



STRATEGY FOR CONTINUOUS IMPROVEMENT OF REGISTRATION PRACTICES

Office of the Fairness Commissioner
595 Bay Street, Suite 1201
Toronto ON M7A 2B4
Canada

416 325-9380 or 1 877 727-5365
ofc@ontario.ca
www.fairnesscommissioner.ca

Revised: April 2013

ISBN 978-1-4606-1472-3 (HTML)
ISBN 978-1-4606-1473-0 (PDF)

The Office of the Fairness Commissioner is an arm's-length agency of the Ontario government, established under the Fair Access to Regulated Professions and Compulsory Trades Act, 2006. Its mandate is to ensure that certain regulated professions and trades have registration practices that are transparent, objective, impartial and fair.

STRATEGY FOR CONTINUOUS IMPROVEMENT OF REGISTRATION PRACTICES

Table of Contents

1. Introduction
 - Companion Documents
 - Working Together
2. Mandate of the OFC and the Duties of Regulatory Bodies
3. Assessment and Continuous Improvement
 - Annual Fair Registration Practices Reporting and Annual Meeting
 - Biennial Assessment Cycle
4. The Role of Reviews and Audits
 - Entry-to-Practice Reviews
 - Audits
5. Ensuring Fair Access
 - Encouraging Continuous Improvement
 - Monitoring Legislative Compliance
 - Holding Regulatory Bodies to Account: Specific Duties
 - Holding Regulatory Bodies to Account: General Duties

1. Introduction

The Fairness Commissioner encourages regulatory bodies to improve the way they register people who apply for licences to practise professions or trades in Ontario. To that end, the focus of the Office of the Fairness Commissioner (OFC) has transitioned to a new phase: the *Strategy for Continuous Improvement of Registration Practices*.

Starting in the spring of 2011, the Commissioner and her staff focused on assessing the registration practices of Ontario's regulatory bodies to ensure they are transparent, objective, impartial and fair, to help regulatory bodies focus on continuously improving the way they register people who apply for licences for professions or trades in Ontario. This focus on assessment and on the bodies' continuous improvement benefits applicants, the professions and trades, and the province.

And this work continues.

This strategy for continuous improvement involves a biennial (two-year) cycle where the OFC assesses registration practices, makes recommendations for improving practices as needed, and monitors the implementation of action plans developed by the regulatory bodies themselves to address the recommendations.

The Commissioner believes that this approach will allow the OFC to achieve its vision that Ontario be known as a place where everyone who is qualified in a regulated profession or trade can legally practise it.

Companion Documents

OFC staff use two guides to do the assessments:

- The *Registration Practices Assessment Guide — For Health Regulatory Colleges* is for assessing all health regulatory colleges.
- The *Registration Practices Assessment Guide — For Regulated Professions and Trades* is for assessing the non-health professions and trades that are within the Fairness Commissioner's mandate.

The OFC developed the assessment guides with the dedicated help of regulatory bodies and qualifications assessment agencies. Representatives from these groups and the OFC looked carefully at the specific clauses in the fair-access legislation, and developed lists of practices to illustrate the scope of a regulatory body's fair-access obligations in the legislation. Regulatory bodies provided feedback on the guide and the strategy.

These guides enable the OFC to consistently and transparently assess practices and make recommendations for improvement.

Working Together

The OFC works with regulatory bodies to identify improvements that are meaningful and achievable, and to identify promising practices that can be shared with other regulatory bodies to provide constructive examples of how improvements can be made.

After each two-year assessment cycle, the OFC reviews the assessment program. The review assesses how well the program is meeting its goal of working with all Ontario regulatory bodies to ensure that their registration practices are transparent, objective, impartial and fair.

The review process involves regulatory bodies and the OFC, who identify areas that are working well and issues that require further improvement. The OFC listens to regulatory bodies' feedback and proposes solutions to address the issues. In the spirit of continuous improvement, the OFC makes changes to the assessment program to increase its efficiency and effectiveness, while maintaining its necessary rigour and integrity.

2. Mandate of the OFC and the Duties of Regulatory Bodies

The Fairness Commissioner's mandate is to ensure that the regulatory bodies covered by Ontario's fair-access legislation have registration practices that are transparent, objective, impartial and fair.

The Commissioner has several functions. One important function is to assess the registration practices of regulatory bodies based on their legal obligations.

Health regulatory colleges are covered by Schedule 2 to the Regulated Health Professions Act, 1991 (RHPA). Other regulatory bodies are covered by the Fair Access to Regulated Professions and Compulsory Trades Act, 2006 (FARPACKTA). Ontario's regulatory bodies that are subject to these laws must:

- Meet the **specific duties** to provide the following: information to applicants; internal review or appeal processes; information on appeal rights; transparent, objective, impartial and fair qualifications assessments; training to their staff; and access for applicants to their own records. Regulatory bodies subject to FARPACKTA must also provide timely decisions, responses and reasons.
- Meet the **general duty** to have registration practices that are transparent, objective, impartial and fair.
- Provide reports, such as Fair Registration Practices Reports, Audit Reports and Entry-to-Practice-Review Reports.

For more information, see the OFC's mandate and the FARPACKTA and RHPA legislation.

3. Assessment and Continuous Improvement

The strategy for continuous improvement of registration practices involves both annual and biennial (every other year) activities.

Annual Fair Registration Practices Reporting and Annual Meeting

Each year, each regulatory body updates its Fair Registration Practices Report, and submits it to the OFC by March 1. This report is the main way a regulatory body informs the OFC and the public about any changes and improvements it has made to its registration practices over the past year.

Also each year, every regulatory body meets with the OFC. Every two years, this meeting is used to discuss the biennial continuous improvement assessment. In the year between assessments, the OFC and the regulatory body use their annual meeting to discuss the findings in the latest Fair Registration Practices Report, challenges, accomplishments and commendable practices.

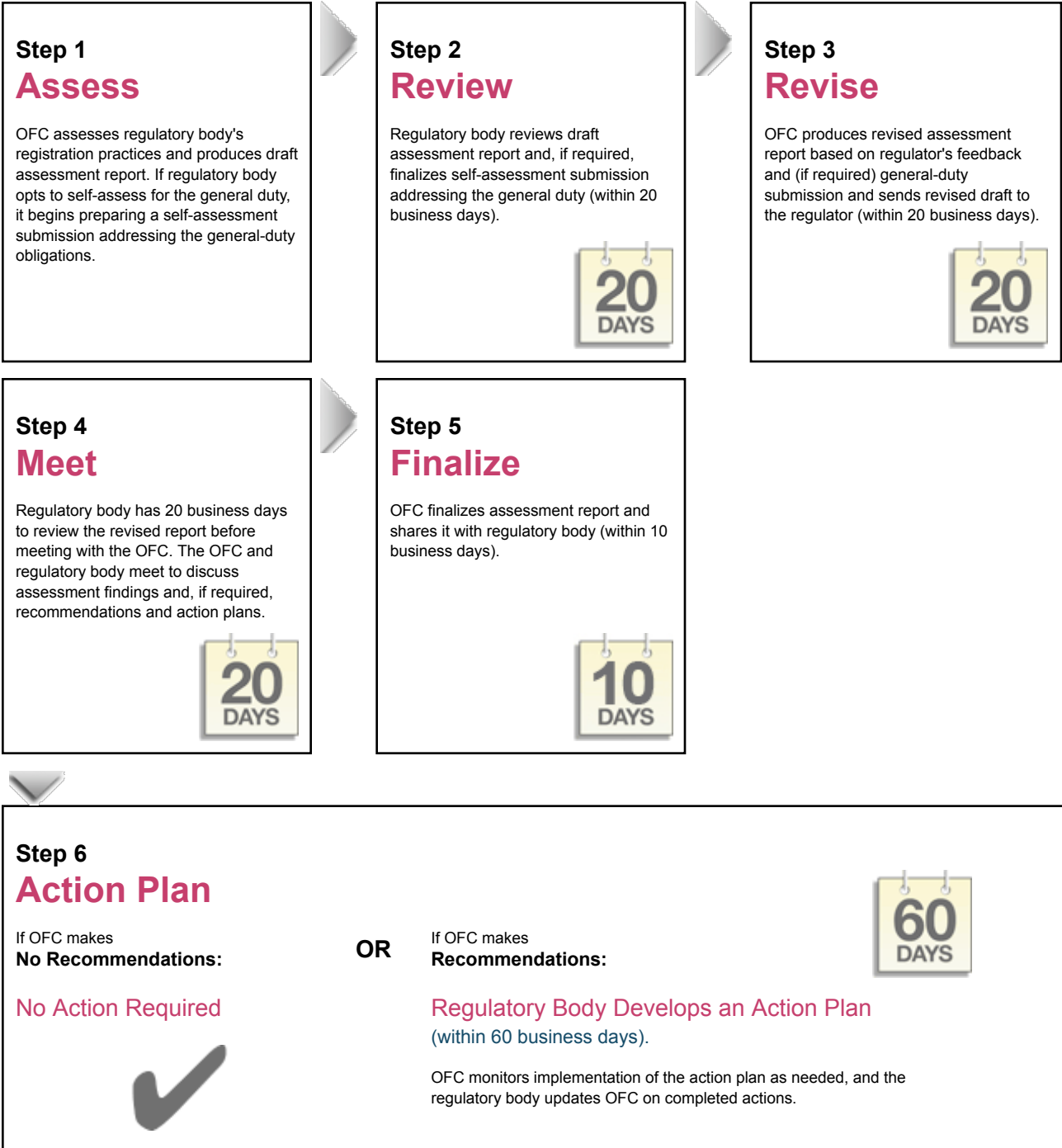
The meeting date is chosen to avoid the regulatory body's peak activity periods.

Biennial Assessment Cycle

Every two years, the OFC assesses each regulatory body's registration practices, makes recommendations for improving practices as needed, and monitors the implementation of action plans developed by the regulatory bodies themselves to address the recommendations.

Following are the main steps in this cycle.

STEPS IN THE ASSESSMENT PROCESS



Step 1: OFC Initiates Assessment and Produces Draft Report

The OFC initiates the assessment process by informing the regulatory body that its registration practices will be assessed on the duties set out in the fair-access legislation.

The OFC assesses the regulatory body's registration practices using the *Registration Practices Assessment Guide — For Health Regulatory Colleges* or the *Registration Practices Assessment Guide — For Regulated Professions and Trades*. (Due to the differences in FARPACTA and the RHPA, two separate guides were developed for the regulatory bodies subject to FARPACTA and the health regulatory colleges, which are all subject to the RHPA.)

The guides set out two types of practices: **specific-duty practices** and **general-duty practices**. A regulatory body must demonstrate the appropriate guide's specific-duty registration practices in order to meet the specific duties identified in the legislation. ¹ Registration practices listed in the guides' general-duty sections² are to be used as a guideline and are examples or illustrations of the way that regulatory bodies can practically apply the principles of transparency, objectivity, impartiality and fairness.

Regulatory bodies' ability to demonstrate the general duty varies according to resources, registration processes, each body's own governing legislation, and other relevant statutes. As a result, each regulatory body itself chooses one of the three options below to demonstrate the general duty:

- a. Have the OFC assess whether the regulatory body demonstrates the practices listed in the general-duty section in the applicable assessment guide.
or
- b. Conduct a self-assessment based on the practices listed in the general-duty section in the applicable assessment guide.
or
- c. Conduct a self-assessment in which the regulatory body explains what it does to ensure that its practices are transparent, objective, impartial and fair.

The regulatory body informs the OFC about the option it has chosen.

The OFC consolidates the information it has about a regulatory body's registration practices from the latest [Fair Registration Practices Report](#) and any other sources, such as Audit Reports, Entry-to-Practice Review Reports, discussions with the regulatory body, and the body's website.

OFC staff determine which of the practices the regulatory body is demonstrating and where there may be opportunities for improvement:

- If the regulatory body chose to have the OFC assess its general-duty practices (option a, above), then OFC staff now complete a draft Registration Practices Assessment Report that covers both the specific-duty and general-duty sections of the applicable assessment guide.
- If the regulatory body chose to self-assess itself for the general duty (options b and c, above), then OFC staff now complete a draft Registration Practices Assessment Report that covers only the specific-duty section of the applicable assessment guide.

The report includes a section that highlights commendable practices that are already in place or are under way. It also identifies areas needing improvement and suggests what can be done to improve.

OFC staff send the draft assessment report to the regulatory body.

Step 2: Regulatory Body Reviews Draft Assessment Report and Responds

The regulatory body has 20 business days to review the draft assessment report before sending its comments to the OFC.

If the regulatory body chose to demonstrate the general duty via one of the two self-assessment options, it now gives its self-assessment submission to the OFC, along with its comments on the specific-duty section of the OFC's draft assessment report.

Step 3: OFC Produces Revised Assessment Report

Within 20 business days, the OFC revises its assessment report based on the regulatory body's feedback and, if the regulatory body provided a self-assessment submission for the general duty, incorporates details from the submission. The revised report contains OFC's findings and recommendations.

The OFC sends the revised report to the regulatory body.

Step 4: OFC and Regulatory Body Meet

The regulatory body has 20 business days to review the revised report before meeting with the OFC.

The OFC and the regulatory body meet to discuss the assessment findings and the feasibility of any recommendations for improvement. The meeting is also an opportunity to discuss next steps and possible actions for improvement.

Step 5: OFC Produces Final Assessment Report

Within 10 business days, the OFC finalizes the assessment report and shares it with the regulatory body.

- If the OFC makes recommendations in the report, the OFC asks the regulatory body to develop an action plan to address these issues.
- If the OFC does not make any recommendations, no action plan is required.

Step 6: Regulatory Body Develops Action Plan (if required)

If the OFC makes recommendations, the regulatory body develops an action plan and submits it to the OFC within 60 business days.

The OFC either:

- approves the plan
- or
- requests changes to the plan, if it believes that the actions do not address the required practices or recommendations, or that the deadlines are inappropriate

If the OFC requests changes, the regulatory body has the opportunity to revise the action plan or show the OFC why the proposed actions or deadlines are adequate.

OFC Monitors Implementation

OFC staff monitor the regulatory body's implementation of the action plan, and the regulatory body updates the OFC on completed work. Some actions may take multiple years to implement.

If the regulatory body cannot complete an action in the plan, it contacts the OFC to discuss extending the deadline or modifying the planned action.

Ongoing Cycle

Two years after an assessment, the OFC consolidates any new information it has about the regulatory body's registration practices and revises its assessment report.

The process described above starts again.

The OFC varies the scope of assessments for each two-year cycle. It alternates full assessments with targeted assessments. While full assessments address all practices in the assessment guides, targeted assessments focus on selected areas of the specific and the general duties.

4. The Role of Reviews and Audits

Entry-to-Practice Reviews

Entry-to-Practice Reviews enable a regulatory body to examine its own licensing practices and determine whether its requirements are all still necessary and relevant to practising the profession or trade in Ontario. Reviews may be voluntary or mandatory.

The OFC encourages *voluntary* reviews because they contribute to a culture of thoughtful analysis and meaningful and continuous improvement.

The OFC will require a regulatory body to do a *mandatory* review when it determines that the body would benefit from examining its own registration practices and requirements.

For more information about voluntary and mandatory Entry-to-Practice Reviews, see [Conducting Entry-to-Practice Reviews](#).

Audits

The OFC will request an audit when it needs an independent investigation of registration practices.

5. Ensuring Fair Access

The OFC aims to have a balanced approach to ensuring that regulatory bodies have registration practices that are transparent, objective, impartial and fair. This balance is achieved in two ways:

- encouraging continuous improvement
- monitoring legislative compliance

Encouraging Continuous Improvement

The OFC encourages continuous improvement with a vision that regulatory bodies are not only compliant with the fair-access legislation but also that they are continuing to improve the way they register people who apply for professional or trade licences in Ontario.

One of the OFC's functions is to provide information and advice to regulatory bodies to help them understand how to achieve this continuous improvement. This function involves the OFC's analyzing information gathered about regulatory bodies' registration practices, identifying areas for improvement, and communicating commendable practices to regulatory bodies and the public, to foster continuous improvement.

Monitoring Legislative Compliance

Regulatory bodies must comply with fair-access legislation in two main ways:

- The regulatory bodies are required to report to the OFC about their registration practices through annual [Fair Registration Practices Reports](#) and, when required, through Entry-to-Practice Reviews and/or audits. These reporting mechanisms provide the OFC with valuable information.
- Regulatory bodies must meet their specific duties and the general duty as identified in the fair-access legislation. The OFC has a legislated role to assess the registration practices of regulatory bodies based on these obligations, and to hold them to account (see the following topics).

Holding Regulatory Bodies to Account: Specific Duties

The registration practices listed in the specific-duty sections in the assessment guides correspond to the specific duties identified in the fair-access legislation. If a regulatory body does not demonstrate the practices listed in the specific-duty sections in the guides, the OFC will ask it to develop an action plan for adopting them.

However, if it fails to do so, the OFC may consider this a failure to perform the legislation's specific duties. The OFC will vigorously hold the regulatory body to account for implementing the practices in the specific-duty sections of the fair-access legislation. For regulatory bodies governed by FARPACTA, the Commissioner issues compliance orders. For health regulatory colleges, the Commissioner recommends to the Minister of Health and Long-Term Care that a regulatory college take action. (The minister has oversight of the health regulatory colleges.)

Holding Regulatory Bodies to Account: General Duty

Under the fair-access legislation, regulatory bodies must meet their general-duty obligations. Because the general-duty section of the fair-access legislation is much broader than the specific duties, there is flexibility in how a regulatory body may demonstrate that it is meeting the general-duty obligations. (See Biennial Assessment Cycle.)

In the spirit of continuous improvement, the OFC encourages regulatory bodies to identify areas within the general-duty obligations where they can improve and to implement those improvements. Where the OFC identifies that the regulatory body is not demonstrating the general-duty obligations, the OFC makes recommendations and holds the regulatory body to account as necessary. To determine whether the general-duty obligations are demonstrated, the OFC uses reporting mechanisms, such as Fair Registration Practices Reports, conducts assessments of registration practices and requires, if necessary, Entry-to-Practice Reviews and audits.

¹The specific duties are identified in FARPACTA s. 7–12 and RHPA Schedule 2, s. 15, 16, 18, 19, 20, 21, and 22.

²The general duty is identified in FARPACTA s. 6 and RHPA Schedule 2, s. 22.2.