or operational initiative.
- 4.3.4 The Office is responsible for developing and maintaining a consultation strategy with clients and stakeholders. The Office may consult with stakeholders and client groups in developing its business planning strategies for educating, advising and representing its client community primarily focused on meeting clients' quality service needs.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

5. MANAGEMENT AND ADMINISTRATION

5.1 Agency Classification and Staffing

- 5.1.1 The Office is classified as an operational service agency of the Government of Ontario under the provisions of the Agency Establishment and Accountability Directive. Accordingly, the Office is subject to all Management Board of Cabinet, Ministry of Finance, and Cabinet Office Directives and Guidelines applicable to operational service agencies, including any amendments to those Directives and Guidelines in effect on the date this MOU is executed, or any Directives and Guidelines which come into effect after that date.
- 5.1.2 The Office is prescribed as a Commission Public Body under the PSOA. The staff of the Office are appointed under Part III of the PSOA and shall receive all the rights and benefits under that Act and any relevant collective agreements. The Office in its dealings with staff appointed under that Act shall be subject to Management Board of Cabinet Directives and Guidelines, Public Service Commission Directives, other government policies and procedures respecting human resources, and any applicable collective agreements or other applicable legislation or regulations.
- 5.1.3 Schedule A, which forms part of this Memorandum of Understanding, provides a list of applicable Management Board of Cabinet, Public Service Commission and Ministry of Finance Directives. The Office must comply with all Management Board of Cabinet, Public Service Commission and Ministry of Finance Directives that are applicable to operational service agencies, former Schedule 1 agencies or Commission Public Bodies, whether or not a directive is specifically listed in Schedule A.
- 5.1.4 Schedule B, which forms part of this Memorandum of Understanding, contains a list of statutes that are applicable to the Office. The Office must comply with all applicable statutes, whether or not it is specifically listed in Schedule B.
- 5.1.5 The Director is appointed by the Lieutenant Governor in Council by Order in Council.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

5.1.6 The Director shall designate an employee of the Office to act as alternate Director during his or her absence, and when the alternate Director is required to act as such, he or she is responsible for the matters assigned to the Director of the Office by this MOU.

5.2 Administrative Support

5.2.1 The Office receives its administrative support from the Ministry of Labour and is subject to all central agency Directives and Guidelines.

5.2.2 The Office and the Ministry shall avoid duplication of services to the extent possible, taking into account the need to reflect and preserve the independence of the Office.

5.2.3 The Deputy Minister is responsible for negotiating administrative services to be provided to the Office through Ontario Shared Services.

5.2.4 The Director shall, upon the request of the Minister or the Deputy Minister, supply specific data and other information which may be required from time to time for the Ministry to provide administrative, financial, human resources and information technology support services to the Office.

5.3 Legal Services

5.3.1 The Office shall supply its own legal services using rates of pay that are comparable to, or less than, those of the Lawyers Compensation Plan of the Ontario Public Service.

5.3.2 The Office is required to seek the approval of the Ministry of the Attorney General (MAG) through the Director of Legal Services at the Ministry of Labour to obtain outside legal assistance when it requires expertise not available to it from its staff counsel, or when the use of staff counsel would result in a conflict of interest. The Office shall follow the procurement principles and guidelines, including fee schedules, used by the MAG for retaining outside counsel in accordance with MAG's Corporate Operating Policy on Acquiring and Using Legal Services.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

5.4 Management Board of Cabinet Requirements

- 5.4.1 As an agency of the government, the Office must conduct itself according to the management principles of the Government of Ontario. These principles include ethical behaviour, prudent and lawful use of public resources, value for money, high-quality service to the public, fairness and equity, and openness and transparency as set out in the Corporate Management Directive, 1997 of Management Board of Cabinet.
- 5.4.2 In accordance with the Agency Establishment and Accountability Directive, the Director shall present an annual report and an annual business plan for the Minister's consideration. Information in the annual business plan may be added to the Ministry's annual budget plan submission.
- 5.4.3 The annual report shall include a report on the Office's performance measures and indicators and client service initiatives.
- 5.4.4 The Office shall not release its annual report to the public until the Minister has tabled the report in the Legislature in accordance with the Standing Orders of the Legislative Assembly.

5.5 Financial and Human Resources Delegation

- 5.5.1 The financial and administrative framework, including human resources administration, for the Office is set out in the Ministry's Delegation Documents, entitled "Ministry of Labour Financial Authority Framework" and "Inventory of Human Resources Responsibilities", collectively referred to as the "Delegation Documents". Any reference to the Delegation Documents in this MOU shall include any amendments made to them after the date this MOU comes into effect.
- 5.5.2 The Director is accountable to the Deputy Minister for compliance with the "Ministry of Labour Financial Authority Framework" and is responsible for ensuring that the Office operates within its approved budget allocation in fulfilling its mandate.
- 5.5.3 Financial and accounting procedures of the Office shall be in accordance with Ministry of Finance and Management Board of Cabinet Directives and Guidelines.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

- 5.5.4 In accordance with the “Ministry of Labour Financial Authority Framework” financial authority has been delegated to the Manager, OEA Services, who shall exercise the delegated authority in accordance with the operational goals and mandate of the Office and within the parameters of the delegated authority.
- 5.5.5 Pursuant to the PSOA, the Public Service Commission has delegated human resources authority to the Director.
- 5.5.6 The terms and conditions of the human resources delegated authority are specified in the Public Service Commission’s delegation document dated July 20, 2007, entitled “Delegation of powers, duties and functions to prescribed individuals and chairs and deputy ministers in respect of public servants appointed to work in Commission public bodies”, which may be amended from time to time. Any delegation is conditional upon exercising the delegated authority as defined therein.
- 5.5.7 The Director has subdelegated his or her human resources authority, in accordance with the PSOA, to public servants within the Office at the manager level or above pursuant to a subdelegation document executed in October 2007. The subdelegation document may be amended from time to time.
- 5.5.8 The Director shall ensure that individuals in the Office with delegated or sub-delegated human resources authority will be accountable to the Public Service Commission or the sub-delegating authority as appropriate, and will exercise that authority in compliance with any relevant legislation, directives or policies and in accordance with the operational goals and mandate of the Office, and within the parameters of the delegated authority.
- 5.5.9 The Director is accountable to the Deputy Minister or the Deputy Minister’s delegate for the management and supervision of Office staff in accordance with Management Board of Cabinet Directives and Guidelines, Public Service Commission Directives, including the Human Resources Management Governance and Accountability Directive, and the Ministry’s “Inventory of Human Resources Responsibilities”. The Director is responsible for human resource management including Talent Management and other programs. The Director is ultimately responsible to the Public

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

Service Commission for carrying out the human resources management functions delegated to him or her by the Public Service Commission.

5.5.10 The Director is responsible for bringing any significant human resources matters to the attention of the Chief Administrative Officer of the Ministry or the Director of the branch responsible for providing strategic human resource advice in the Ministry, whether or not a delegated power is, or has been exercised by the Director.

5.6 Freedom of Information and Protection of Privacy

5.6.1 The Minister has delegated all of his or her powers and duties under the *Freedom of Information and Protection of Privacy Act* (“FOIPPA”) to the Director with respect to the Office pursuant to a delegation document dated December 11, 2008, as amended from time to time. The Director recognizes that the Minister is ultimately responsible and accountable to the Legislature for ensuring compliance with the FOIPPA.

5.6.2 If the Office or the Director becomes aware of a breach, potential breach or allegation of a breach of the FOIPPA, it shall be reported to the Freedom of Information and Privacy Office of the Ministry which may provide assistance in assessing the breach, potential breach or allegation of a breach. The Freedom of Information and Privacy Office may report the breach, potential breach or allegation of a breach to the Office of the Chief Information and Privacy Officer at the Ministry of Government and Consumer Services, as required.

5.6.3 The Ministry’s Freedom of Information and Privacy Office shall coordinate an annual meeting with the Office and the Director to review the Office’s privacy and information management practices and any issues related to the application and administration of the FOIPPA.

5.7 Role and Responsibility of the Ethics Executive under the PSOA

5.7.1 It is recognized by the parties that the purpose of Article 5.7 is to promote consistency of decision-making regarding conflicts of interest, political activity and disclosures of wrongdoing within the Ontario Public Service.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

- 5.7.2 The Director will act as the Ethics Executive (“EE”) for Office staff pursuant to Ontario Regulation 147/10 made under the PSOA.
- 5.7.3 The EE is responsible for receiving and assessing requests or notifications related to conflict of interest, applications, requests or notifications related to political activity and disclosures of wrongdoing, and making determinations in relation to such matters.
- 5.7.4 In carrying out the authority conferred on the EE under the PSOA, the EE will ensure compliance with the PSOA and Management Board of Cabinet’s Disclosure of Wrongdoing Directive.
- 5.7.5 Upon receipt of a request or notification concerning conflict of interest or an application, request or notification concerning political activity, the EE will provide a copy of the request, notification or application to the branch responsible for providing strategic human resource advice in the Ministry (“HRB”) who will assist the EE in making any necessary inquiries. HRB may provide a report with or without recommendations to the EE, with a copy to the Deputy Minister. Once the EE has made a determination with respect to the request, notification or application, or makes a referral to the Conflict of Interest Commissioner, the EE will provide a copy of the determination or referral, as the case may be, to the Deputy Minister. The EE will provide any determination given by, or any direction received from the Conflict of Interest Commissioner to HRB.
- 5.7.6 If the EE initiates an inquiry, without receipt of an application, request or notification concerning conflict of interest or political activity, the EE will inform HRB who will assist the EE in making any necessary inquiries. HRB may provide a report with or without recommendations to the EE, with a copy to the Deputy Minister. Once the EE has made a determination with respect to the subject matter of the inquiry or makes a referral to the Conflict of Interest Commissioner, the EE will provide a copy of the determination or referral, as the case may be, to the Deputy Minister. The EE will provide any determination given by, or any direction received from the Conflict of Interest Commissioner to HRB.
- 5.7.7 The EE is bound by the Management Board of Cabinet’s Disclosure of Wrongdoing Directive, which requires that he or she, and any other persons involved in conducting or administering the process related to disclosures of

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

wrongdoing, ensure that the process is fair, timely and as confidential as possible.

- 5.7.8 The EE will provide a copy of the disclosure of wrongdoing to the HRB, unless he or she believes that due to the nature of the wrongdoing, it would not be appropriate to do so. If the EE does not provide a copy of the disclosure of wrongdoing to the HRB, the EE will notify HRB of the disclosure and provide it with a summary of the disclosure to the extent he or she believes is appropriate. For example, the EE may decide not to disclose identifying information about the individual(s) involved in the disclosure.
- 5.7.9 HRB may provide assistance in assessing the disclosure and may prepare a report with or without recommendations for the EE. If the HRB prepares a report, a copy shall be provided to the Deputy Minister. After the EE has dealt with the disclosure, with or without the assistance of the HRB, the EE will provide a report describing the nature of the disclosure of wrongdoing, the manner in which it was handled and the determination that was made, to the Deputy Minister, with or without identifying personal information as may be appropriate.
- 5.7.10 If the EE receives information related to a disclosure of wrongdoing filed directly with the Integrity Commissioner or any communication or referral from the Integrity Commissioner respecting the disclosure, the EE will provide HRB with as much information about the disclosure or referral as the EE considers appropriate. HRB may provide a report with or without recommendations to the EE, with a copy to the Deputy Minister. If the EE provides a report to the Integrity Commissioner, the EE will also provide a copy to the Deputy Minister, with or without identifying personal information as may be appropriate. The EE will also provide the Deputy Minister with information related to an investigation or any further referral by the Integrity Commissioner that he or she may become aware of, with or without identifying personal information as may be appropriate.
- 5.7.11 The Director will notify the Deputy Minister, where appropriate, when he or she makes a disclosure of wrongdoing to the Conflict of Interest Commissioner or the Integrity Commissioner, with as much information about the disclosure as may be appropriate in the circumstances. The Director will notify the Deputy Minister, where appropriate, of the outcome

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

of the disclosure of wrongdoing. The Director will also notify the Deputy Minister when he or she makes a request, notification or application related to conflict of interest or political activity to the Conflict of Interest Commissioner and will provide the Deputy Minister with a copy of the request, notification or application and will advise the Deputy Minister of the outcome.

6. FINANCIAL REQUIREMENTS

6.1 Business Plan & Performance Measurement

- 6.1.1 The Director shall review the Office's annual budget requirements and business plan and ensure that the business plan for the Office is submitted to the Minister for review and approval within the time requirements established by the Agency Establishment and Accountability Directive.
- 6.1.2 Information from the Office's business plan may form part of the Ministry's annual budget plan submission and shall be reflective of the Ministry's broad strategic directions. Each year the Minister shall advise the Director of government and ministry priorities and directions for inclusion in the business plan.
- 6.1.3 The Office's business plan must conform to the Agency Establishment and Accountability Directive and shall:
- (i) outline the Office's business strategies for educating, advising and representing its client community in the management of claims, appeals and other workplace insurance proceedings in the upcoming year, including the performance and workload targets;
 - (ii) include the previous year's resource levels and expenditures, forecast expenditures for the current year and the proposed budget for the upcoming year;
 - (iii) outline the Office's proposed performance, quality service measures, standards, targets and commitments, and expected achievements and outcomes for the upcoming year;

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

- (iv) outline its proposed client service initiatives for the upcoming year, including a case management strategy;
- (v) include detailed human resources, cash flow and information technology plans that reflect performance goals, client service initiatives and business strategies.
- (vi) include a risk assessment and risk management plan in accordance with the Agency Establishment and Accountability Directive to assess risks, develop and maintain necessary records and report to Treasury Board/Management Board of Cabinet.

6.1.4 In developing the Office's business plan, the Office shall work with the Ministry:

- i) to ensure that its performance measures and goals are consistent with other agencies in the workplace insurance system; and,
- ii) to ensure a co-ordinated approach to client service initiatives that address the management of dispute resolution and adjudication of appeals under the Act.

6.1.5 The Ministry shall share the Office's business planning information, as appropriate, with the agencies involved in the workplace safety and insurance system to ensure that funding assumptions are premised on compatible, consistent and current caseload and other operational data. The Ministry shall work with the Office to finalise all assumptions underlying their business planning process.

6.1.6 The Director shall prepare and submit such reports for business planning purposes as are required under any applicable legislation or by the Minister, in accordance with established practices and time frames of the Ministry.

6.1.7 The Office's budget allocation is determined through the Ministry's Expenditure Estimates. The Minister shall advise the Board of the funding requirements for the Office following Treasury Board/Management Board of Cabinet approval, and recover the costs from the Board under section 176(3) of the Act.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

6.1.8 The Office shall provide the Ministry with reports on the implementation of its business plan on a quarterly or as required basis.

6.2 Audit and Review Arrangements

6.2.1 The Office is subject to periodic review and value-for-money audits by the Auditor General of Ontario under the *Auditor General Act* or by the Ontario Internal Audit Division.

6.2.2 The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry's Audit Committee or by the Corporate Audit Committee.

6.2.3 Regardless of any audit described in Articles 6.2.1 and 6.2.2, the Minister may direct that the Office be audited by an external auditor.

6.2.4 The Director may request that the Deputy Minister arrange for an external audit of the financial transactions or management controls of the Office at the Office's expense.

6.2.5 The Office shall provide the information, material and access necessary for the conduct of any audit.

6.2.6 The Office will promptly provide a copy of every report from any audit to the Minister, the Deputy Minister and the Minister of Finance. The Office will also provide a copy of its response to the audit report and any recommendations therein. The Office will advise the Minister annually on any outstanding audit recommendations.

7. OTHER CONSIDERATIONS

7.1 Emergency Management

7.1.1 The Office is subject to applicable Management Board of Cabinet Directives and Guidelines and the Ministry's Emergency Plan mandated by the *Emergency Management and Civil Protection Act* ("EMCPA"), including the Ministry's Business Continuity Plan for Downtown Toronto. Therefore,

MEMORANDUM OF UNDERSTANDING

Office of the Employer Adviser

the Office and the Ministry agree to develop and maintain necessary mutual arrangements to ensure continuity of the Ministry's business services as may be required in the event of an emergency as defined in the EMCPA.

7.2 Environmental Bill of Rights

7.2.1 The Office recognizes and supports the Ministry's endorsement of the purposes of the *Environmental Bill of Rights, 1993* ("EBR"), which include protecting and conserving the environment. The Office also recognizes and supports the Ministry's commitment to environmentally sound practices and the Ministry's support and promotion of the "greening" of its programs, practices and activities of all its employees (e.g. the 3R's: reduce, reuse and recycle, in all daily transactions and work activities). The Office will make reasonable efforts to integrate consideration of the purposes of the EBR and utilize environmentally sound practices when conducting its business.

7.3 Customer Service

7.3.1 The Director will ensure that the Office delivers its services in accordance with the principles and mandatory requirements, as appropriate, of the OPS Service Directive

7.3.2 The Office shall establish and maintain a formal complaints process that is:

- well-publicized and easily accessible, particularly to those with special needs;
- responsive to clients by providing consistent, prompt, thorough and impartial review of their concerns including the provision of appropriate remedies where warranted and communication of the outcome of the complaint investigation that can be understood even if not acceptable to the complainant; and
- used by the Office to improve its operations.

7.4 Intellectual Property

7.4.1 In order to ensure that the Ontario government's intellectual property assets are managed efficiently, effectively and consistently across government, the Office shall comply with Management Board of Cabinet's Managing,

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

Distributing and Pricing Government Information (Intellectual Property)
Directive.

7.5 Liability Protection and Insurance

7.5.1 Pursuant to paragraph 3 of subsection 179(1) of the Act, no action or other proceeding for damages may be commenced against persons employed in the Office for an act or omission done or omitted by the person in good faith in the execution or intended execution of any power or duty under the Act. Pursuant to subsection 179(3) of the Act, the above does not relieve the Crown of liability in respect of a tort committed by persons employed in the Office to which the Crown would otherwise be subject.

7.5.2 The Office is covered by the province's Protection Program.

7.6 Records Management

7.6.1 Office records are governed by the *Archives and Recordkeeping Act, 2006* and the Management Board of Cabinet's Management of Recorded Information Directive.

7.7 Harmonized Sales Tax (HST)

7.7.1 The Office does not receive a rebate of the federal portion of the Harmonized Sales Tax.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

Schedule A: Applicable Government Directives

1. The following is a list of Management Board of Cabinet, Public Service Commission and Ministry of Finance directives that apply to the Board:
 - Accountability Directive
 - Advertising Content Directive
 - Agency Establishment and Accountability Directive
 - Delegation of Authority Key Directive
 - Disclosure of Wrongdoing Directive
 - Freedom of Information and Privacy Directive
 - Government Appointees Directive
 - Human Resource Management and Governance and Accountability Directive
 - Management of Recorded Information Directive
 - Managing, Distributing and Pricing Government Information (Intellectual Property)
 - Procurement Directive
 - Travel, Meal and Hospitality Expenses Directive

2. The Office must comply with all Management Board of Cabinet, Public Service Commission and Ministry of Finance Directives that are applicable to regulatory agencies, former Schedule 1 agencies or Commission Public Bodies, whether or not a directive is specifically listed above.

MEMORANDUM OF UNDERSTANDING
Office of the Employer Adviser

Schedule B: Applicable Statutes

1. The following is a list of statutes that apply to the Office:
 - *Accessibility for Ontarians with Disabilities Act, 2005*
 - *Archives and Recordkeeping Act, 2006*
 - *Financial Administration Act*
 - *Freedom of Information and Protection of Privacy Act*
 - *French Language Services Act*
 - *Pay Equity Act*
 - *Public Service of Ontario Act, 2006*

2. The Office must comply with all applicable statutes, whether or not it is specifically listed above.

