



Office of the Fairness Commissioner

2023-2026 Business Plan



FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

**OFFICE OF THE FAIRNESS COMMISSIONER
BUREAU DU COMMISSAIRE À L'ÉQUITÉ**

An agency of the Government of Ontario
Un organisme du gouvernement de l'Ontario

2023-2026 Business Plan

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Any questions about this policy or requests for alternate formats can be sent to the Office of the Fairness Commissioner by email at ofc@ontario.ca.

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Mandate of the Office:

The Office of the Fairness Commissioner (OFC) is an agency of the provincial government, which performs an important oversight role across Ontario's regulated professions, health regulatory colleges and Skilled Trades Ontario.

Its mandate is to help ensure that the registration processes in place at these organizations are transparent, objective, impartial and fair. The work of the OFC is designed to provide better outcomes for applicants who wish to practice in their chosen trade or profession, including both domestically and internationally trained individuals.

The OFC is led by the Fairness Commissioner, whose overall mandate is set out in section 13(3) of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (FARPACTA) and in Schedule 2 of the *Regulated health Professions Act, 1991*.

Section 13(3) of FARPACTA, which is similar but not identical to, section 22.5(1) of Schedule 2 of the RHPA provides that:

It is the function of the Fairness Commissioner to:

- (a) assess the registration practices of regulated professions based on their obligations under this Act and the regulations;
- (b) specify audit standards, the scope of audits, times when registration practices shall be reviewed, times when fair registration practices reports and auditors' reports shall be filed, the form of all reports and certificates required under this Act and the regulations and the information that they must contain;
- (c) consult with regulated professions on the cost, scope and timing of audits;
- (d) monitor third parties relied on by regulated professions to assess the qualifications of individuals applying for registration by a regulated profession to help ensure that their assessments are based on the obligations of regulated professions under this Act and the regulations;
- (e) provide information and advice to regulated professions and to professions that may be named as regulated professions to assist them in understanding how to comply with the requirements of this Act and the regulations;
- (f) advise regulated professions, government agencies, community agencies, colleges and universities, third parties relied on by regulated professions to assess qualifications and others as the Minister may direct with respect to matters under this Act and the regulations;
- (g) advise ministries with respect to matters under this Act and the regulations that affect a ministry or a regulated profession that falls under the jurisdiction of the ministry;
- (h) establish eligibility requirements that a person must meet to be qualified to conduct audits;

- (i) establish a roster of persons who in the opinion of the Fairness Commissioner have satisfied the eligibility requirements established under clause (h);
- (j) advise the Minister on matters related to the administration of this Act;
- (k) report to the Minister on registration practices related to internationally trained individuals and their registration by regulated professions and to other ministers in respect of those same issues as they relate to regulated professions that fall under the jurisdiction of their respective ministries; and
- (l) perform such other functions as may be assigned by the Lieutenant Governor in Council. [Deletion]

The FARPACTA statute applies to the 16 non-health regulatory bodies and to Skilled Trades Ontario, whereas the RHPA governs the 26 health regulatory colleges.

The two legislative schemes are quite similar in nature. For example, both statutes impose a duty on regulators to provide registration practices that are transparent, objective, impartial and fair (section 6 in FARPACTA and section 22.2 in Schedule 2 of the RHPA). Other provisions are similar in nature but do not contain identical language. In still other cases, there are substantive differences in wording and one statute may contain obligations not found in the other.

Sections 7 through 12 of FARPACTA (sections 22.3 and 22.4 of Schedule 2 of the RHPA) outline the specific duties to which all regulators must adhere as part of the process to register applicants. These obligations relate to such matters as the provision of information to applicants, the timeliness of registration decisions, the development of appropriate assessment processes, the availability of an internal review or appeal process, the right of applicants to make submissions during these processes, and the right to access relevant records for this purpose.

These responsibilities are subsets of the overarching general duty articulated in section 6 of FARPACTA (section 22.2 of Schedule 2 of the RHPA), which indicates that: “a regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair”.

The four principles of transparency, objectivity, impartiality and fairness guide and inspire the mandate of the Fairness Commissioner.

In fulfilling this mandate, the OFC seeks to identify artificial or systemic barriers that can impede the ability of qualified applicants to work in their chosen profession or compulsory trade. These barriers are especially problematic for internationally trained applicants whose competencies will be discounted unless regulators incorporate fair and progressive practices into their registration schemes.

The OFC also works collaboratively with its partners at the Ontario Ministry of Labour, Immigration, Training, and Skills Development (MLITSD) and other ministries that oversee regulators to help ensure that Ontario's fair access and labour market goals for the employment of skilled professionals and tradespersons are met.

The OFC now oversees the licensing practices of 41 regulatory bodies. These organizations cover virtually every sector of the province's economy. The available statistics indicate that Ontario's workforce is aging. On this basis, it is critical for the province to secure a sufficient supply of skilled workers to replenish employees who have retired or are about to leave the workforce.

Newcomers represent an important source of new entrants into the labour market. Net migration (derived from both immigration and inter-provincial movement) is projected to account for a full 86 per cent of all population growth in the province over the 2021 to 2046 timeframe.¹ This means that only 14 per cent of this growth will come from in-province increases in population.

On this basis, the need to promote fair and timely access to the professions and compulsory trades -- with a focus on removing barriers that unnecessarily restrict access for internationally trained individuals and those working in other provinces -- constitutes an important component of a strategic labour-market plan.

There is also a critical need to improve collaboration among the various parties involved in the immigration, labour market, post-secondary education, professional registration, skills training, and employment spheres to help ensure that more applicants can more easily obtain meaningful employment. The OFC will continue to explore approaches that have worked in other jurisdictions and to discuss these with its partners in government and stakeholders.

Since the OFC was established in 2007, the office's methods of operation have evolved through undertaking focused compliance activities, adopting best practices, consulting with regulators, re-adjusting its focus and adapting to an ever-changing social, public health and labour market environment. During this continuing journey, the office has taken important steps to become a modern and responsive regulator, and to adopt evidence-based policy choices.

The OFC also recognizes that there are multiple routes to promote the adoption of fair registration practices ranging from focused compliance activities to the identification and dissemination of best practices, to the provision of advisory and educational services. Over the life of this business plan, the OFC plans to continue to enlarge its "toolbox" with an unwavering focus on achieving better outcomes for applicants.

¹ Ontario Ministry of Finance, Ontario Population Projections Update, 2021-2046. July 2022.

The OFC's Registration and Stakeholder Ecosystem

Our office's registration and stakeholder ecosystem is broad and multi-layered. It mirrors the journey of applicants through various stages of the immigration, education, credentials assessment, professional registration / licensure, and employment processes. Appendix A of this business plan provides a visual representation of this ecosystem.

While our office regularly engages with many stakeholders, our relationships with Ontario's 41 regulators is particularly important as they are directly accountable for implementing fair registration processes. During the first two years of our business plan, our office worked hard to strengthen these relationships. As an example, the Fairness Commissioner has met personally with each regulator to discuss his vision and to explore common issues.

The OFC similarly takes stakeholder engagement seriously. The office has consulted broadly on a number of important public policy initiatives. These include the recent enactment of amendments to FARPACTA, the implementation of our risk-informed compliance framework and an ongoing project to explore accountability relationships involving regulators and third-party service providers (i.e., those organizations that provide assessment and testing services to applicants on behalf of regulators).

These discussions have materially improved the quality of our work products. We will continue to engage with stakeholders on all our major initiatives during the second year of our business plan.

Priority Initiatives for the 2023-26 Business Plan

The government's decision to appoint a full-time Fairness Commissioner has enabled the OFC to roll out a robust list of legislative, policy-based and operational initiatives over the course of this three-year business plan. While the OFC's main objective is to improve registration outcomes for applicants, it has also taken steps to become a modern regulator and to reduce burdens for OFC staff and regulators.

In addition, the government's decision to place the OFC in MLITSD has allowed our office to leverage the resources available in the ministry's labour market and global talent and settlement services programs. These synergies have enabled the office to promote more holistic approaches for the registration and employment of individuals applying to the professions and compulsory trades, particularly those who are internationally trained.

The 2023-24 fiscal year will represent the third full year of the OFC's major change agenda. During this period, the office will focus on six inter-related priority initiatives which are described below. Depending on implementation timetables, our office will continue to work on these items in the next iteration of our business plan.

1. Implementing the Recent Amendments to *Fair Access to Regulated Professions and Compulsory Trades Act*:

In December 2021, five amendments to FARPACTA were proclaimed into force. These amendments were designed to:

- Eliminate Canadian work experience requirements for professional registration and licensing unless the Minister of Labour, Immigration, Training and Skills Development grants an exemption based on a demonstrated public health and safety risk.
- Reduce duplicative official language proficiency testing, so that newcomers need not complete multiple tests for the purposes of immigration, post-secondary / bridge training and professional licensing.
- Prescribe mandatory time limits for the completion of registration processes.
- Enable regulators to maintain the continuity of registration during emergency situations, such as a pandemic.
- Provide for alternative program pathways through which accurate and timely information can be disseminated to newcomers about the prospects of becoming registered in Ontario and the timelines involved.

In April 2022, the government made additional amendments to FARPACTA to address statutory maximum registration time limits for domestic labour mobility applicants.

The OFC has begun significant work on the implementation of these amendments and the accompanying regulations: developing guidance materials, updating the *Legal Obligations and Best Practices Guide* for both FARPACTA and the RHPA; and, meeting individually with regulators to address issues in operationalization and how to comply with their new compliance obligations.

The OFC will continue to work with MLITSD and the Minister's Office to ascertain whether there are further enhancements that could be made to FARPACTA and assist, where appropriate, to inform the development of future legislative and regulatory priorities. Additionally, the OFC will continue to take action to educate regulators about these changes and work to enhance compliance efforts. This will include amending the template for the office's Fair Registration Practices report as appropriate and looking at strategic outreach and compliance initiatives.

2. Modernizing the OFC's Compliance Framework:

The OFC has taken several important steps on its journey to become a more modern and strategic regulator. In April 2020, the office initiated this process by launching the first phase of its risk-Informed compliance framework (RICF).

Under this framework, the OFC has developed a series of modern regulator principles, and both historical performance indicators and forward-looking risk factors to allow the office to develop risk profiles for individual regulators. In April 2022, the OFC officially transitioned to the RICF following an assessment of the historical performance of individual regulators and application of forward-looking risk factors.

Of the 41 regulators the OFC has oversight of 80% were assessed at low-risk, 13% were assessed at moderately low risk; and, 7% were assessed as moderate to high risk. Our office is continuing to develop tools and procedures to operationalize the framework and will reassess as necessary after the first full cycle.

In addition, following extensive consultations with stakeholders, in January 2022, the OFC disseminated its *Legislated Obligations and Fair Registration Best Practices Guide for Regulated Professions and Compulsory Trades*. This is a living document that is frequently updated to reflect legislative and regulatory amendments that may impact a regulator's risk rating. A version for the health colleges, where colleges are subject to a slightly different regulatory regime, was published in November 2022.

The OFC has also developed a series of guidance notes on a variety of topics to assist regulators in further understanding their obligations under the Act, including applying for exemptions from time limits provisions in FARPACTA (for both international and domestic labour mobility applicants), applying for an exemption from the Canadian experience requirement provision, and alternate pathways to licensure.

3. Digital Transformation: Developing an OFC Data Portal

The OFC recognizes that, now more than ever, there is an expectation and need for easy to use and accessible digital technologies to deliver better programs, services and manage data related to regulated professions and trades. The OFC has taken steps to leverage modern regulator principles to enable the delivery of agency services in the digital age, while creating a foundation of data that will facilitate risk-informed compliance with FARPACTA.

In assessing regulated professions and trades to make sure they are transparent, objective, impartial and fair for anyone applying to practice their profession in Ontario, the OFC requires regulators to submit an annual Fair Registration Practices report (FRP). The OFC is working with MLITSD's I+IT Cluster to develop a data portal that would digitize the FRP process.

The data portal is intended to make filling out reports easy to complete for regulators, while significantly improving the OFC's data management capacity. It will improve process integrity, security and quality of the website allowing OFC staff to manage files, run data analytics and create a "user-friendly" interface internally and externally. The data portal should also result in reduced maintenance cost, as the OFC will have the ability to manage content internally.

The OFC will work continuously over 2023-26 to provide modern, accessible tools to support service delivery that exemplifies the best of regulatory practices in the digital space, while aiming to streamline and modernize internal processes.

4. Diversity and Anti-racism Best Practices for the Registration of Professionals

The registration of professionals and skilled tradespersons is influenced by the same sources of institutional bias common to other broader public sector activities. In that respect, many regulators have recognized the need to squarely identify diversity, inclusion and anti-racism issues that may impact their registration decisions, particularly as they relate to internationally trained applicants. There has been considerable progress made across the sector as regulators have worked to more proactively reflect upon, and implement, these practices.

The OFC believes that it is important to build upon this proactive work and to develop a more formal inclusion and anti-racism framework to scrutinize the registration process, as well as other tools that may add value.

During 2021, the Office began to engage regulators and other stakeholders on how such initiatives could best be launched and embedded into organizational cultures. This work continued over 2022, as the OFC collaborated with three regulators (Professional Engineers of Ontario, the College of Audiologists and Speech Pathologists, and the Ontario College of Social Workers and Social Service Workers) to present a webinar panel discussion on best practices for diversity, equity and inclusion (DEI) in registration practices. The event was well received with almost 100 attendees and 100% of post-event survey respondents supportive of future webinars on DEI and other OFC best practices.

The OFC hopes to further this conversation amongst regulators by continuing to work with partner organizations and by developing more education and outreach materials over the next year.

5. Accountability Measures for Third Party Service Providers

Increasingly, regulators in Ontario are devolving important components of their assessment, examination and registration processes to third party service providers. The importance of the work that these third parties perform has been driven home by the Covid-19 pandemic, where a number of these service providers were compelled to cancel examinations that regulators had asked them to oversee. These decisions created material impacts for registrants.

Under section 10(2) of FARPACTA (section 22.4 of Schedule 2 of the RHPA), “if a regulated profession relies on a third party to assess qualifications, it shall take reasonable measures to ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair”. The upshot of this provision is that regulators remain legally accountable for the work that their third-party service providers undertake.

During 2021, the OFC established three working groups to explore these accountability issues in greater detail comprised, respectively, of regulators, third party service providers and representatives from the immigration and settlement communities. The OFC convened a total of eight meetings and found that the diagnostic work and insights provided were extremely useful.

To build on this work, the OFC has since formalized the membership of a consolidated working group to further explore mechanisms to enhance the accountability relationship between the parties, improve client service and more actively disseminate best practices. Because of competing priorities, the OFC has been unable to reconvene this committee but expects to do so in 2023.

In the intervening period, the Office has, however, set out, in its two Legal Obligations and Best Practices Guides, a list of accountability measures that it expects regulators to adopt to help ensure that they meet the requirements contained in legislation. The guides also contain lists of complementary best practices that regulators and third-party service providers can implement to further enhance the quality of their services.

6. Establishing the OFC as a Centre of Excellence for Fair Registration Practices

The OFC continues to believe that substantial gaps exist in the sharing of information and best practices among the regulatory community. This is not surprising given the highly disparate sectors in which regulators operate.

On this basis, the OFC believes that there is an opportunity for the office to continue to augment its traditional education and consulting roles by, for example:

- a) serving as a more proactive aggregator and disseminator of best practices, key learnings and trends;
- b) designing and delivering a variety of training opportunities and shared learning experiences for participants;
- c) establishing partnerships with other organizations; and
- d) serving as a strategic advisor and/or facilitator for ministries to address issues involving their professions or compulsory trades.

During 2022, the OFC built on work preliminary undertaken in 2021 to flesh out this concept. To date, the office has focused on ramping up more traditional communications vehicles with stakeholders by continuing to issue monthly *Newsletter* publications, making presentations to regulators at their annual meetings and participating with stakeholders to present webinars and attend at conferences.

As noted earlier in the plan, the OFC has also enhanced our educational offerings by developing several guidance notes to assist regulators with interpreting and understanding their obligations under FARPACTA. Additionally, The OFC recently polled webinar attendees on topics for future webinars and will use this information along with mandate priorities to expand on future education and outreach offerings.

For 2023-2026, the OFC plans to introduce more education, outreach, and partnership initiatives, and consider the desirability of a more robust internet and social media presence.

Internal Workplace Priorities

After a successful co-location with the Pay Equity Office in April of 2022, the OFC has made a smooth return to a hybrid office with protocols in place to ensure that everyone's health and safety is protected.

The OFC has also implemented an innovative Workplace Charter that will define the parameters of a respectful workplace, address the ever-changing regulatory landscape, and promote mental health and wellness. The office has also shown leadership in establishing, and sharing new approaches, to foster diversity, address anti-racism and promote digital wellness, including the adoption of Focus Fridays as a way for staff to focus attention on outstanding work from the week without the disruption of meetings.

The OFC continues to update and augment its Anti-racism Action Plan with the support of the OFC Diversity Committee. This team continually looks for opportunities internally and external to enhance this important work into subsequent years of the business plan.

Office of the Fairness Commissioner

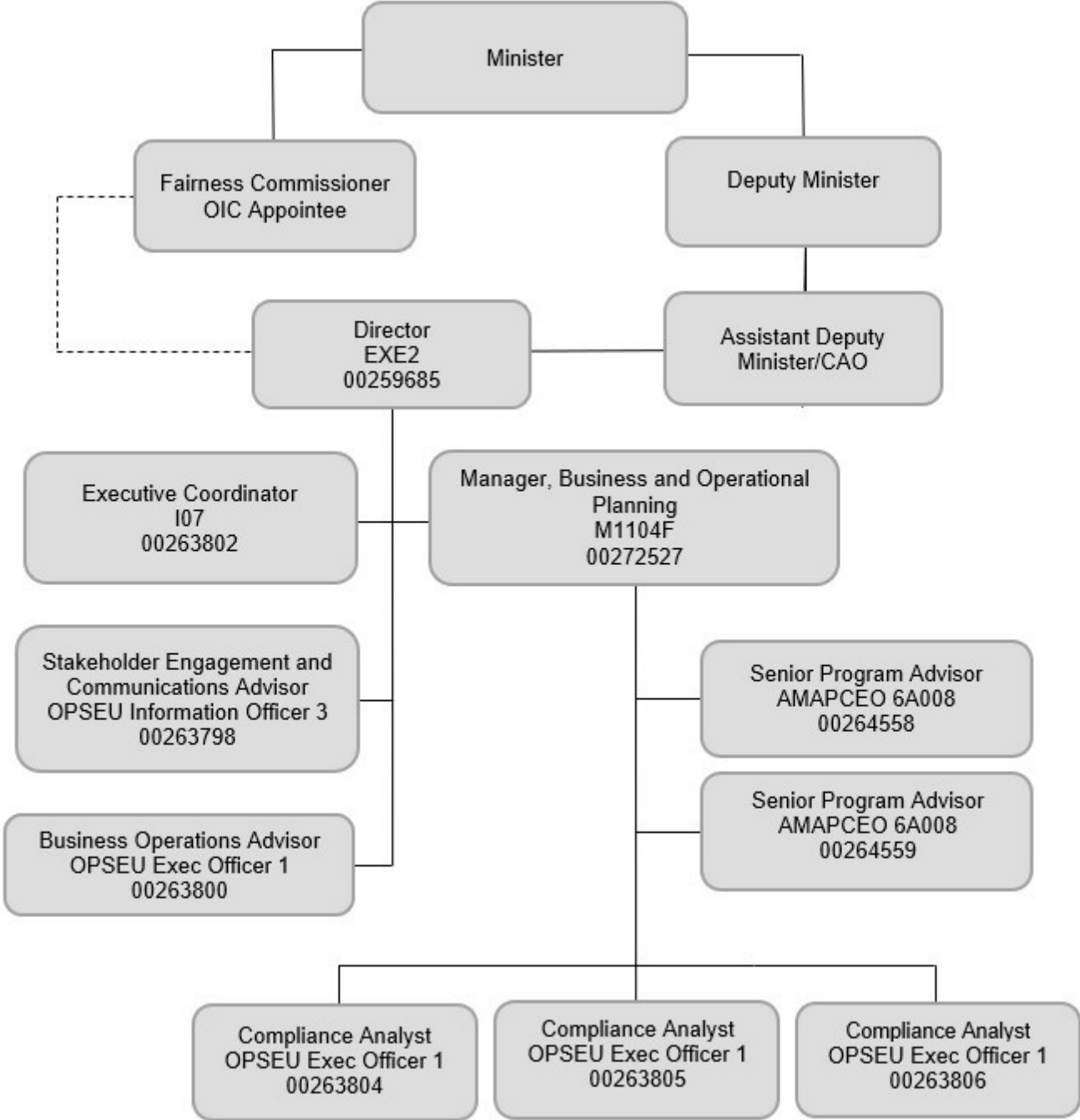
OFC Staff Functions

Position	Position Description	Position Number(s)	Classification
Executive Coordinator (Administration)	Coordinates key administrative and support functions for the Commissioner and Director	00263802	I07
Business Operation Advisor (Administration and Operations)	Coordinates office operations, budget forecasting, procurement, protection of health and safety, and facilities liaison	00263800	Executive Officer 1
Stakeholder Engagement and Communications Advisor	Coordinates all OFC communications and website-based activities	00263798	Information Officer 3
Compliance Analyst X 3	Carries out direct oversight of an assigned roster of regulators	00263804 00263805 00263806	Executive Officer 1
Senior Program Advisor X 2	Provides strategic policy input, development and research for OFC business plan activities	00264558 00264559	6A008
Manager, Business and Operational Planning	Provides manager level leadership, strategic direction, guidance and support to direct reports	00272527	M1104F
Director	Accountable for all office operations and the fulfillment of the Commissioner's vision for the OFC	00259685	Executive 2

Office of the Fairness Commissioner

OFC - Organizational Structure

(As described in Memorandum of Understanding between the Minister and the Fairness Commissioner)



Office of the Fairness Commissioner
OFC Business Plan Budget – FY 2023 – 2026

Standard Account	2023-24 Preliminary Planning Base	2024-25 Preliminary Planning Base	2025-26 Preliminary Planning Base
Salaries & Wages	800,300	800,300	800,300
Benefits	119,500	119,500	119,500
Total SWB	919,800	919,800	919,800
ODOE: Transportation & Communication	0	0	0
Services (Including Lease)	858,100	858,100	858,100
Supplies & Equipment	0	0	0
Total ODOE	858,100	858,100	858,100
Grand Total	1,777,900	1,777,900	1,777,900

Performance Measurement Framework

The OFC believes that its overarching goal is to improve outcomes for applicants. At the end of the day, this means that all qualified applicants – including internationally trained registrants – can obtain employment that corresponds to their training and competencies.

As this is a system-wide performance metric and would be challenging for the OFC to measure on its own, the office does not believe that it can be used to evaluate its effectiveness. The OFC considers it important, however, to work with other organizations within the MLITSD ministry and elsewhere to ascertain whether a measure of this nature could be developed.

The OFC also has a mandate to work with regulators to incorporate the principles of transparency, objectivity, impartiality and fairness, as outlined in section 6 of FARPACTA, into their registration processes. In the past, the OFC has reported that this goal will be achieved where “100 per cent of regulated professions achieve 100 per cent compliance with the fair access legislation”.

Given that the constituents of compliance are largely made up of output measures and that the OFC has migrated to a new risk-informed compliance framework, the office believes that the ongoing utility of this measure should be re-evaluated and that the OFC should identify one or more refreshed outcome measures.

The OFC has articulated four interim performance indicators to constitute its new performance measurement framework. As the OFC assesses the transition to the RICF and implements recent FARPACTA legislative and regulatory amendments, the office continues to believe that it is prudent to maintain these interim measures. These metrics are designed to test whether the OFC is taking concrete and proactive steps to encourage and assist regulators to improve their fair registration practices. These performance indicators are set out below:

- The reduction in the number of professions that the OFC places in its medium to high-risk compliance categories during an assessment cycle.
- The number of best practices that the OFC disseminates to the professions.
- The number of events, webinars and publications that the OFC completes on an annual basis.
- The percentage of regulators and other stakeholders that identify the OFC as an effective or highly effective regulator and service delivery agency.

The particulars of this performance management framework are contained in the table that follows.

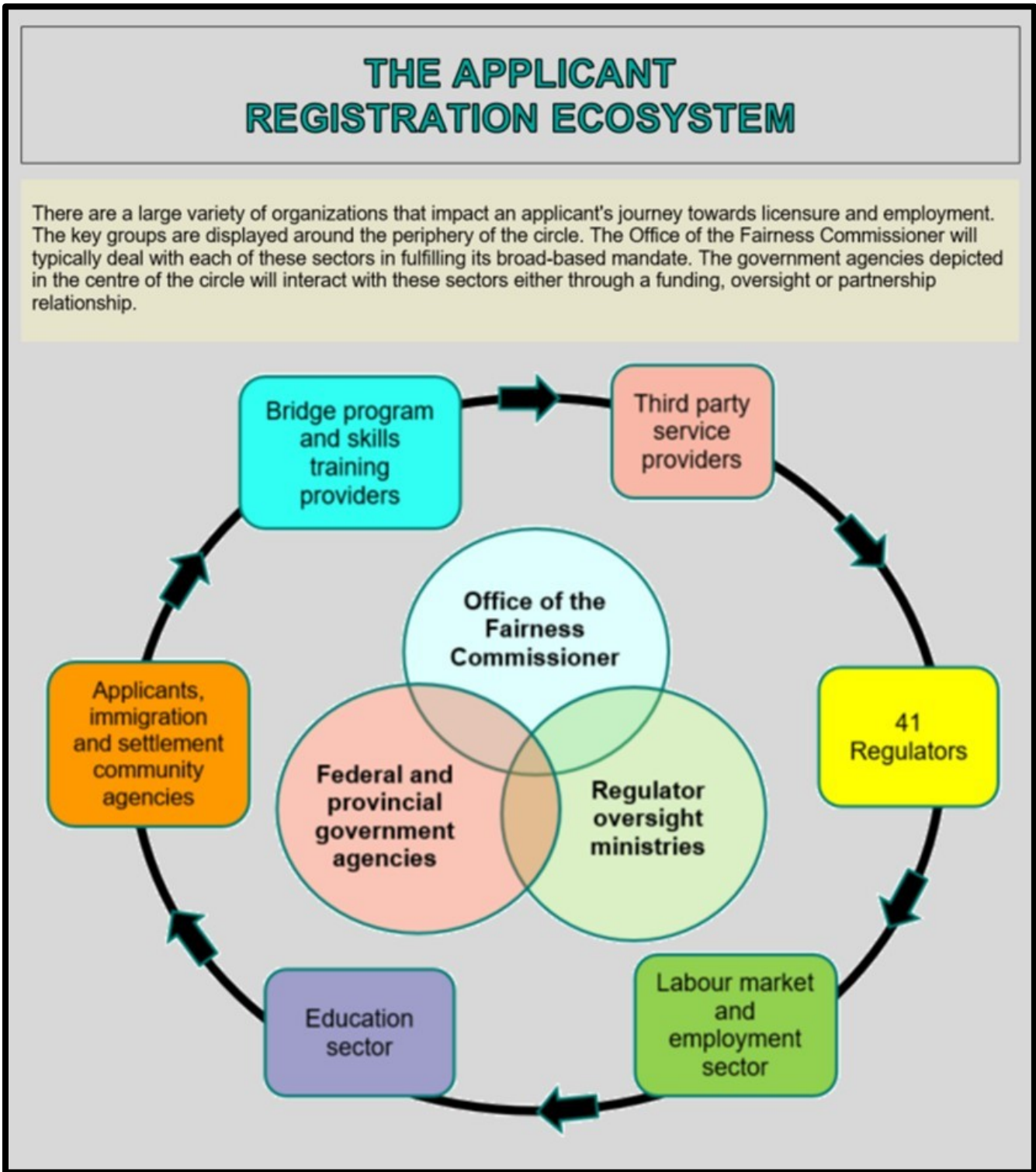
Performance Measurement Framework Chart

Key Performance Indicators	Description	Related Activity	Performance Target* and 2022-23 Results
Reduction in the number of professions that the OFC places in its medium to high-risk compliance categories.	<ul style="list-style-type: none"> • In April 2022, the OFC introduced a risk-informed compliance framework featuring an analysis of key indicators to inform the placement of regulators into low/medium or high-risk compliance categories. • Regulators have been assigned categories and will be reassessed in 2024. • This KPI will measure the OFC's success in monitoring/working with medium and high-risk regulators to improve their registration practices and to move them out of these categories. 	Oversight	20% reduction during assessment cycle (The OFC will begin reporting on this commitment once the first full assessment cycle has been completed in 2023-24. The assessment cycle is currently under review as a result of several legislative and regulatory amendments to the FARPACTA over 2021-22.)
Number of best practices that the OFC collects and disseminates to the professions on an annual basis.	<ul style="list-style-type: none"> • As part of the OFC's goal to become a Centre of Excellence, the Office will partner with regulators and other stakeholders to develop and/or distribute best practices to be shared across the regulatory community. 	Centre of Excellence	20 best practices annually Fifty-six best practices have been included in the OFC's <i>new RHPA: Legal Obligations and Best Practices Guide</i> published in November 2022. The OFC's <i>Legal Obligations and Best Practices Guide</i> has been updated with information related to recent FARPACTA changes. The OFC developed and hosted a webinar panel discussion to disseminate best practices for DEI. Others have been routinely included in the OFC's monthly <i>Newsletter</i> publications.
Number of events, webinars and publications that the OFC completes on	<ul style="list-style-type: none"> • The OFC, in consultation with regulators, ministry partners and other stakeholders, will design, deliver and/or publish needs-based knowledge transfer or learning opportunities designed to address 	Centre of Excellence	22 touch points in 2022-23 The OFC proceeded with 22 items in 2022-23, including monthly <i>Newsletter</i>

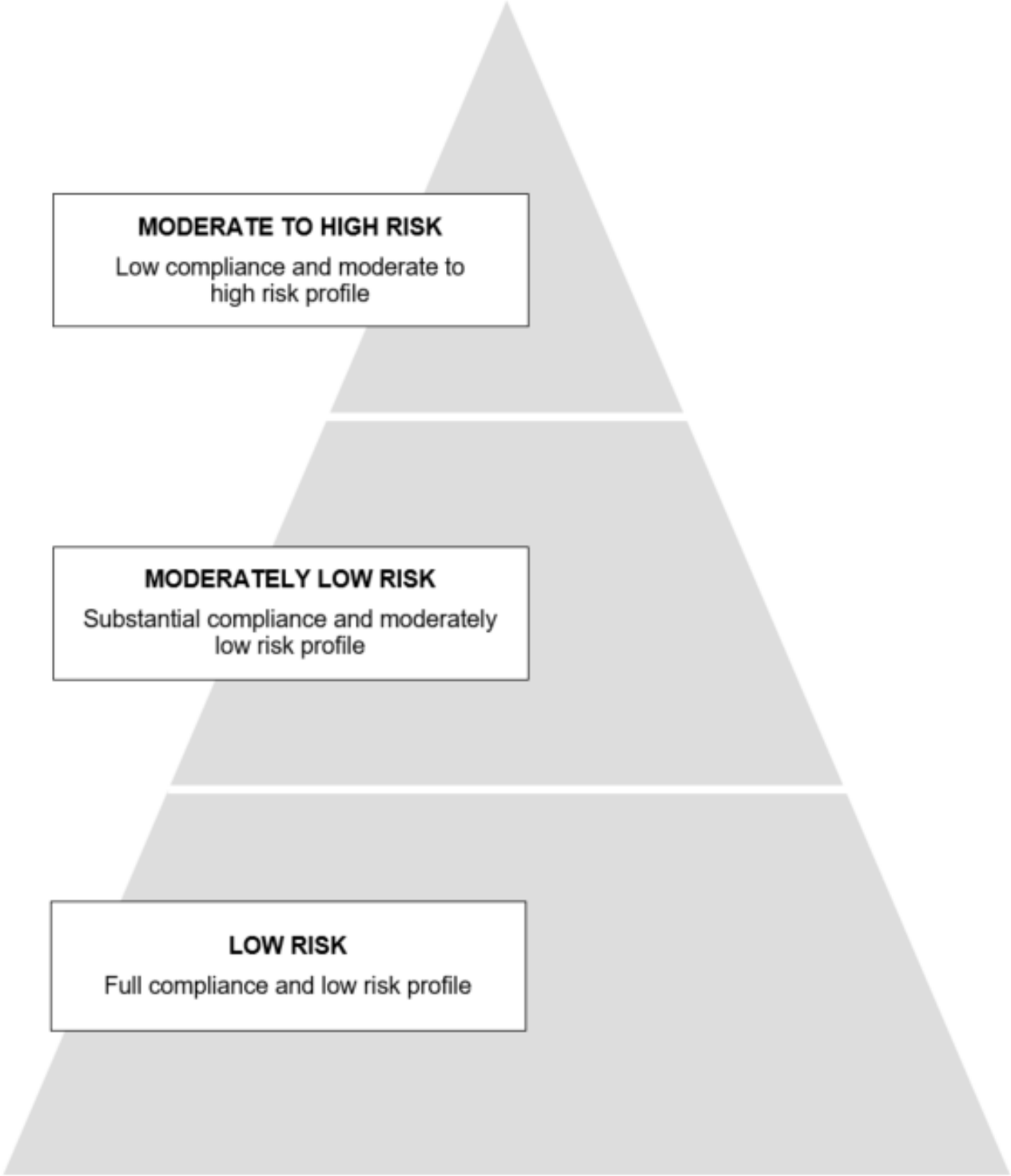
<p>an annual basis</p>	<p>gaps in, and otherwise enhance, fair registration practices.</p>		<p>publications, surveys, the OFC 's annual report and business plan, and webinars.</p> <p>In addition, the Fairness Commissioner spoke at nine regulator AGMs, board/council meetings on the FARPACTA amendments and an overview of the role of the OFC.</p>
<p>Percentage of regulators and other stakeholders who identify the OFC as an effective or highly effective regulator and service delivery agency.</p>	<ul style="list-style-type: none"> • The OFC will survey regulators and other stakeholders to track the Office's level of performance, degree of effectiveness and agility to produce better outcomes for registrants. 	<p>Centre of Excellence</p>	<p>80% Baseline</p> <p>The OFC received the results of a stakeholder satisfaction survey to regulators in February 2022. We obtained a high response rate of 75% and an impressive overall satisfaction rate of 90% as the median of satisfaction scores for the 11 quantitative questions.</p> <p>The OFC scored the highest client satisfaction rates for the questions relating to staff professionalism (100%), steps to assist regulators to understand the office's new RICF (97%), consultation with regulators (93%) and OFC adherence to modern regulator principles (93%).</p> <p>The office achieved lower client satisfaction scores on questions pertaining to collaboration with regulators to solve more complex or longstanding issues or problems (63%), the relevance and timeliness of OFC communications products (67%), OFC availability to provide insights and/or advice on issues that the regulator considered to be urgent or important (80%) and on the statement that the OFC has been an effective regulator and service delivery agency (83%). The last score, however, exceeded our business plan benchmark of 80%.</p>

*Each of these performance measures will constitute a three-year target and will be monitored and reported on annually.

Appendix A – The Applicant Registration Ecosystem



Appendix B - Risk-based Continuum Categories with Associated OFC Compliance Tools





FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

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BUREAU DU COMMISSAIRE À L'ÉQUITÉ

180 Dundas Street W., Suite 300, Toronto ON M7A 2S6
180, rue Dundas O., Bureau 300, Toronto (Ontario) M7A 2S6

ofc@ontario.ca
www.FairnessCommissioner.ca