



Professional Engineers
Ontario



GUIDE TO ENFORCEMENT REPORTING

August 2018

THE ROLE OF REGULATORY COMPLIANCE

Through the *Professional Engineers Act*, Professional Engineers Ontario (PEO) has a mandate to regulate the practice of professional engineering in the province.

PEO's Regulatory Compliance department administers the act so licence holders are held accountable for their conduct and engineering work, and so restrictions on who may practise or use protected titles are appropriately enforced.

Concerns about a licence holder's work or conduct are addressed through PEO's complaints and discipline processes. PEO will initiate an investigation upon receiving a written complaint against a licence holder. When an investigation finds evidence of misconduct or incompetence, the matter may be referred to a Discipline Committee hearing. Additional information on this process can be found in *Making a Complaint: A Public Information Guide*¹.

Concerns about engineering work performed by unlicensed persons are addressed through PEO's enforcement process. When PEO learns of an offence, it contacts the individual or organization to request compliance with the act. Where this cannot be readily achieved, PEO is empowered to take legal action against the accused.

The primary goal of these regulatory compliance processes is to protect the public by correcting the offending conduct.

WHY DOES PEO NEED ENFORCEMENT REPORTING?

PEO's enforcement activity targets two distinct types of violations under the *Professional Engineers Act*:

PRACTICE VIOLATIONS—Unlicensed persons or unauthorized businesses engaging in "the practice of professional engineering." This includes most types of structural, mechanical and electrical design, which is restricted to licensed engineers and certificate of authorization holders. (PEO issues certificates of authorization to allow individuals and business entities to offer and provide professional engineering services to the public, as distinct from a licence issued to individuals to practise professional engineering.)

"HOLDING OUT" VIOLATIONS—Unlicensed persons or entities using terms, titles or descriptions that are restricted to licence holders or certificate of authorization holders, such as "P.Eng." or "consulting engineers."

PEO reviews approximately 500 suspected violations each year, three-quarters of which are based on internal leads from PEO staff. Roughly 95 per cent of reported matters involve holding out violations and are typically resolved through voluntary compliance by the unlicensed party.

Of the two types of violations, practice violations are the most serious. They present a clear risk to the public as there is no accountability for the engineering services that are provided.

PEO encourages its licence holders and applicants, building officials, government ministries and the public to bring to PEO's attention any potential enforcement violations so appropriate action can be taken.

¹ www.peo.on.ca/index.php?ci_id/16523/la_id/1.htm.

² www.peo.on.ca/index.php?ci_id=1798&la_id=1.

WHAT SHOULD BE REPORTED?

TITLE VIOLATIONS: The use of "P.Eng." or "engineer" by persons who do not hold a full or temporary licence in Ontario. This includes applicants, engineering interns (EITs), limited licence holders and provisional licence holders.

There are similar restrictions on the use of "engineering intern," "EIT" and "consulting engineer."

BUSINESS NAME VIOLATIONS: The use of "engineering" or "engineer" in the name or advertising of a business that does not hold a certificate of authorization. This includes businesses that are owned and operated by licence holders, but are not authorized to provide engineering services to the public.

SUSPICIOUS SEALS: Unauthorized use of a licence holder's seal. This includes instances where a seal was created for an unlicensed person, or a legitimate seal has been copied and used without the practitioner's permission.

PRACTICE VIOLATIONS: Final drawings, reports and other documents by unlicensed persons or businesses that would require engineering design or analysis to prepare.

If you suspect a title or practice violation, you can confirm if the individual or business entity is licensed through a search of PEO's online directories of practitioners².

It's also important that evidence of any violation is current. PEO may not be able to act on evidence relating to past activities or former job titles. Business cards, website content and online profiles will be considered if they relate to current positions or activities.

Sometimes it may not be immediately clear if a concern is indeed a violation. A call to PEO's enforcement hotline can help make this determination.

HOW TO REPORT A CONCERN

ENFORCEMENT HOTLINE

416-840-1444 or 1-800-339-3716 Ext. 1444 (toll free)

REPORTING BY EMAIL

enforcement@peo.on.ca

REPORTING BY MAIL

ENFORCEMENT

Professional Engineers Ontario
Suite 101-40 Sheppard Avenue West
Toronto, ON M2N 2K9

WHAT TO INCLUDE

- A description of the suspected violation or concern
- Name of the individual or company of concern
- Contact information for the individual or company
- Documents, media links or other evidence of a violation

WHAT ACTION DOES PEO TAKE?

PEO's enforcement team will confirm the information provided and determine the action to be taken. If a violation of the act is confirmed, a file is opened and an enforcement officer will attempt to contact the offender to give notification of the offence and to request compliance.

For offences relating to a business name, PEO may make an application to the corresponding provincial or federal government registry to have the unauthorized name changed or cancelled.

For most holding out cases, the individual or company is given a reasonable chance to comply with the act. If a respondent does not comply, a decision is made on whether to initiate legal proceedings.

Practice violations carry a greater risk to the public (e.g. sealing by an unlicensed person). Depending on the seriousness of the violation and the quality of the evidence, a decision may be made to:

- Make further attempts to achieve voluntary compliance;
- Seek a fine under section 40 of the act; or
- Apply for an order compelling compliance with the act under section 39.

The maximum fines for a first offence and subsequent offences are set out in section 40 of the act. In certain cases, an offence may result in both a fine and a compliance order.

Where the violation is not serious (i.e. there is no actual or probable risk to the public) or not well supported by evidence, the matter may be closed.

WHAT IS REQUIRED FROM THE INFORMANT?

Once an informant advises PEO of a potential violation, he or she will be kept informed of the general progress of the investigation and legal proceedings.

When a matter requires evidence to be confirmed by the informant, she or he may be asked to provide specific information. This typically involves an interview that can range in length from a few minutes to several hours, depending on the complexity of the file.

Certain matters that result in court action may require additional involvement by the informant. This may include the execution of an affidavit or appearance in court, with assistance from PEO's legal counsel.

Informants may choose to remain anonymous during an investigation. PEO cannot be ordered to disclose the name of an informant against their wishes.

PEO, however, cannot prevent the respondent from drawing a conclusion about the informant's identity based on the reported details. In cases that rely on evidence such as emails or business cards, PEO may need a witness to authenticate these items to proceed with legal action.

In all circumstances, PEO strives to preserve the privacy of its informants and minimize the time commitment required of both informants and witnesses.

WHAT ARE THE POSSIBLE OUTCOMES OF PEO ENFORCEMENT ACTIVITY?

PEO determines there is no inherent danger to the public from the violation.

This includes unmaintained websites and web pages, respondents who cannot be located, closed business operations, and other similar scenarios in which there is no ongoing possibility of an offence.

45%
of cases

The respondent demonstrates voluntary compliance with the act or agrees to be bound by written terms and conditions, and the file can be closed.

This relates to holding out violations where there is no clear evidence of illegal practice by the respondent.

40%
of cases

PEO obtains a decision striking a business name or changing a corporate name.

This relates to cases where PEO has contested a noncompliant business name and receives a ruling from the registering body.

10%
of cases

PEO commences legal action to obtain a judgement from an Ontario court.

This includes fines set by the Ontario Court of Justice and compliance orders issued by the Superior Court of Justice.

2%
of cases

PEO decides not to pursue the matter.

This includes cases where excessive time has passed, witnesses are not co-operative, or there are other considerations that make legal action unviable.

3%
of cases

WHAT ENFORCEMENT INFORMATION DOES PEO MAKE PUBLIC?

PEO publishes the results of all legal actions on its website. These results are also published in the Gazette section of *Engineering Dimensions*. In some cases, PEO also issues a press release detailing enforcement decisions.

Enforcement statistics are reported every year in PEO's Annual Review.

