



Professional Engineers
Ontario

A Professional Engineer's Duty to Report

**Responsible Disclosure
of Conditions Affecting
Public Safety**

A Public Information Guide

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Introduction

Professional engineers have obligations both to their clients/employers and to the public. Once in a while these obligations will be in conflict. On one hand, the engineer is obligated not to disclose confidential information of the client/employer and must avoid the use of such information to the disadvantage of the client/employer.¹ On the other hand, the PEO's Code of Professional Conduct provides that failure to report a situation that an engineer believes may endanger the safety or welfare of the public would constitute professional misconduct on the part of the engineer.²

There should be no doubt however as to how the engineer must act. The professional engineer "shall regard the practitioner's duty to public welfare as paramount."³ Although the engineer's ultimate responsibility is clear, there is no universally applicable procedure to be used for discharging this responsibility.

In most cases where conflict occurs, it is resolved simply by informing the client/employer of the situation and jointly determining an alternative and acceptable course of action. In some cases, the approach to the client/employer may have to be reinforced with the requirements of applicable demand-side legislation. In the rare case where a "stand-off" is reached with the client/employer, the engineer must consider more drastic action—with highly increased personal jeopardy. It is for such cases that this Guideline is provided.

Engineers must act out of a sense of duty, with full knowledge of the effect of their actions, and accept responsibility for their judgment. For this reason any process that involves "leaking" information anonymously is discouraged. There is a basic difference between "leaking" information and "responsible disclosure." The former is essentially furtive and selfish, with an apparent objective of revenge or embarrassment; the latter is open, personal, conducted with the interest of the public in mind and obviously requires that engineers put their names on the action and sometimes their jobs on the line.

In the past when a “stand-off” has been brought to the attention of the PEO, the Office of the Registrar has taken on the role of “conciliator,” serving as a means to ensure serious communication between the engineer and the other parties involved. In this way, the Office of the Registrar has served as a “sounding board” for the concerns of the engineer, as an “assessor” of the merit of such concerns, as a “spokesperson” for the communication of the concerns to the client/employer, and as a “facilitator” of remedial action. The reporting process outlined below articulates this assessing, conciliating and facilitating role.

Reporting Process

Engineers are encouraged to raise their concerns internally with their employers or clients in an open and forthright manner *before* reporting the situation to PEO. Although there may be situations where this is not possible, engineers should first attempt to resolve problems themselves.

1. If resolution as above is not possible, engineers may report situations in writing or by telephone to the Office of the Registrar of PEO. In reporting the situation to PEO, engineers must be prepared to identify themselves and be prepared to stand openly behind their judgments if it becomes necessary.
2. The Office of the Registrar will expect the reporting party to provide the following information:
 - a) the name of the engineer who is reporting the situation;
 - b) the name(s) of the engineer's client/ employer to whom the situation has been reported;
 - c) a clear, detailed statement of the engineer's concerns, supported by evidence and the probable consequences if remedial action is not taken
3. The Office of the Registrar will treat all information, including the reporting engineer's name, as confidential to the fullest extent possible.

4. The Office of the Registrar will confirm the factual nature of the situation and, where the reporting engineer has already contacted the client/employer, obtain an explanation of the situation from the client/employer's point of view.
5. Where the Office of the Registrar has reason to believe that a situation that may endanger the safety or welfare of the public does exist, the Office of the Registrar will take one or more of the following actions:
 - a) report the situation to the appropriate municipal, provincial and/or federal authorities;
 - b) where necessary, review the situation with one or more independent engineers, to obtain advice as to the potential danger to public safety or welfare and the remedial action to be taken;
 - c) request the client/employer to take steps necessary to avoid danger to the public safety or welfare;
 - d) take such other action as deemed appropriate under the circumstances;
 - e) follow up on the action taken by all parties to confirm that the problem has been resolved.
6. Wherever possible, the Office of the Registrar shall maintain accurate records of all communications with the reporting engineer, any authorities involved and the client/employer.

In Summary

The Office of the Registrar will cooperate with any engineer who reports a situation that the engineer believes may endanger the safety or welfare of the public. Wherever possible, the confidentiality of reporting engineers and the information they disclose will be maintained. The Office of the Registrar will emphasize in all dealings with the engineer's client/employer and the public the engineer's duty to report under the Act and Regulations, and will provide the reporting engineer with an endorsement of the performance of his/her duty, provided that the Registrar has determined that the engineer has acted properly and in good faith.

References

Please refer to the following sections of the Revised Regulation of Ontario 941/90 made under the Professional Engineers Act.

1. R.R.O. 941/90 Section 77.3
2. R.R.O. 941/90 Section 72.(2)(c)
3. R.R.O. 941/90 Section 77.2.i.

FOR MORE INFORMATION

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