

A review of the regulatory performance of Professional Engineers Ontario

April 2019

About the Professional Standards Authority

The Professional Standards Authority for Health and Social Care¹ promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament.

We oversee the work of nine statutory bodies that regulate health professionals in the UK and social workers in England. We review the regulators' performance and audit and scrutinise their decisions about whether people on their registers are fit to practise.

We also set standards for organisations holding voluntary registers for people in unregulated health and care occupations and accredit those organisations that meet our standards.

To encourage improvement we share good practice and knowledge, conduct research and introduce new ideas including our concept of right-touch regulation.² We monitor policy developments in the UK and internationally and provide advice to governments and others on matters relating to people working in health and care. We also undertake some international commissions to extend our understanding of regulation and to promote safety in the mobility of the health and care workforce.

We are committed to being independent, impartial, fair, accessible and consistent. More information about our work and the approach we take is available at www.professionalstandards.org.uk.

About this report

This report uses the Professional Standards Authority for Health and Social Care's Standards of Good Regulation as a basis for its assessment of the PEO. The review was led by Harry Cayton, the former CEO of the Authority while he was the Authority's International Adviser. The review authors worked in an independent capacity, contracting directly with the PEO. The review is copyright to the authors who take full responsibility for its contents.

¹ The Professional Standards Authority for Health and Social Care was previously known as the Council for Healthcare Regulatory Excellence

² The Professional Standards Authority (2015). [Right-touch regulation – revised](#).

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Letter to the President

David W. Brown, P.Eng., BDS, C.E.T.
President,
Professional Engineers Ontario,
Toronto, Ontario,
Canada.

30 April 2019

Dear David,

We note with respect the summary statement which opens the Professional Engineers Ontario's (PEO) Submission to the Walkerton Enquiry in 2001. We reproduce it below.

'Ontario's professional engineers are required, by law, to regard their duty to public welfare as paramount.

Professional Engineers Ontario (PEO) is the organization that licenses professional engineers and regulates the practice of professional engineering in Ontario. PEO regulates engineering under the authority of the Professional Engineers Act and its supporting regulations. PEO, as the regulator of engineering practice in the province, is bound by both statutory obligations and ethical responsibilities to protect the public where the practice of professional engineering is involved.

We protect the public by setting standards of technical competence and professional conduct, and by ensuring that all licensed professional engineers meet these standards'

This statement expresses with clarity the purpose and functions of PEO. Our task as independent reviewers, appointed by the Council of PEO, through the Professional Standards Authority, is to report to you as to how far PEO is currently meeting its own objective to ensure public welfare is paramount by performing its regulatory functions of standard setting, licensing, discipline and enforcement effectively.

In Section 1 of this report we describe and explain our approach and our application of The Standards of Good Regulation as developed by the Professional Standards Authority in the UK. We set out how we collected and evaluated evidence.

In Section 2 we describe our understanding of the statutory framework within and by which PEO operates. PEO's performance cannot be judged except within its legislative powers and responsibilities and how it has interpreted and used them.

Section 3 sets out the current organization and structure of PEO and considers its effectiveness at the present time to deliver PEO's regulatory functions.

Section 4 reports our assessment of PEO's performance against the Standards of Good Regulation and our reasons for that assessment.

Section 5 draws conclusions as to the extent to which PEO is indeed protecting the public and acting in the public interest and its readiness to respond to and take on the challenges of regulating the engineering professions in a world of rapidly changing technologies and occupational roles. Based on our assessment we make recommendations for change in Section 6.

We thank the Council for its decision to appoint us to conduct this review.

We are grateful to the staff of PEO for their warm welcome and their patient provision of more and more information in response to our repeated requests. Members of Council and committee chairs and members have also been generous with their time and their knowledge. A number of individual engineers and others submitted views to us. All those who contributed to our review are listed in Annex B unless they asked for their names not to be included. We have also benefited from conversations with and evidence from a number of external stakeholders.

We note in particular the enormous time, commitment and professional generosity that volunteer engineers give to PEO. Criticism in this report of the way PEO manages its business is not criticism of them, of their intentions or of their competence. We respect and are grateful to them.

While we acknowledge the contribution of many people to the content of this review the opinions expressed in it are ours. We hope that PEO will find it helpful.



Harry Cayton

April 2019



Kate Webb



Deanna Williams

Executive Summary

This executive summary is not intended as a substitute for reading the whole report.

This report on the performance of Professional Engineers Ontario was conducted at its request between December 2018 and April 2019. Section 2 summarizes the legislative framework under which PEO performs its mandate and Section 3 considers how it is organized and operates. Section 4 assesses PEO's performance against 22 Standards of Good Regulation. Section 5 draws conclusions as to how effective PEO is in protecting the public and setting and promoting standards for engineering practice. Section 6 makes recommendations for improvement.

The report does not assess the governance of PEO.

The Standards of Good Regulation used in this report were adapted from those developed by the Professional Standards Authority in the UK.³ The Standards in this review cover three areas of regulatory activity:

- Licensing and registration
- Complaints, discipline, compliance and enforcement
- Professional standards and guidance.

The Standards were agreed with PEO in advance of the review.

The review found that PEO meets one Standard of seven for licensing and registration.

PEO meets six Standards and partially meets one of 11 for complaints, discipline, compliance and enforcement.

PEO meets one Standard and partially meets two of four for professional standards and guidance.

In order to meet a Standard PEO had to demonstrate that it did so with measurable outcomes. It is not sufficient for a regulator to have policies and procedures that would meet a Standard if properly applied.

Overall the review finds a mixed picture of performance as a regulator. PEO meets just under half the Standards but the main area of weakness is in licensing and registration. PEO is aware that its approach to licensing is complicated, that it results in long delays for some, particularly international applicants and that it is open to a charge of inconsistency and unfairness. Complaints and discipline processes are insufficiently independent of PEO's council although we found the assessment of complaints to be careful and well managed.

The published register of engineers is incomplete and not always accurate. PEO could do more to be transparent in its decision-making and in reporting on its decisions although progress is being made in this area and we recognize that it is hampered by both privacy legislation and restrictions within its own legal framework. The legislative requirement that professional standards have to be in regulations means that PEO has been more likely to issue guidance on new areas of engineering practice in order to

³ The Standards of Good Regulation have been in use for 12 years and have been the basis for over 100 performance reviews of professional regulatory bodies in seven different jurisdictions.

keep up to date. Its approach to creating guidance is effective but guidance does not have the regulatory force that standards do.

The report finds that PEO is over-reliant on volunteers and that it has not yet fully discarded its history of being a professional association promoting the practice of engineering and the interests of engineers. The report suggests that PEO needs to invest more in professionalizing its regulatory practice and in building a modern IT infrastructure to support its work and increase efficiency.

The report concludes with 15 recommendations for improving PEO's performance and observes that the leadership of PEO, both voluntary and staff, do together have the skills and energy to make the necessary changes to structure, processes and performance. Our conversations, observations and engagement with PEO and its people over the last six months leads us to believe that many also have the will to change.

1. The Review and our approach

Background

- 1.1 In November 2018 Professional Engineers Ontario (PEO) commissioned external reviewers through the Professional Standards Authority to assess their performance as a regulator. The report of the external reviewers was specifically to provide:
- A review of PEO's three regulatory functions: licensing and admissions; complaints, discipline and enforcement; and professional standards⁴ against its legislative requirements and the Standards of Good Regulation, including a comparison with regulatory practice internationally
 - A gap analysis of PEO's current practices and the processes, procedures and policies of comparable regulators and the Standards of Good Regulation
 - A review of effective outcomes and complexity of process and procedure in the light of the principles of Right-touch regulation
 - Recommendations for improvement and whether further consideration needs to be given to both PEO governance and the legislative framework.
- 1.2 The background to the decision by the PEO Council to commission the external review includes expressed internal and external concern that PEO was not sufficiently focused on its mandate to protect the public, that its practices and processes were not in line with the principles of Right-touch regulation⁵ and that it could learn from best practice in professional regulation elsewhere.

Activities undertaken for the review

- 1.3 The review was conducted between December 2018 and April 2019.
- 1.4 We visited PEO between 31 January and 8 February 2019. During this period, we:
- Reviewed substantial documentary evidence provided by PEO,
 - Met with staff and examined a limited sample of complaints case files, which included records of investigation, outcomes and reasons for decisions taken,
 - Met with staff and reviewed documentation relating to the development of professional standards,
 - Observed two meetings of the Council and observed other statutory and non-statutory committee meetings, including the Registration Committee, the Complaints Committee (COC), the Consulting Engineers Designation

⁴ Later these were revised to licensing and registration, complaints, discipline, compliance and enforcement, and professional standards and guidance.

⁵ The Professional Standards Authority (2015). [Right-touch regulation – revised](#).

Committee (CEDC Toronto subcommittee), and the Professional Standards Committee,

- Met with members of the Executive Committee (EXE), and individually with certain professional and public members of the Council,
- Met with the Registrar, with the senior management team and individually with senior members of staff,
- Met with external stakeholders of PEO (the names of the individuals we met appear in Annex B).

1.5 Externally to PEO we sought information from third parties through a confidential email address and met with representatives of the Ontario Attorney General's Office (AGO), the Office of the Fairness Commissioner of Ontario (OFC), the Consulting Engineers Ontario (CEO) and the Ontario Society of Professional Engineers (OSPE).

1.6 We consider that the information which we have been given, the examination of PEO's work in practice and our discussions with its Council members, volunteers, Registrar and staff have enabled us to come to a fair assessment of its performance against the Standards of Good Regulation.

Right-touch regulation

1.7 Our approach to effective regulation is set out in the Professional Standards Authority paper, *Right-touch Regulation Revised*.⁶ Right-touch regulation means using only the regulatory force necessary to achieve the desired effect. It sees regulation as only one of many tools for ensuring safety and quality and therefore that it must be used judiciously. Professional regulation exists not to promote or protect the interests of professional groups but to enhance public safety and protect the interests of the public. The general approach to regulation set out in that paper underlies the Standards of Good Regulation and our judgements about the performance of PEO.

1.8 Good professional regulation is found in powers, policies, and practices that seek to deliver regulatory objectives in a manner that does not impose unnecessary burdens, that supports innovation and promotes productivity and allows services and professional practice to flourish. It is found in a strong commitment to the principles of better regulation, and at a functional level, it is found when the outcomes described by the standards are demonstrably achieved. Good regulation reflects prevailing good practice and remains relevant. In contrast, poorly designed and delivered regulation does not serve or protect the public interest. Rather it imposes unnecessary costs on society, practitioners and the public without any meaningful benefit. There is no additional benefit to the public interest if a regulator does more than is necessary to maintain standards in a sector. Equally, the public interest suffers if a regulator does less than is needed to ensure that Standards are maintained. The Standards used in this review reflect this approach to regulation.

⁶ The Professional Standards Authority (2015). [Right-touch regulation – revised](#).

The Standards of Good Regulation

- 1.9 This review is based on an assessment of PEO's performance of three core regulatory functions:
- Licensing and registration
 - Complaints, discipline, compliance and enforcement
 - Professional standards and guidance.
- 1.10 PEO's performance has been assessed against 22 Standards of Good Regulation covering these the three functions. (The Standards used in the review are listed in Annex A.) They were adapted and agreed in consultation with PEO senior executive staff. They provide a benchmark against which PEO's performance can be assessed to judge how current legislation, policy, practice and oversight contribute to deliver PEO's principal objective to protect and serve the public interest.
- 1.11 The standards used in this review were adapted from those developed by the UK's Professional Standards Authority for Health and Social Care.⁷ They describe the outcomes expected from good regulators working to protect and serve the public interest. The Standards of Good Regulation have been in use for 12 years and have been the basis for over 100 performance reviews of professional regulatory bodies in seven different jurisdictions. They have proved both adaptable and reliable.
- 1.12 The Standards used in this review do not map directly to organizational departments or directorates within PEO that may share the same titles. When applying the Standards in our review, we have looked at how PEO delivers these core regulatory functions not at how individual directorates perform.
- 1.13 The Standards of Good Regulation are outcome focused. They do not prescribe the inputs required to deliver regulatory functions. Rather, they focus on what should be achieved by each function if it is to meet the principal objective: serving and protecting the public. Each regulator is different, working in a particular part of the economy and under a specific combination of legislation, regulation, by-laws, policy and operational practices. The Standards of Good Regulation respect each regulator's need to determine how their powers, policies and practice deliver each outcome.
- 1.14 A regulator can demonstrate they meet the standards by drawing on evidence from a range of sources:
- Legislation – both primary and secondary legislation (regulations and by-laws) – which places duties and obligations on the regulator to deliver functions and gives the regulator power to take action and make decisions
 - Policy – in which the regulator details how it will act to deliver its statutory duties and use its powers

⁷ The Professional Standards Authority. [Standards of Good Regulation](#)
The Professional Standards Authority (2016) [Standards of Good Regulation](#)

- Practice – through which the regulator’s policies are delivered on a day-to-day and case-by-case basis
- Oversight – through which the regulator can monitor performance, identifying opportunities to improve as required
- Evaluation – measurement of impact and outcome, with data showing how the regulator’s intentions are delivered and its effectiveness measured.

1.15 The Standards used in this review are based on the premise that regulators are focused on meeting the primary public interest objective. The public interest in regulatory activity can be delivered in a variety of ways, depending on the function. The Standards of Good Regulation describe how the primary objective is delivered in the context of each regulatory function. The specifics of how this may be achieved will vary for each function. For example:

- Good regulation in standard setting and providing guidance means that regulators describe appropriate practice and provision of services, for practitioners and for the wider public, so all can be aware of what constitutes professional standards and the importance of staying up to date with current practice.
- Good regulation in licensing and registration provides assurance to the public that practitioners are regulated and are required to meet certain standards before they can practice and deliver engineering services. Publishing licensing information, including restrictions and limits on practice provides information to the public and helps to identify those who are practising without a licence.
- Regulators tackle poor practice through investigating complaints and adjudicating on misconduct and incompetence. Good regulation in this area provides assurance that the regulator takes action against those practitioners who fall short of expected professional standards. Publishing details of discipline cases helps others to understand why action is or is not taken and help to improve public protection as others learn from these incidents.

1.16 The Standards are all examples of how the public interest is protected and served through regulatory activity. Reviewed individually, they allow for a detailed assessment of how well a regulator meets each regulatory outcome. When considered collectively, the assessment can allow for analysis and identification of common or cross-cutting themes.

1.17 As well as being informed by prevailing good practice and the public interest objective, the Standards are also influenced by broader principles of good regulation. These are:

- Proportionality: regulators should only intervene when necessary. Remedies should be appropriate to the risk posed and costs identified and minimized
- Consistency: rules and standards must be joined up and implemented fairly

- Targeting: regulation should be focused on the problem, and minimize unintended consequences
- Transparency: regulators should be open, and keep regulations and regulatory processes simple and user friendly
- Accountability: regulators must be able to justify decisions, and be open to public scrutiny
- Agility: regulators must look forward and be able to adapt to and anticipate change.

1.18 These core principles are important. There is a public interest in all regulators, whatever their remit, carrying out their duties in an efficient and effective manner, and seeking to avoid inconsistency, disproportionality, and a lack of transparency and accountability.

1.19 The principles also reflect the influence that regulators can have on the market. Through their actions, regulators determine the range of services on offer that the public may choose between, and how and when those services are delivered. The public interest is served when it is at the heart of the decisions that regulators make in these circumstances. Other interests, such as those of the profession themselves, are of lesser importance.

2. Legislative framework

2.1 This section describes our understanding of the statutory framework within and by which PEO operates.

The Professional Engineers Act 1990

2.2 The Professional Engineers Act 1990 (the Act) is the primary governing legislation for PEO.⁸ The Act gives PEO a range of regulatory powers and duties across licensing, registration and authorization, complaints and discipline, enforcement and standards setting, as well as other areas not covered by this review of regulatory performance. It has been subject to a number of amendments since 1990, the last in 2017. There are some amendments that have been made but have yet to be proclaimed.

2.3 The Act gives PEO powers to make regulations in support of its regulatory obligations, subject to the approval of the Lieutenant Governor in Council and review by the Minister. Ontario Regulation 941 (the Regulation) was first made in 1990. It has been amended several times since, with the most recent changes in July 2018. Ontario Regulation 260/08 is PEO's regulation for Practice Standards. It was last amended in 2016.

2.4 The Act also gives PEO the power to pass by-laws relating to the administrative and domestic affairs. By-law 1 was made in 1984. The most recent amendment (relating to regulatory fees) was made in March 2019.

2.5 The discussion below focuses on those parts of the Act, Regulation and By-law that are relevant to the scope of this review.

2.6 Engineering regulation by PEO is also subject to other legislation. Notable for the purposes of this performance review are the Fair Access to Regulated Professions and Compulsory Trades Act 2006 and the Ontario Labour Mobility Act 2009.

Regulatory objectives and scope of practice

2.7 Section 2(3) of the Act states that the **principal object** of PEO is 'to regulate the practice of professional engineering and to govern its members, holders of certificates of authorization, holders of temporary licences, holders of provisional licences and holders of limited licences in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.'

2.8 Section 2(4) outlines additional objects for PEO:

For the purpose of carrying out its principal object, the Association has the following additional objects:

- i. To establish, maintain and develop standards of knowledge and skill among its members*
- ii. To establish, maintain and develop standards of qualification and standards of practice for the practice of professional engineering*

⁸ Throughout this section references to PEO should be read as references to the Association of Professional Engineers of Ontario. Powers in the Act are given to the Association.

- iii. *To establish, maintain and develop standards of professional ethics among its members*
 - iv. *To promote public awareness of the role of the Association*
 - v. *To perform such other duties and exercise such other powers as are imposed or conferred on the Association by or under any Act.*
- 2.9 This gives PEO a duty to prioritize delivery of regulatory functions and duties described in the Act, and to do so in the public interest.
- 2.10 The Act defines the scope of PEO's regulatory interest: **the practice of professional engineering:**
'practice of professional engineering' means any act of planning, designing, composing, evaluating, advising, reporting, directing or supervising that requires the application of engineering principles and concerns the safeguarding of life, health, property, economic interest, the public welfare or the environment, or the managing of any such act.
- 2.11 Section 7(1)(31) of the Act gives the Council regulation-making power to exempt any act within the practice of professional engineering from the application of the Act. The Council has not made any such regulation.
- Licensing, registration and authorization**
- 2.12 Powers and duties around licensing, authorization and registration are covered by sections 12–21 of the Act. In addition, the Council has made a number of regulations relating to this function and exercised its powers to set fees in its By-law.
- 2.13 Section 12 of the Act describes when licences and certificates are required. A licence is required if an individual wishes to practise professional engineering or hold themselves out as practising. A certificate of authorization (C of A) is required if a person wants to offer professional engineering services to the public. Section 13 allows a corporation that holds a C of A to provide professional engineering services to the public.
- 2.14 Section 12 lists a number of exceptions to the licensing and authorization requirements. The first three are known commonly as 'the industrial exception':
- When carrying out an act within the practice of professional engineering when involved in the production of products by the person's employer
 - When working for a licence holder who is assuming responsibility for the professional engineering services provided
 - When designing or preparing tools and dies
 - In the preparation of designs for the construction, enlargement or alteration of certain types of buildings. Section 12(6) sets out rules for the relationship between architects and professional engineers and provide a licensing exception for architects in these circumstances.
- 2.15 As well as the exemption power noted in the previous section (paragraph 2.11). section 7 of the Act also gives the Council the power to specify acts with the practice of professional engineering that are exempted when

performed by a member of class of persons. No regulations have been made.

Licensing requirements

- 2.16 Section 14 of the Act describes the requirements for issuing a full licence. The applicant must:
- Be not less than 18 years of age
 - Comply with academic requirements
 - Comply with experience requirements
 - Comply with any other requirements as specified in regulations
 - Be of good character.
- 2.17 Clause 33 of the Regulation sets out the academic, experience and other requirements in more detail. Each applicant must demonstrate they have obtained:
- A Bachelor's degree in an engineering program from a Canadian university that is accredited to Council's satisfaction, or
 - Equivalent engineering educational qualifications recognized by the Council.
- 2.18 The applicant must also demonstrate they have 48 months of experience in the practice of professional engineering that is sufficient to allow them to meet generally accepted standards of skill to practice. Up to 12 months of this experience can be acquired during the degree program. Further, at least 12 months of the applicant's post-graduation experience must be acquired in a Canadian jurisdiction, under the supervision of a licence holder for that jurisdiction. The applicant must successfully complete the Professional Practice Examination (PPE) within a specified time frame (clause 37 of the Regulation).
- 2.19 Section 14(3) of the Act gives the Registrar the power to refer the applicant to the Academic Requirements Committee (ARC) and the Experience Requirements Committee (ERC) to determine whether an applicant has met the academic and experience requirements for licensing.⁹
- 2.20 Clause 40 of the Regulation describes the membership, duties and powers of the ARC. When applications are referred to the ARC, its role is to assess the academic qualifications of the applicant and determine whether they meet the requirements prescribed by the Regulation. If not met, the ARC will specify the academic requirements that the applicant must meet, in the form of additional examinations. In this process the ARC can interview the applicant and refer the applicant to the ERC to assess how the applicant's experience should be taken into account in assigning examinations. The ARC determines the form and content of additional examinations.

⁹ For full licence, temporary licence and limited licence applications. There is an amendment to section 18(3) awaiting commencement to allow these two committees a role in issuance of provisional licences.

- 2.21 Clause 40(4) of the Regulation requires the Registrar to refer all applications for a limited licence to the ARC.
- 2.22 Clause 41 of the Regulation describes the membership, duties and powers of the ERC. When applications for a licence, limited licence or temporary licence are referred to the ERC, its role is to assess the experience qualifications of the applicant and assess whether they meet the requirements set out in Clause 33 (see paragraph 2.17). The ERC may interview the applicant as part of this process. If the requirements are not met, the ERC will specify the additional requirements the applicant must meet. The ERC also has a role in assessing applicants for reinstatement of a licence. It will interview an applicant where there is a question about their English language competence.

Licence categories

- 2.23 The Act and the Regulation provides for a number of different licensing categories.
- Professional Engineer Licence (P.Eng.) (section 14(1)) – full Licence holders who are members of the Association with voting rights.¹⁰
 - Provisional Licence (section 14(7) and Regulation clause 44.1) – a provisional licence is issued for 1 year, to an applicant who meets all requirements for the full licence except the Canadian experience requirement. A provisional licence can be renewed for up to 12 months. A holder practises under the supervision of a P.Eng. and cannot issue drawings or reports without a supervising engineer’s sign-off and seal. The qualifications for the Provisional Licence are prescribed in section 44.1 of the Regulation. The Registrar’s authority to issue is discretionary.¹¹
 - Temporary Licence (section 18(1) and Regulation clauses 42–44) – A temporary licence cannot be issued for more than 12 months. Admission criteria are the same as those for a P.Eng. licence, but with at least 10 years’ experience of professional engineering practice (including at least 12 months experience in Canada relevant to the application or must collaborate with a professional engineer licensed in Ontario), knowledge of all relevant codes, standards and laws relevant to that work; have liability insurance. The licence must specify the works, facilities, or property in Ontario to which the temporary licence relates. It must also include the name of employer, and the name of P.Eng. member with whom collaboration is required for co-signing drawings and reports.
 - Limited Licence (section 18(1) and Regulation clauses 45 and 46) – a limited licence specifies the services that can be offered. The applicant holds a 3-year degree or diploma in engineering (but not from an

¹⁰ Section 18(1) restricts membership of the Association (and therefore eligibility to vote in elections) to full P.Eng. licence holders. Those holding provisional, temporary, and limited licences are not members of PEO.

¹¹ There is an amendment to the Act awaiting proclamation by the Lieutenant Governor to repeal section 14(7) and thereby remove the Act’s requirements for Provisional Licences.

accredited program) or science. They must have at least 8 years' experience, 6 of which relate to the services specified in the licence, and 4 of those 6 in the Canadian jurisdiction. The applicant must pass the PPE and be of good character.

- Limited licence: engineering technologist class (clause 46.0.1 of the Regulation) – this licence is a version of the limited licence category and will be issued to those applicants who fulfils the limited licence criteria and is also certified member of Ontario Association of Certified Engineering Technicians and Technologists and holds title 'Certified Engineering Technologist'.

Certificate of Authorization (C of A)

- 2.24 Clauses 47–50 of the Regulation make provision around C of A, including fee payment and annual renewal. Each applicant must designate the person(s) who will assume responsibility for and supervise the services that will be provided under the certificate. Section 17 of the Act requires that a holder of C of A has a licence holder to take responsibility for and supervise the practice of professional engineering. The licence holder provides 'personal supervision and direction' as 'supervising engineer'. The designated person(s) must hold a licence, a temporary licence or a limited licence. The C of A is suspended if there is no licence holder available to act as supervising engineer. If the licence holder is subject to terms and conditions, these also apply to the C of A. Each certificate issued by the Registrar will contain a description of any terms and conditions that apply to the authorization.

Refusal to issue, revoking and suspending licences and certificates

- 2.25 Section 14(2) of the Act provides the Registrar with grounds for refusal of a licence application, or to suspend or revoke a licence. Similar provisions are made for other licence types in section 18(2).
- 2.26 In all cases the grounds for refusal are if the Registrar is of the opinion, upon reasonable and probable grounds that:
- Past conduct 'affords ground for the belief' that applicant won't comply with the law and with honesty and integrity
 - Applicant does not meet requirements
 - There has been a breach of a term or condition, or licence limitations.
- 2.27 In section 15(8) of the Act, the Registrar is given similar grounds for refusal, suspension and revocation relating to C of A.
- 2.28 If the Registrar proposes to not issue, or to revoke or suspend a licence or a C of A, they will serve notice (Notice of Proposal to Refuse a Licence, NoP) on the applicant (where this does not relate to a decision of the Discipline Committee). Section 19 the Act describes the process to be followed for applicants for all licence types and certificates. The applicant has a right to a hearing by the Registration Committee if requested within 30 days of receiving the notice. If no hearing is requested, the Registrar's proposal is carried out.

- 2.29 Section 19(5) of the Act requires that within 30 days of receiving a request for a hearing from the applicant, the Registration Committee must schedule the hearing. The Registration Committee is a statutory committee. The Act makes provision for its membership, duties, powers and procedure when considering a proposal to refuse to issue a licence or certificate, or a proposal to suspend or revoke a licence or certificate. Membership of the Registration Committee is described in section 19.1 of the Act:
- *At least two persons each of whom is either:*
 - *Member of council appointed by the Lieutenant Governor in Council, or*
 - *A person who is not a member of Council nor a member of PEO, approved by the Attorney General*
 - *At least three members of PEO.*
- 2.30 Section 19(7) of the Act describes the powers of the Registration Committee where the proposal is to refuse to issue a licence. If, following the hearing, the Committee determines that applicant meets requirements, it can direct Registrar to issue licence. If it determines that an applicant does not meet requirements, the Committee can:
- Direct the Registrar to refuse to issue a licence
 - Exempt an applicant from any requirements of the Act, and direct Registrar to issue licence, if there are reasonable grounds that applicant will practise with competence and integrity
 - Direct the Registrar to issue a licence (or certificate) subject to terms and conditions as specified by the Committee, if the Committee determines these terms and conditions are necessary to ensure applicant practises with competence and integrity.
- 2.31 Section 19(7.1) describes the powers the Registration Committee has when considering proposals to revoke or suspend licences. In these circumstances the Committee can:
- Direct the Registrar not to revoke or suspend
 - Direct the Registrar to suspend or revoke
 - Exempt the applicant from any requirements and direct the Registrar not to revoke or suspend
 - Direct the Registrar not to revoke or suspend if the Committee determines that terms and conditions will ensure applicant will practise with competence and integrity.
- 2.32 Section 19(10) of the Act permits the applicant to show or achieve compliance with licensing or authorization requirements at any time before the hearing date.
- 2.33 Section 31 of the Act allows both parties – the applicant and the Registrar – the opportunity to appeal a decision of the Registration Committee to the Divisional Court.

Joint Practice Board

- 2.34 Section 47 of the Act makes provision for a Joint Practice Board (JPB). The JPB can recommend to Council that a certificate or licence is issued to a holder of a certificate of practice under the Architects Act. If Council agrees, it will direct the Registrar to issue a certificate or licence. If it disagrees, Council will give reasons in writing. The JPB will also consider matters relating to jurisdictional disputes between architects and professional engineers. The JPB is appointed by Council with three members representing Ontario Association of Architects, three members representing PEO and a chair.
- 2.35 Although the Act provides for the JPB, the Council has never appointed members to the Board, and it has never met.

Other licensing categories

- 2.36 The Act makes provision for other licensing categories. Section 7(1)22 of the Act gives Council the power to make regulations providing for the designation of members and holders of temporary licences as ‘specialists’, including qualification and experience requirements, provision for suspension and revocation of designation. No regulations are in place at present to designate specialists.¹²
- 2.37 Section 7(1)23 of the Act gives Council similar powers to make regulations providing for the designation of members as ‘consulting engineers’. Clause 56 of the Regulation details the designation requirements. An applicant must:
- Be a member of PEO
 - Have been engaged in independent practice for at least 2 years
 - Have at least 5 years’ satisfactory experience post licensing
 - Pass any exams prescribed by Council. An applicant may be exempted from the exam requirement if the Council is of the opinion the applicant already has appropriate qualifications.
- 2.38 Designation decisions are made by the Council. The Council is advised by and receives recommendations from the Consulting Engineer Designation Committee (CEDC). Its role is described by Clause 61 of the Regulation, and covers matters relating to standards, form and content of examinations, qualifications, exemptions, and independent practice requirements. Members of CEDC are appointed by Council, and the majority are themselves consulting engineers (clause 62).
- 2.39 Applicants can be required to appear before the CEDC or the Council under clause 63. The designation is awarded for five years and permits the member to use the title ‘consulting engineer’. Under clause 57, Council shall redesignate a member as a consulting engineer if they remain a member in ‘independent practice’ and have, in Council’s view, satisfactory professional engineering experience in the previous five years. Clause 60 defines ‘independent practice’ as holding a C of A and offering services to the public,

¹² The PEO website references a ‘Building Design Specialist’ in places, but there is no mention of this class in current regulations.

either personally or as a partner or employee of a holder and the supervising engineering for that C of A.

- 2.40 Those designated 'consulting engineers' are permitted by clause 59 to use the title as long as they remain in independent practice. C of A holders can also use the title as long as their supervising engineer is designated as a consulting engineer (clause 69).
- 2.41 If the Council refuses to grant designation, the applicant can request that Council reconsiders its decision, under Clause 64. Any applicant refused a designation cannot reapply for 12 months.
- 2.42 Section 7(1)8 of the Act gives the Council the power to make regulations governing persons as engineering interns, including academic requirements necessary for acceptance as an engineering intern, the rights and privileges associated, as well as other classes of persons whose interests are related to those of the association. Section 20 of the Act outlines the criteria for acceptance as an engineering intern, and how this status may be terminated (non-payment of fees or when licence application process complete). Clause 32.1 of the Regulation sets out the academic requirements for engineering interns (completed or being in the process of completing the academic requirements for licensure) and the associated privileges.
- 2.43 Clause 32.2 of the Regulation introduces the 'engineer student' class, open to students on accredited engineering programs in Canada. Engineering students and interns do not have rights to practise professional engineering.
- 2.44 Clause 41.1 of the Regulation gives the Registrar the power to designate members as 'fee remission members' if the licence holder is not engaged in the practice of professional engineering, due to retirement, postgraduate study, maternity, paternity or family leave, unemployment, long-term health or physical condition that prevents practice.

Fees

- 2.45 Section 8(1)16 of the Act gives the Council the power to specify fee amounts and require their payment through by-laws. This power covers annual fees, fees for registration, examinations, designations and continuing education, plus fees for anything the Registrar is required or authorized to do, and penalties for late payment of any fee.
- 2.46 Section 39 of By-law No.1 lists the current fees. There are application, registration and annual fees for different licensing categories (P.Eng., limited licences, provisional licences, temporary licences, engineering interns), plus fees for reinstatements, consulting engineer, and for C of A, examinations, and seals.
- 2.47 When this review commenced section 59 of the By-law stated that the Council would seek confirmation by members for changes to annual fees for licence holders.¹³ This section was repealed by Council in February 2019.

¹³ Under section 8(2) of the Act, a by-law made by Council is effective when it is passed. Section 8(3) qualifies this: If a by-law passed by the Council requires it, the by-law is not effective until it is

Registers

- 2.48 Section 21 of the Act requires the Registrar to maintain ‘one or more’ registers containing the following range of information:
- Every holder of a licence (full, temporary, provisional and limited), and C of A.
 - The terms and conditions and limitations attached to each licence and C of A
 - Every revocation, suspension and cancellation or termination of a licence or C of A
 - Dates of hearings by the Discipline Committee as well as access to any resulting decisions (this is following an amendment to the Act in 2017)
 - All engineering interns
 - Plus any other information directed by Registration Committee or Discipline Committee.
- 2.49 The Act gives anyone the right to inspect the registers and allows the Registrar to make the registers available electronically.
- 2.50 In addition, clause 71 of the Regulation gives the Council the power to publish a list of members designated as consulting engineers, and those certificate holders entitled to use the title ‘consulting engineer’.

Resignation, late fee payments and reinstatement

- 2.51 Section 22 of the Act gives the Registrar the power to cancel a licence or certificate for any non-payment of fee after giving at least two months’ notice of the default and the intention to cancel. The Act gives the Council power to make regulations around reinstatement of members. Clause 51 of the Regulation requires those members who have resigned to pay outstanding fees, and reinstatement fees, and demonstrate evidence of good character. For those who seek reinstatement following cancellation for non-payment of fees, Clause 51.1 requires payment of fees, evidence of good character, and successful completion an assessment by the ERC (if the licence has been cancelled for more than two years).

Continuing Professional Development

- 2.52 Section 7(1)27 of the Act gives the Council powers to make regulations around continuing education of all licence holders and holders of certificates of authorization. In particular, the Council can make regulations around:
- The development or approval of continuing education and professional development programs
 - Requiring members to successfully complete or participate in such programs

confirmed, in the manner specified by the Council, by a majority of members of the Association who vote on the by-law.

- Providing for sanctions for non-compliance. These can include suspending or cancelling a licence until the person is in compliance or imposing additional requirements to be considered to be in compliance.

2.53 Council have not made any regulations in this area.

Complaints, Discipline, Compliance and Enforcement

Professional misconduct and incompetence

2.54 Section 28(2) of the Act defines professional misconduct as convictions of an offence relevant to suitability to practise, alongside any regulations made by the Council. Clause 72 of the Regulation lists a number of factors that indicate professional misconduct including: negligence, breach of the Act or regulation (other than solely a breach of the Code of Ethics (see paragraph 2.84, below)), undertaking work not training or experienced to provide, harassment, failure to declare an interest that may be construed as prejudicial to the practitioner's professional judgement.

2.55 Section 28(3) of the Act defines incompetence. A member/holder may be found incompetent if they have demonstrated a lack of knowledge, skill or judgement or disregard for the welfare of the public such that they are unfit to carry out role of professional engineer.

2.56 Incompetence also may be found if the member/holder is found to have a physical or mental health condition such that it is in the interests of the public or the member/holder that their practice is restricted. There is no provision for a separate or discrete category solely for health conditions.

Continuing jurisdiction

2.57 Section 22.1 of the Act gives the Association the power of continuing jurisdiction over former members and holders (due to resignation, cancellation, revocation or suspension of licences or certificates) in respect of any professional misconduct or incompetence that occurred at the time the person was a member or holder.

Complaints and allegations

2.58 Sections 23–25 of the Act provides for the Complaints Committee (COC) and the initial stage of complaint handling. COC members are appointed by the Council, and section 23 of the Act determines the membership should be: at least one Lieutenant Governor appointed member of Council, or a lay person approved by the Attorney General, and at least two members of PEO. Section 23(2) precludes any member of Discipline Committee (DIC) from being a member of COC (and vice versa).

2.59 The COC first duty is to consider and investigate complaints made by members of the public or members of PEO regarding the conduct or actions of a member of the Association or holder of another licence type or a C of A. Complaints must be made on a written form, provided by PEO and filed with the Registrar. The Act gives members subject to a complaint at least two weeks to submit a response in writing to the COC, and the COC the power to

investigate the complaint, through examination of documents and other records.

- 2.60 Following this and based on the information it receives, the COC is given the power to refer the matter to the DIC (in whole or in part), to not refer to the DIC, or to take such action as it considers appropriate in the circumstances and that is not inconsistent with the Act, Regulation or By-law. There is no requirement for a hearing before reaching a decision.
- 2.61 The COC is required to give its decision in writing. If it decides not to refer to the DIC, it must also provide its reasons in writing.
- 2.62 The COC's decision and reasons must be shared with the complainant under section 24(4). If the complainant is dissatisfied with the handling of the complaint section 24(4) allows the complainant to apply to the Complaints Review Councillor (CRC, see below, paragraph 2.65).

Registrar's investigations and powers in complaints

- 2.63 Section 33 of the Act gives the Registrar the power to appoint one or more investigators if they believe on reasonable and probable grounds that a member/holder has committed an act of professional misconduct or incompetence. The Registrar can also appoint an investigator if there is cause to refuse to issue a C of A, or to revoke or suspend a C of A. Investigators are given powers to carry out an investigation, including powers to inquire into the practice of the licence holder and to examine books and records relevant to the investigation by the Act. They report their findings to the Registrar, who reports to Council or any other Committee considered appropriate, including the COC.
- 2.64 In addition to this, clause 78.1 of the Regulation gives the Registrar the power to take such action as is reasonably necessary to serve or protect the public interest if they are informed of a situation that may endanger life, health, property or the public welfare.

Complaints Review Councillor

- 2.65 Section 25 of the Act obliges the Council to appoint a Complaints Review Councillor (CRC). The CRC can be either a Lieutenant Governor appointed council member or an appointee approved by the Attorney General.
- 2.66 Section 26 details the powers of the CRC and the procedure that should be followed. The CRC has powers to examine COC procedures, review handling of a complaint when not disposed of by COC within 90 days of complaint being filed with Registrar, and to review handling of a complaint when the Complainant is dissatisfied with the outcome of the COC. Section 26(5) gives the CRC discretion to commence a review, if the complaint was disposed of by the COC more than 12 months before the application to review was received, or if it is considered to be vexatious or frivolous.
- 2.67 Section 26(8) requires the reviews to be conducted in private. The CRC can hear or obtain information and make inquiries as they see fit. There is no requirement for a hearing. Council members, committee members and staff members of PEO are under a duty to provide information to the CRC.

- 2.68 The CRC is required to make a report of their findings, including recommendations, and submit the report to the Council and the COC, and to the complainant and the member who was the subject of the complaint. The CRC may also send the report to the Minister. The Council and the COC are required to consider the report and notify the CRC of any action taken.

Discipline hearings and sanctions

- 2.69 Sections 27–30 of the Act make provision for the second stage of the complaints process: discipline hearings and imposition of sanctions.
- 2.70 Section 27 describes the membership of the DIC. Members of the committee are appointed by Council and includes at least one elected member of Council, at least one appointed PEO member of Council (or a member of PEO approved by the Attorney General), at least one lay appointee to Council (or a lay person approved by the Attorney General), and at least 3 members of PEO with at least 10 years post-licensing experience.
- 2.71 Section 27 also outlines the procedure to be followed when a matter is referred to the DIC for hearing and determination, and the operation of a disciplinary panel. Within 90 days of referral of a case to the DIC, the chair may select a panel from among the membership of the committee, designate one member of panel as chair, refer the matter to panel for hearing and determination, set the date, time and place of hearing. The panel may include one or more elected council members but should include at least one each of the other types of member of the committee. Decisions of the panel require majority of members.
- 2.72 The DIC hears and determines allegations of professional misconduct and incompetence against holders of a licence, limited licence, temporary licence, provisional licence, or C of A. As well as referrals from the COC, the DIC may receive referrals from the Council or the EXE¹⁴ regarding any allegations of professional misconduct or incompetence (Section 27.1). It also hears applications for reinstatement following revocation or of a licence or a certificate of authorization under Section 37.
- 2.73 Section 28(4) of the Act gives the DIC a range of powers if it finds the licence holder or Co
- 2.74 A holder guilty of professional misconduct or to be incompetent. The sanctions available include licence revocation, licence suspension, undertakings, conditions, reprimands, fines, and revocation/suspension of a specialist or ‘consulting engineer’ designation. The DIC can also impose costs on a member/holder (under Section 28(4)) or impose costs on PEO to refund the member/holder where the DIC finds that the case was unwarranted (under Section 28(7)).
- 2.75 The DIC can make directions about publication of finding and order (either in detail or summary form, with or without member’s name). Revocations and

¹⁴ The Executive Committee may act on behalf of Council (except to make, amend or revoke a regulation or by-law). It is composed of the president, president-elect, immediate past-president, 2 vice-presidents, and other Council members as appointed by Council (at least one of whom must be a member appointed to Council by the Lieutenant Governor).

suspensions are published with names under section 28(5). The DIC can also consider requests from a respondent to publish where an allegation is unfounded under section 28(6).

- 2.76 Section 29 makes provision for the stay of certain decisions if the decision is appealed. If the decision is appealed, sanctions arising from incompetence take effect immediately, unless the Court rules otherwise. Sanctions arising from professional misconduct are stayed until the time for any appeal has expired or pending any appeal.
- 2.77 Section 30 of the Act makes provision for the proceedings of discipline panels, including precluding members of the committee from taking part if they have taken part in previous investigation of the subject matter (other than as part of the work of the DIC). Hearings are public unless the panel orders a closed hearing because the member/holder requests closed hearings prior to the date being set or matters involve public security or financial/personal matters may be disclosed.
- 2.78 If a member is found guilty of professional misconduct or incompetence, Section 30(10) requires a copy of the DIC's decision to be sent to the initial complainant. (Note that the Act provides for publication of all Discipline Committee decisions on the PEO's public directories, see paras 2.48–2.50 above).
- 2.79 Section 31 allows both parties – the respondent and PEO - the opportunity to appeal a decision of the DIC to the Divisional Court.

Enforcement

- 2.80 Section 40 of the Act identifies a range of offences and provides for financial penalties on conviction of first and subsequent offences. The Act makes it an offence to
- Practise professional engineering in contravention of section 12 (requirement for licence or certificate)
 - Use the term 'professional engineer' or 'engineer' or a similar term, or a seal, leading to the belief that the person may engage in professional engineering, if they are not holding a licence or temporary licence
 - Use a term, title or description, or seal that will lead to the belief that the person may provide professional engineering services to the public without acting under a C of A
 - Use the term 'licensed engineering technologist' without holding a limited licence as an engineering technologist
 - Using the term 'engineering intern' without being an intern under section 20.1
- 2.81 Under section 41, the Act also makes it an offence to
- obstruct a Registrar's investigation
 - falsify any documents in relation to registration

- make false representations during the licensing and authorization process.

Professional standards

- 2.82 The additional objects detailed in section 2(4) of the Act place PEO under broad obligations to maintain and develop professional standards across education, practice and ethics. The Act makes other specific provisions that relate to professional standards.
- 2.83 Section 20 of the Act places the same fiduciary, confidentiality and ethical obligations on a corporation holding a C of A as exist between a 'member of the Association' (a P.Eng.) and their client.
- 2.84 Section 34 makes it a condition that every holder of a C of A will not offer or provide services to the public unless they comply with regulations on professional liability insurance. Clause 74 of the Regulation provide more detail. It describes minimum requirements for a policy, but also makes a number of exceptions. The minimum requirements do not need to be met if equivalent cover is provided by other insurance, or if cover would be in respect of certain hazards, or if the holder notifies each person to whom the holder intends to provide the services that the holder is not insured in accordance with the minimum requirements and receives from each of them written authority to provide the services without that insurance.
- 2.85 The Act gives the Council regulation-making power relating to professional standards.
- Section 7(1)9.ii governs the standards of professional training programs offered by the Council
 - Section 7(1)12 gives the Council the power to make regulations requiring and governing the signing and sealing of documents. Clause 53 of the regulation requires that, when providing services to the public, final documents are signed, dated and have the licence holder's seal affixed.
 - Section 7(1)17 gives the Council the power to make regulations respecting and governing standards of practice and performance standards for the profession. Ontario Regulation 260/08 (last amended July 2016) describes performance standards for four areas of practice:
 - Building construction, enlargement, alteration and demolition
 - Drinking water system evaluations
 - Environmental site assessment reports
 - Tower crane inspections.
 - Section 7(1)18 gives Council the power to make regulations providing for the setting of schedules of suggested fees for professional engineering services and for the publication of the schedules. Clause 76 of the Regulation makes provision for this, where the Council establishes a committee for this purpose. No committee is currently in place, and no schedules are published.

- Section 7(1)19 gives Council the power to make regulations regarding the advertising of the practice of professional engineering. Clause 75 of the Regulation states that members, holders of temporary licences, provisional licences, limited licences and holders of C of A may advertise only:
 - In a professional and dignified manner
 - In a factual manner without exaggeration
 - In a manner that does not directly or indirectly criticize a Member or holder or an employer of a Member or holder
 - Without reference to or use of the professional seal of the Member or holder or the seal of the Association.
- Section 7(1)20 gives the Council the power to make regulations prescribing a Code of Ethics. Clause 77 of the Regulation outlines an eight-point Code of Ethics. The Code applies to all practitioners (holder of a licence, a temporary licence, a provisional licence, a limited licence or a C of A, as the case requires).

Fair Access to Regulated Professions and Compulsory Trades Act 2006

- 2.86 As noted in paragraph 2.6 above, PEO's licensing and registration activities are also subject to the provisions of the Fair Access to Regulated Professions and Compulsory Trades Act 2006 (FARPACTA). The purpose of this legislation is to 'help ensure that regulated professions and individuals applying for registration by regulated professions are governed by registration practices that are transparent, objective, impartial and fair.'
- 2.87 Under FARPACTA, PEO is subject to:
- The Fair Registration Practices Code
 - A general duty to provide registration practices that are transparent, objective, impartial and fair (including in its assessment of an applicant's qualifications)
 - Specific duties to provide:
 - Information about its registration practices
 - Information about the amount of time that the process of registration usually takes
 - Objective requirements for registration
 - A fee scale
 - An internal review or appeal mechanism for its registration decisions, independent of the original decision makers.
- 2.88 FARPACTA also places a specific duty on PEO to ensure those individuals assessing qualifications and making registration decisions have received training on how to hold hearings, and in any special considerations that may apply.

2.89 PEO is obliged, under FARPACTA, to undertake periodic reviews of its registration practices to ensure they are transparent, objective, impartial and fair, and to report to the Fairness Commissioner on the results of the review. FARPACTA also gives the Fairness Commissioner the power to require PEO to conduct an audit (using an auditor listed on the Commissioner's roster). FARPACTA gives the Fairness Commissioner the power to make compliance orders against PEO if they conclude that PEO has contravened the specific duties, the review and audit requirements, or the regulations.

Ontario Labour Mobility Act 2009

2.90 The Ontario Labour Mobility Act 2009 supports the Ontario Government in fulfilling its obligations under the Canadian Free Trade Agreement, with a specific purpose to eliminate or reduce measures used by Ontario regulatory authorities to restrict or impair the ability of an individual to become certified in Ontario when already certified by an out-of-province regulatory authority (within Canada). PEO is subject to this legislation, notably the requirement to seek comment from other provincial counterparts with respect to proposed changes in occupational standards.

3. PEO's organization and structure

Introduction

- 3.1 PEO's structure and organization requires some description so as to understand both its strengths and weaknesses as a regulator. Essentially it remains a hybrid of both professional association and statutory regulator despite establishing OSPE in 2000. This creates some internal tension between priorities and external tension between the interests of the profession or the public interest.
- 3.2 This section of the report looks at the role of membership, chapters and volunteering in PEO. It describes the Council and its committees and subcommittees and how they relate to the staff team and the structure and organization of PEO's work. We consider if the way PEO is organized helps it or hinders it to be an effective and efficient regulator.

PEO as a membership organization

- 3.3 The Association of Professional Engineers of Ontario was established in 1922 as a professional association with self-regulatory powers. This was a common structure at that time. Despite reforms strengthening its legislation over the years and a decision in 2000 to separate its regulatory functions from its advocacy functions by establishing the OSPE (see paragraph 3.27 below), PEO remains fundamentally an engineers' membership association rather than a professional regulator.

- 3.4 As PEO describes itself:

Self-regulation means that PEO is governed by elected members of the profession and government appointees, within strict legal parameters. These elected and appointed representatives sit on a governing council that sets policy for licensing practitioners and regulating engineering practice under the Professional Engineers Act. PEO council comprises up to 32 men and women, who include both licensed professional engineers and non-engineers. The non-engineers are government appointed, whereas the licensed engineers may either be elected from the membership or appointed.¹⁵

What is an engineer?

- 3.5 According to its legislation PEO regulates 'the professional practice of engineering' (see paragraph 2.10) which is defined as 'any act of planning, designing, composing, evaluating, advising, reporting, directing or supervising that requires the application of engineering principles and concerns the safeguarding of life, health, property, economic interest, the public welfare or the environment, or the managing of any such act.'
- 3.6 The requirement for a licence therefore flows from whether or not a person is 'applying engineering principles' (or managing their application) in the context of safeguarding of life, health, property, economic interest, the public welfare

¹⁵ PEO. [Volunteers](#)

or the environment (subject to exceptions described in the Act). It is not therefore immediately obvious what engineering is within the regulatory scope for PEO.

- 3.7 PEO's regulatory powers are a hybrid; it regulates the title of Professional Engineer (P.Eng.) and no one can call themselves such unless licensed by PEO. However, while P.Eng. is a restricted title the activities of 'engineering' are not exclusively limited to those who are licensed. PEO is active in enforcing the use of the title 'professional engineer' but is generally more restricted in enforcing the general use of 'engineer' although that designation is covered if it leads. 'to the belief that the person may engage in the practice of professional engineering'¹⁶ PEO may therefore enforce against the unauthorized practice of engineering as well as the use of the title.
- 3.8 As the concept of engineering has developed and engineering methodologies and concepts are applied in new fields such as artificial intelligence and biotechnology PEO's legislation lacks the flexibility needed to accommodate 'engineers' working in new roles and in new industries.
- 3.9 There is internal tension within PEO over whether it should be defining itself though the boundaries of more traditional engineering roles and thus restricting the range of the P.Eng. licence or if it should be aiming to embrace an ever larger range of engineering modalities, growing its register but blurring the boundaries of who can be a licensed professional engineer. Its task as a regulator is challenging for these reasons. It needs to be more agile in its approach but this is not helped by the way it is organized though a complex web of committees or by how it interprets its legislation.

The Council and the public interest

- 3.10 It is not the function of this review to concern itself with governance. PEO has indicated that it will consider if a governance review is desirable in the light of this review of regulatory performance and any other matters it considers relevant.
- 3.11 It is appropriate however to note some particular aspects of the Council which may be having an impact on regulatory performance.
- 3.12 PEO has 36 chapters,¹⁷ each representing a different geographic area in Ontario. PEO is currently governed by a Council of 25 (17 elected by the licence holders and eight Lieutenant Governor in Council appointees).¹⁸
- 3.13 As described above the Council is predominantly elected from the membership, those elected are all engineers and most of them (10) represent the chapters through their respective regions.
- 3.14 Although there are eight Lieutenant Governor appointees only three are public members, therefore the public voice is weak and the direct public interest inadequately represented.

¹⁶ The Professional Engineers Act 1990. Section 40(2)(a.1)

¹⁷ PEO. [Chapters](#)

¹⁸ The Act allows PEO to regulate the number of members of its council up to a maximum of 32

- 3.15 Members of the Council sit on the COC and DIC. It is not criticism of any individual involved to say that this creates an inherent conflict of interest as between roles. The complaints and disciplinary procedures are not fully independent of the interests of the PEO (see paragraph 4.78) below.
- 3.16 The officers of the council are elected by the members and are subject to only one year in office. This is a relic of a membership-focused association, creating opportunities for many members to serve, ensuring the power of council officers is strictly limited and therefore restraining the opportunity for continuity of leadership or long-term planning. In 2018, Council introduced term limits of six years for elected Councillors, as well as a minimum of six years hiatus before seeking a Council position. Presidents are now limited to one term, while vice-presidents must wait 10 years before seeking to become Vice-President again.

Chapters and volunteers

- 3.17 PEO has, and financially supports, 36 chapters: local groups of engineers, organized into five regions across the province of Ontario. Chapters were formed over 50 years ago to provide a link between members and PEO council, and to promote the value of engineering to local communities.
- 3.18 PEO describes its chapters as performing ‘a wide variety of functions including organizing licence certificate ceremonies, hosting technical seminars and social events; providing a forum for members to exchange knowledge and ideas; and offering professional networking opportunities’.¹⁹
- 3.19 According to PEO’s 2018 annual review, in 2017, they organized licence presentation ceremonies, hosted technical seminars and social events, and provided a forum for members to exchange knowledge and ideas. ‘Members involved in PEO chapter activities also gave their time, energy and expertise to promoting awareness among grade school students of the engineering profession and the role of science, technology, engineering and math in their daily lives.’²⁰
- 3.20 Chapter newsletters report on ten-pin bowling, a golf tournament, a family picnic but also bridge building and math competitions and events promoting women in engineering. Chapters are also very active in PEO’s ‘government relations programme’ and in award ceremonies for engineers.
- 3.21 As can be understood from PEO’s own description of their role, Chapters have no regulatory functions themselves although PEO’s current strategy²¹ envisages a wider regulatory role. They provide networking and social opportunities for engineers and no doubt a useful social function on promoting education about and awareness of engineering. They also act as a recruiting ground for volunteers to serve on PEO’s numerous committees some of which of course do have a significant role in its activities as a regulator.

¹⁹ PEO. [Chapters](#)

²⁰ *Op.cit.*

²¹ PEO. [2018-2020 Strategic Plan; protect, engage, advance](#)

- 3.22 Volunteerism is a strong theme in PEO's vision of itself. This legacy of its origins as a high-minded professional association has been retained in PEO's culture and operations despite its establishment of and separation from OSPE in 2000.
- 3.23 Volunteers have significant control of PEO but are not held to account in the same way as professional staff. Elected volunteers are accountable to their electorate not the public. Those members interests are reflected in many candidate statements at election time. Candidates aim to 'empower the members', 'improve communication with chapters', ensure there is 'no membership fee increase'. Only rarely is there mention of protecting the public or improving regulation of engineers.
- 3.24 Induction is provided for volunteers and there is a Volunteer Manual but volunteers are not appraised in relation to their performance. The large number of committees with their own interests and priorities means that the strategic direction of PEO is constantly at risk of dilution.
- 3.25 The relationship between staff and volunteers is unclear. The Council should create strategy, measure performance, ensure financial probity. Staff should deliver operations and be held to account for doing so. With so many volunteers engaged in operational decision-making these roles are confused and differences obscured.
- 3.26 OSPE was formed after members of PEO voted to separate regulatory and advocacy functions into two distinct organizations. OSPE was intended to be and indeed aims to be an organization that promotes the interests of engineers and engineering.
- 3.27 OSPE says about itself 'We are the voice of the engineering profession in Ontario. OSPE was formed in 2000 after members of Professional Engineers Ontario (PEO) voted to separate regulatory and advocacy functions into two distinct organizations.'²² It seems however that PEO, particularly through its Chapters, has been unwilling or unable to relinquish that part of its original role. For example, PEO devotes considerable resources, and its volunteers considerable amounts of time, to its Government Liaison Programme. This programme lobbies the government and members of the legislature, The PEO website describes it thus, 'Ultimately, the long term desire is that involvement in the Government Liaison Program sparks the interest of more engineers to hold public office and have the profession's voice represented directly at the decision-making table'.²³ This is not a regulatory activity.

Organizational structure

- 3.28 The staff team is organized into four divisions and three departments each managed by a director and all overseen by the Chief Executive and Registrar. The seven divisions and departments are:
- Communications department
 - Corporate services division

²² <https://www.ospe.on.ca/>

²³ PEO. [Government Liaison Program](#)

- Finance Department
 - Information technology department
 - Licensing and registration division
 - Regulatory compliance division
 - Tribunals and regulatory affairs division
- 3.29 The divisions in particular work closely with and support committees populated by volunteers. PEO has over 60 committees, subcommittees and task forces. Some of these are very important in the delivery of PEO's regulatory functions and, supported by staff, take on significant responsibility. All committees are established and approved by the Council.
- 3.30 There are seven Council Committees with two subcommittees, drawn primarily from members of Council and supporting its work. The committees are:
- Executive Committee (statutory)
 - Audit Committee plus Volunteer expenses subcommittee
 - Finance Committee plus Investment subcommittee
 - Human Resources Committee
 - Legislation Committee
 - OSPE-PEO Joint Relations Committee
 - Regional Councillors Committee
- 3.31 A further 27 committees and subcommittees contribute to PEO's regulatory functions, six of these are Statutory, that is set out on PEO's legislation, and the remainder have been created by the Council as having a useful function. These committees are:
- Academic Requirements Committee (statutory)
 - Distance Education subcommittee
 - Experience Requirements Committee (statutory)
 - Experience Requirements subcommittee
 - Complaints Committee (statutory)
 - Discipline Committee (statutory)
 - Fees Mediation Committee (statutory)
 - Consulting Engineer Designation Committee (in regulations)
 - Five regional subcommittees
 - Education Committee
 - Education Conference subcommittee
 - Enforcement Committee

- Equality and Diversity Committee
 - Licensing Committee
 - Professional Standards Committee
 - Eight subcommittees dealing with particular aspects of engineering
 - Registration Committee (statutory)
- 3.32 Other committees are concerned with the governance of PEO and its external relations. There are over 30 committees and subcommittees which are:
- Central Election and Search Committee (in regulations)
 - Regional Election and Search Committee (in regulations)
 - Advisory Committee on Volunteers
 - five subcommittees
 - Volunteer Leadership Conference Planning Committee
 - Awards Committee
 - three subcommittees
 - Government Liaison Committee
 - seven subcommittees
 - PEO/Ontario Association of Architects Joint Liaison Committee
- 3.33 PEO also has a Complaints Review Councillor, a role is set out in statute (see paras 2.65-68 above).
- 3.34 In addition to the committees and subcommittees the Council occasionally establishes working groups or task forces to examine or lead particular projects. Currently there are five task forces. They are:
- 30 by 30 Task Force
 - Emerging Disciplines Task Force
 - Governance Working Group
 - Public Information Campaign Task Force
 - Succession Planning Task Force
- 3.35 This number of committees and groups generates a huge amount of administrative workload and cost. It is not clear to what extent they are all adding value to PEO's duties and responsibilities as a regulator or its contribution to the public interest. Populating the committees also requires very large numbers of volunteers.
- 3.36 The combination of the extensive involvement and influence of members through the electoral system and as volunteers on the numerous committees appears to us to be disempowering for professional staff. The function of the staff is primarily to service and support the voluntary committees and it is volunteers who make many strategic and operational decisions. Our

impression is that staff have a strong loyalty to their own division or department and to the committees to which they relate. Individual staff members appear to have limited knowledge of the wider role of PEO or the work of teams other than their own.

- 3.37 The language which PEO uses to describe people reveals a strong hierarchy. Professional engineers are ‘members’ not ‘licence holders’. Anyone who is not a professional engineer is defined by what they are not rather than by what they are: public members of the Council are ‘non-engineers’, professional members of staff are ‘non-practising P.Eng.’ International graduates are ‘non-Canadian’. There is a strong sense in the culture of PEO that to be a P.Eng. is to be a person apart and above others. The staff of PEO who hold P.Eng. licences are subject to professional discipline in relation to performance complaints whereas to other professionals working for the association are not.

Efficiency and effectiveness

- 3.38 It is sometimes suggested that running an organization through volunteers is cost-effective. This is by no means necessarily the case. PEO states proudly that it has over 1000 volunteers. Volunteering is often thought to be an inexpensive way of providing services but volunteers have travel and accommodation expenses to be met and meals to be provided. We were told that over 8000 meals a year are provided in the dining room. According to the accounts for 2018²⁴ PEO spent \$817,000 supporting the Chapters, \$726,000 on volunteer expenses and \$141,000 on awards. Reliance on a structure of subcommittees, committees and council for decision-making also means that many important decisions take a very long time to make.
- 3.39 The engineers who pay for a PEO licence should expect it to be efficient and effective as a regulator. We mean no disrespect to the hard-working engineers who make up the majority of PEO’s paid and voluntary workforce but a good engineer does not automatically make a good regulator, although that seems to be the assumption behind PEO’s understanding of self-regulation.
- 3.40 We noted the lack of investment by PEO in modern business infrastructure. Particularly surprising is its lack of an information technology infrastructure. It has no digital case management system and no organization-wide database. Reinforcing the separation between directorates there are individual plans for IT in different areas. Storage of licensing applications is in paper files which take up vast amounts of space and are at risk of data security breaches. We note that in 2018 PEO spent \$530,000 on couriers and postage, a cost that could be eliminated by moving to digital communications. PEO is far away from being a modern paperless office or showing a commitment to internal efficiency and cost-effectiveness.
- 3.41 The complicated interwoven structures of PEO as an organization – members, chapters, committees, volunteers, staff – means that inevitably a great deal of time and effort is directed towards merely keeping all the

²⁴ Figures provided by PEO, April 2019

moving parts operational. The machinery of PEO is not only directed towards delivery of regulation but toward many other internal and sometimes peripheral activities.

- 3.42 We acknowledge that PEO is reflecting on its own performance as a regulator, that many of those who gave evidence to us are conscious of the challenges that it faces and of the need to simplify both its structures and its procedures and that there is a willingness to change those things that need changing.

4. Assessment against the Standards of Good Regulation

Introduction

- 4.1 The Standards of Good Regulation form the basis of this external review of the regulatory performance of PEO. The standards cover three regulatory functions:
- Licensing and registration (7 standards)
 - Complaints, discipline, compliance and enforcement (11 standards)
 - Professional standards (4 standards).
- 4.2 The purpose of the standards is to provide a benchmark against which regulatory performance can be assessed. Through the review PEO provided evidence about how it met the standards. Alongside policies and procedures that would meet a standard if applied properly, PEO also needed to provide evidence that such policies and procedures are applied properly in practice and that they deliver outcomes that meet standards, through measurement of impact.
- 4.3 The Standards, which are set out below, are derived from those published by the UK's Professional Standards Authority.²⁵ They have been amended and tailored to reflect the legislation, regulations and by-laws applying to PEO, specifically:
- Professional Engineers Act 1990 (last amended December 2017)
 - Regulation 941 (last amended 1 July 2018)
 - Regulation 260/08 Performance Standards (last amended July 2016)
 - Professional Engineers Ontario By-law No.1 (last amended March 2019).²⁶
- 4.4 The Standards used in this review were agreed with PEO in January 2019.

Licensing and Registration

- 4.5 There are seven Standards of Good Regulation for Licensing and Registration against which we measured PEO's performance. These standards cover the following licensing categories:
- P.Eng. licences (full licences)
 - Provisional licences
 - Limited licences (where applicable this reflects licences awarded to engineering technologists)

²⁵ The Professional Standards Authority. [Standards of Good Regulation](#)
The Professional Standards Authority (2016) [Standards of Good Regulation](#)

²⁶ The standards were informed by the version of the By-law amended in June 2018. Since then the By-law has been on two occasions (February 2019, March 2019).

- Temporary licences
 - plus C of A, engineering interns, and designations as consulting engineers.
- 4.6 It is important for public protection and for maintaining confidence in the system of regulation that regulators hold accurate information (including information about restrictions on the registrant's practice) on the register and make that information publicly available. We were told by PEO staff that the choice of information to be included on the register is influenced by what can be digitally uploaded and thus verified for accuracy which means that older data will not be included if accuracy cannot be assured. The general principle of publishing all relevant information about registrants aligns with best practices, yet we find no evidence that the PEO expends much effort to check the accuracy of older data with registrants to ensure information on the register is accurate and up to date. It is also important that employers are aware of the need to check the registration status of registrants and that the regulators have processes in place to manage the registration process and prevent individuals from practising illegally.
- 4.7 We have concluded that the PEO meets one of the seven Standards of Good Regulation for Licensing and Registration.
- 4.8 We find that improvement is needed to enhance the PEO's approach to transparency and fairness, to implement a quality control mechanism, and in relation to its approach, to identifying and managing risks in cases where a registrant has worked illegally whilst failing to maintain up-to-date registration.
- 4.9 In considering PEO's approach to licensing we had particular regard to its approach to internationally qualified engineers and its response to the findings of the OFC.

LR1: Only those who meet the regulator's requirements are licensed or authorized

- 4.10 We find that applicants who are deemed to meet the regulator's academic requirements, experience requirements, and all other requirements are licensed or authorized but we cannot confirm whether **all** applicants who may meet requirements are licensed or authorized.
- 4.11 We note that subsection 12(3) of the Act includes provisions that create an exception to the PEO's licensing requirements. Known as the 'industrial exceptions', these provisions allow non-engineers to
- Carry out acts of professional engineering on equipment or machinery used to produce products for their employers in their employers' facility,
 - To practise professional engineering under the supervision of a licensed engineer, or
 - To design or provide tools and dies.
- 4.12 These provisions are seen to create a 'loophole' to allow many applicants who experience ongoing difficulty meeting licensing requirements (or who tire

of the lengthy processes) to abandon the process altogether and practise their chosen profession in a different way or avoid even applying for a licence. It is noted that PEO has sought, and continues to seek, government support to have section 12(3)(a-c) repealed.

- 4.13 The OFC Report on PEO in 2017 states that 5,348 applications for licensure were received by PEO. During the same year 2,051 were licensed. Many who fail to meet requirements initially do not follow through with the licensing process and never achieve licensure. This is explored further in the section below.
- 4.14 The PEO has provided evidence of various training programs that have been developed and provided to members of the ARC and ERC, which set out 'do's and don'ts' and general processes to be followed when conducting the respective interviews and reviews. In 2014 the OFC recommended that the PEO engage a consultant 'to review the interview process of the ERC to ensure consistent and objective decision-making about waiving exams based on work experience'. In 2016 the consulting firm I Comp identified, in a report that was provided to us by PEO, a need to 'assure inter-rater and assessment reliability' and we noted that the 13PWG working group did not give this item priority, but instead decided to defer action until a later date. Notwithstanding efforts that staff have made to improve the interview and review processes, we find the current ARC and ERC reviews to be subjective in nature and we find no evidence to demonstrate how decision-making by interviewers/reviewers or amongst assessments is analysed or how inter-rater and assessment reliability is assured. We heard that although staff make every effort to ensure consistency in decision-making, it is difficult to achieve it. We were told by numerous sources that outcomes can differ greatly from one assessor to another and in some cases, even the same assessor could reach a different conclusion for two applicants with similar academic backgrounds. We were told of one occasion where assessors were observed discussing and anticipating their decision before the interview. Failure to adequately address and manage personal bias gives rise to high risk, and we fail to find evidence that sufficient steps are being taken to manage and minimize these risks to a fair process.
- 4.15 Accordingly, we are unable to find that only those applicants who meet the regulator's requirements are licensed or authorized.

This standard is not met.

LR2: The licensing and authorization process, including the management of appeals (internal reviews and through the Registration Committee), is fair, based on the regulator's standards, efficient, transparent, secure and continuously improving.

- 4.16 The current licensing and registration process is lengthy, complex and difficult to follow. It includes many different processes that are dependent on numerous volunteers, each of whom possess varying levels of experience and expertise. Each volunteer assessor or interviewer brings their own personal style and experience to the academic and experience reviews and the OFC and many whom we spoke with in our interview process raised

concerns that personal biases are not adequately managed or addressed currently by PEO.

- 4.17 The licensing processing system is still largely paper based, and applicant files are digitized only after all requirements for licensure are met and the files are considered complete. We saw thousands of registration files – at various stages of the licensing process – insecurely stored in file cabinets, in boxes, on shelves and on floors in two separate and defined areas on the sixth floor. These files are currently stored in areas that are unlocked and that can be easily accessed by anyone who has access to the sixth floor. We consider the failure to protect confidential and personal information contained within these files through greater and enhanced security processes concerning.
- 4.18 As previously noted, we find that the ARC reviews and its determinations of academic equivalency and qualifications are subjective in nature. Notwithstanding evidence of training that has been offered to members of the ARC, we were unable to determine at the time of this review, how potential risks associated with personal biases amongst decision-makers are mitigated or addressed. We were given a copy of a Policy on Eliminating Bias in the Registration Process of the PEO which was approved by Council in February 2019 but the policy has not yet been implemented.
- 4.19 The ERC's personal interviews with applicants are also subjective in nature and we found no evidence that personal biases or conflicts are avoided. We find no evidence to show that PEO conducts appropriate post interview analysis and then revises ongoing training to assure inter-rater reliability amongst its ERC interviewers/assessors. If an applicant complains the recording of the interview is reviewed and another interview may be offered. The PEO staff told us that the ERC will be working towards a quality assurance framework with a view to addressing concerns that the ERC's decision-making processes are not currently founded on principles that support consistency and fairness.
- 4.20 Where the ERC finds that an applicant does not have the necessary experience to meet licensing requirements, four options are currently offered to them: they may defer their application until such time as they have gained the necessary experience; provide new or additional information that was not previously available to the ERC and request another interview; request that their application file be closed or request the Registrar to issue a Notice of Proposal to Refuse a Licence (NoP) in order to obtain an appeal hearing before the Registration Committee. We consider that this latter requirement, that applicants must request that the Registrar issue a NoP in order to obtain an appeal hearing before the Registration Committee, is not aligned with the principle of fairness and appears to be in contravention of section 19(1) of the Act, which places the onus on the Registrar to issue a NoP where an applicant is not considered to meet requirements for licensure. The number of Registration hearings is relatively low and we were told that PEO rarely issues NoPs for this purpose. Staff also told us that if applicant requests to issue NoPs were not required the number of requests for hearings could significantly increase and would be difficult to manage. Notwithstanding, we

find this policy by PEO acts as a potential deterrent to applicants who are unhappy with decisions made at the ERC and that changes to remove this requirement should be pursued.

- 4.21 In four letters throughout 2018, the OFC identified key areas where it considered PEO was not compliant with requirements under the FARPACTA. The expressed concerns were: the current requirement that applicants possess at least one year of Canadian experience is not aligned with requirements across Canada and is deemed unreasonable; ARC assessors who complete an initial review of an applicant's academic requirements were not prohibited from conducting a second internal review but should be; the PPE was not being supported by a psychometrician, nor were the results subject to psychometric analysis and reporting (we understand that this is currently being addressed by PEO); the current process to addressing bias was not viewed as satisfactory or adequate; and finally, there was a need for timelines for response to applicants' inquiries or requests to be developed and articulated.
- 4.22 At the time of our review, the Council had not yet managed to satisfactorily address all of the issues identified by the OFC and we found the delay in responding troubling. We note, however, that a letter, addressing outstanding issues, was sent to the OFC by the PEO Registrar on 4 March 2019.
- 4.23 The Registration Committee hears registration appeals. We found that panels conducting Registration Committee hearings and those conducting ERC interviews are not required to include at least one member who is representative (in gender, race, background) of the applicant who is appealing or being interviewed. We observed a hearing involving an international applicant where not one member of the panel, the expert witness or PEO legal counsel were themselves of an ethnic minority background and find this apparent disregard for equality concerning.
- 4.24 PEO staff told us that panels are constituted primarily on the basis of volunteer availability, and this largely influences panel composition. Although female members make up approximately 15% of the PEO register, we confirmed that female applicants are usually interviewed by panels that do not include a female member. PEO staff told us that it would be very difficult to arrange interviews with female ERC members with similar work experience without causing delays. We find that the process is not as fair as it should or could be.
- 4.25 We question why PEO does not follow examples of regulated professions and occupations in other provinces and the USA in replacing the interviews with alternate assessment methods, such as Prior Learning Assessment Reviews (PLARs) or competency-based assessments, both of which are commonly used across Canada to facilitate for inter-provincial and inter-continental mobility.
- 4.26 The current licence reinstatement processes do not demonstrate alignment to the principle of fairness. Members who apply for reinstatement after their licences lapse for non-payment of fees are seen to be treated more harshly than those who apply for reinstatement after having retired or resigned from the register. Where non-payment of fees has extended beyond several years,

applicants for reinstatement must undergo an interview before the ERC. We found that members whose licences lapse for non-payment are even, in some cases, treated more severely than those who seek reinstatement after having had their licence suspended or revoked through Discipline. It is a widely held view amongst those we heard from, that members who resign can easily get reinstated without any scrutiny or focus on their professional development activities during their absence. This is perhaps reflective of an association rather than a regulator's mindset.

- 4.27 The current licensing process relies heavily on the individual and personal assessment of each applicant's file. Any positive impact of these individual assessments however is diminished in the subjective process which includes numerous volunteers with varying levels of skill in conducting assessments. We found no evidence that rigorous measures are in place to address variation and to produce reliable results.
- 4.28 We observed a general reluctance on the part of staff to pursue process improvements because of the work involved or the level of difficulty that may be encountered. We were told it would be very difficult to validate all relevant information about registrants (whether old or new) for inclusion on the register; it would be too difficult to arrange to ensure interviews and hearings are conducted by panels who are representative of the applicant(s); and that a failure to issue NoPs would make it difficult to maintain a manageable level of requests for hearings. We conclude that, while attempts have been made to make the licensing and registration processes more 'fair', PEO has in fact created a licensing system that is overly complex and less fair overall.

This standard is not met.

LR3: Academic requirements, experience requirements, the Professional Practice Examination, and good character requirements are linked to standards of practice. They prioritize the public interest and service provision centred on the needs of engineering clients. The process for reviewing or developing licensing and authorization requirements incorporates the views and experiences of key stakeholders and external events.

- 4.29 We find the absence of an English fluency language competency benchmark concerning and PEO's use of health as a marker of 'good character' in the licensing application form²⁷ is also not appropriate. Health has no bearing on good character. These practices are not aligned with good regulatory procedures.²⁸
- 4.30 The standards of practice are mainly technical in nature, and generally appear to be linked to the current academic and experience requirements, and to the essay questions included in the PPE. However, we saw no evidence of systematic processes to ensure that standards or licensing and authorization requirements are routinely reviewed, revised or approved by

²⁷ PEO. [PEO's Licensing Guide and Application for Licence](#).

²⁸ CHRE (2008). [Good character: a common approach](#).

the Council to stay aligned with the public's interest or the views and experiences of key stakeholders.

- 4.31 In order to protect the public better it is necessary to understand what the current practice of engineering is, how engineers function and operate in today's operational environments and then to implement processes to ensure the practice standards can change or evolve as necessary and appropriate.

This standard is not met.

LR4: Information on academic requirements, experience requirements, and other requirements for licensing, authorization and designation, is publicly available.

- 4.32 PEO's website provides considerable information about the licensing and registration processes, including academic requirements, experience requirements, and other requirements for licensing, authorization and designations. The process is very complex and notwithstanding the fact that much information is publicly available, we found it difficult to follow. As an example, a click on 'Licensing Process' brings up a diagram showing the various steps required to achieve licensure as a P.Eng. including a box showing that an 'academic assessment' is required of non-Canadian Engineering Accreditation Board (CEAB,) applicants (international graduates). Two other boxes show that both CEAB and non-CEAB applicants will be subject to an ERC Assessment or Interview for determining if examinations may be waived or for competency to practise. Information about the ARC or ERC assessment and interview processes would be better explained in tandem with the licensing process diagram as both processes are key determinants in an applicant's ability to achieve a licence or not. Difficult although it is to follow, the information is publicly available.

This standard is met.

LR5: Through the regulator's registers, everyone can easily access information about licence holders, C of A holders and consulting engineers, except in relation to their health, including whether there are restrictions on their practice.

- 4.33 We note that that work on PEO's website, including the public register is underway, but in our search, conducted in January/February 2019, we found the information included in and accessible through the public register search tool to be inconsistent and at times, incomplete.
- 4.34 Though the website provides clear links to Directories of Practitioners in three main categories – a Licence holders/Engineering Interns Directory; a C of A Directory and a Consulting Engineers Designation Directory, searches randomly conducted revealed missing or incomplete information about members. As example, in our review of the member directory in late January 2019, we noted that some member profiles indicated that reprimands have been delivered, or that terms, conditions or limitations have been placed on their licences but no corresponding discipline history or information was included under their Disciplinary history. In one example, the discipline

history of a member notes that his licence was revoked, yet the general licensing section said that he resigned. In two other random searches, the members' profiles indicate that they 'shall not engage in the practice of professional engineering' and yet in both cases, their licence status was noted as 'current', and no information respecting disciplinary proceedings was noted or available. As an explanation, staff told us that 'fee remission' or retired members have this language reflected on the register as they cannot practise. However, their licence status would still be reflected as 'current.' We find this to be potentially misleading. Staff also indicated that PEO was not required to post disciplinary decisions prior to amendments to the Act coming into force in December 2017. Even though best regulatory practices in Ontario and internationally have long supported transparency through the publishing of disciplinary decisions on the public register, PEO did not begin to publish findings on the register until it was compelled to do so, raising questions as to whose interest PEO was seeking to protect through its previous and literal interpretation of section 21.

- 4.35 Random searches also reveal that the tabs providing Chapter information, employment information, and information about a registrant's participation in the Practice Evaluation and Knowledge (PEAK) program (see paragraph 4.40) are complete in some cases or may simply state 'no information is available' or as in one case, 'per this licence holder's request, professional data cannot be disclosed'. We also noted many instances where a registrant's licence status was 'undeclared' and note, that as the regulator, PEO should require all licence holders to declare, and annually confirm, the current status of their licence.
- 4.36 PEO states that it does not currently enforce a provision (under clauses 50.1 (1) and (2), of the Regulation) that requires licence holders or C of A holders to provide new or changed information to PEO within 30 days of a change, nor does PEO require confirmation of existing information from registrants at the time of renewal. Requiring such information from registrants annually is an essential regulatory practice and we fail to see how PEO ensures that information provided about its registrants, in all three public directories, is up to date and complete.

This standard is not met.

LR6: Employers and supervising engineers are aware of the importance of checking the status of licence holders and C of A holders. Clients and members of the public can find and check the status of licence holders and C of A holders.

- 4.37 Employers or supervising engineers are not currently expected to check the status of licence holders and C of A holders to ensure those they hire are licensed/in good standing. Staff told us it is not necessarily professional misconduct if an employer or supervising engineer were to hire someone who is not licensed or in good standing. We found no evidence of formal outreach from PEO to remind employers or supervising engineers that they should confirm a potential hire's licensing status with PEO, although we

understand this matter has been raised in various articles or editorials in *Engineering Dimensions* over the years.

- 4.38 Potential clients and members of the public are able to search the ‘directories of practitioners’ on PEO’s website, but as noted above, the information currently provided may be unreliable and PEO has no public information program aimed at raising awareness of the directories.

This standard is not met.

LR7: Through the regulator’s continuing professional development systems, licence holders and C of A holders maintain the standards required for competent practice.

- 4.39 There is a voluntary continuing professional competency program in place. While PEO does have the power to make this program mandatory, licence holders are not currently obliged to participate in it and the majority do not.
- 4.40 PEO has established the PEAK programme (Practice Evaluation and Knowledge Program) which is ‘designed to improve the association’s data about members’ engineering practice profiles while encouraging individual continuing knowledge development.’ Although not mandatory, PEO are encouraging members to get involved. In the 2017 Annual Report it is noted that a third of members had taken part in the period between April–Dec 2017. Members’ status respecting participation or not in PEAK is noted in the online directory of practitioners.
- 4.41 The Council has approved the PEAK program but because the engineering profession continues to widely indicate its disapproval of and lack of support for the program, Council has not proceeded to make participation mandatory.
- 4.42 Mandatory participation of regulated professionals in a continuing competency program with corresponding assessments to validate results represents international best practices and many of those who spoke to us agreed that this should be pursued for engineers in Ontario.

This standard is not met.

Complaints, Discipline, Compliance and Enforcement

- 4.43 There are 11 Standards of Good Regulation for Complaints, Discipline, Compliance and Enforcement against which we measured PEO’s performance. These standards cover the following:
- Complaints considered by the COC and decision-making
 - Cases referred to the DIC and determinations
 - Enforcement cases about misuse of protected title
 - Registrar’s Investigations.
- 4.44 These standards do not cover the Fees Mediation Committee.

- 4.45 We have identified that PEO meets six of the 11 Standards of Good Regulation fully; that it meets one standard partially, but that it fails to meet the four remaining standards.
- CDCE1: Anybody can raise a concern, including the regulator, about the conduct and competence of a licence holder or a C of A holder.***
- 4.46 PEO currently accepts and processes any complaint, against any member or C of A holder, from anyone and for any matter, whether or not related to the practice of engineering. Depending on the specific circumstances, investigative staff may occasionally file complaints, and the Registrar/Deputy Registrar may also initiate a Registrar's Investigation but staff told us that this power is not often used. We do not find it necessarily efficient or in the public interest that PEO uses the same process to deal with complaints against staff or Council members that are unrelated to the delivery of engineering services or other actions that impact the public.
- 4.47 In defending its practice of processing every complaint, PEO relies on a legal opinion that interprets section 24 of the Act to mean that the COC has a duty to investigate and process every complaint received.
- 24(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of a member of the Association or holder of a certificate of authorization, a temporary licence, a provisional licence or a limited licence, but no action shall be taken by the Committee under subsection (2) unless.....'*
- 4.48 The section is open to interpretation, as it says the COC shall consider and investigate complaints but does not explicitly state that the COC shall consider and investigate each and every complaint. PEO has based its approach on one interpretation. This interpretation creates a large workload of complaints which are trivial or not regulatory in nature.
- 4.49 In the absence of a definition of a 'complaint' in the Act, an alternative interpretation would define a complaint to mean 'where a complaint is in regard to the 'conduct or actions of a member of the Association, or holder of a C of A, a temporary licence, a provisional licence or a limited licence, while he/she was engaged in the practice of engineering or was providing engineering services to the public'.
- 4.50 We note that under section 7 of the Act, Council may make regulations: *exempting any act within the practice of professional engineering from the application of this Act (section 7(1)31), and specifying acts within the practice of professional engineering that are exempt from the application of this Act when performed or provided by a member of a prescribed class of persons, and prescribing classes of persons for the purpose of the exemption (section 7(1)32)*
- 4.51 Council, we understand, has not considered making a regulation that would exempt staff members and volunteers from the complaints process where complaints are about their conduct or competence as a regulator and therefore unrelated to the practice of professional engineering.

- 4.52 In its final report dated 23 September 2011, the Complaints and Discipline Process Task Force (CDPTF) recommended:

That the Professional Engineers Act be amended to set a provision for the Complaints Committee to refuse to consider and investigate a written complaint, if in the committee's opinion, the complaint does not relate to professional misconduct or incompetence on the part of a license or certificate holder, or is frivolous, vexatious or an abuse of process.²⁹

- 4.53 The Act was never amended to give effect to this recommendation. It is noted, however, and confirmed by staff and COC members, that recent changes have been made to the internal process so that complaints founded on inadequate information or not related to the practice of engineering are brought forward more quickly for consideration and decision. We agree with the CDPTF's recommendation that PEO should seek necessary legislative amendments to allow the processing of frivolous and vexatious complaints through a separate and distinct process.

This standard is met.

CDCE2: Information about concerns regarding conduct and competence is shared by the regulator with employers/local arbitrators, and other regulators within the relevant legal frameworks.

- 4.54 Confidentiality provisions remain very restrictive although recent changes to the Act in 2017 (Section 38(1.1)) and to the Regulation (Section 78.1) now allow disclosure of confidential information by the Registrar (or Deputy Registrar), if there are reasonable grounds to believe that there may be a risk of harm to any person or property or to the public welfare.
- 4.55 We note that in accordance with the Act change, the Deputy Registrar has on several occasions, written Chief Building Officials to inform of potentially unsafe situations and have reviewed examples of these letters.

This standard is met.

CDCE3: Where necessary, the regulator will determine if a complaint has merit and if so, whether the conduct or competence of the licence holder or the C of A holder is impaired or, where appropriate, direct the complainant to another relevant organization.

- 4.56 The PEO relies on a legal opinion that interprets section 24 of the Act to mean that the Complaints Committee has a duty to investigate and process every complaint received (see paragraph 4.47 above). Staff told us that the COC considers conduct an important factor in decision-making. Yet we observed a COC meeting where a decision was taken that a P.Eng. had brought the profession into potential disrepute through their personal behaviour but that as they had not breached professional practice standards no action was needed. We failed to see why conduct was disregarded this decision.

²⁹ PEO Council [513th Meeting of Council Agenda - June 22, 2017](#) (item 5.3)

4.57 In accordance with section 28 (Duties of the Discipline Committee), incapacity (health) is included as a subset of incompetence and as such, these matters are currently dealt with through the PEO's Discipline process.

4.58 The PEO does not have a defined process for dealing with member impairment and/or referral to another relevant organization and staff told us that a separate process would be appropriate. However, the Act does not provide for a separate process to be established for 'incapacity' or health matters.

This standard is not met.

CDCE4: All conduct and competence complaints are reviewed on receipt and serious cases are prioritized and where appropriate referred to an interim orders panel (or equivalent)

4.59 Staff from the Complaints and Investigations area of PEO and the current Chair and past Chair of the COC all told us that, although PEO currently has to deal with all complaints received in the same way, new processes have been implemented so that complaint files are prioritized based on seriousness.

4.60 PEO staff and the COC told us they have sought to achieve a quicker outcome, where a received complaint is straightforward and, in their view, does not require a fulsome investigation. A more streamlined approach is also applied to complaints that are founded on inadequate information or that are not related to the practice of engineering. This goal has been achieved through streaming of such complaints, which are considered by COC after a shortened investigation. We were told that evidence that streamlining is working is found in the Complaints and Investigations Statistics. However, we cannot conclude that two complaints completed between 90 and 180 days in 2018 compared to none concluded in less than 90 days and 41 in more than 180 days demonstrates this.

4.61 Where the COC considers that the complaint indeed is without merit, COC will not refer it. COC's reasons for not referring a complaint are made in writing as required by the Act and provided to the complainant and the respondent. The reasons provide an explanation as to why there has been no referral.

4.62 We were told that non-complex complaints, or complaints where the allegations, even if proven, would not constitute misconduct, are investigated simply by requesting a response from the respondent. However, we note that licence or certificate holders are not currently obliged or required by law to respond to the regulator's request for information, action or response. Although an investigator will attempt right up to the time their report is filed with the COC to obtain a member response, we observed complaints that were investigated and considered by the COC without a response having ever been received. PEO's inability to compel engagement with its members is at variance with many regulators where professional misconduct includes, for example:

*Failing to co-operate with an inspector /investigator of the College appointed for purposes of the [applicable] Act, and Failing to reply within a reasonable time to a written or electronic inquiry or request from the College.*³⁰

- 4.63 The Act does not currently provide interim suspension powers to the DIC or the Registrar. As previously noted, the Registrar/Deputy Registrar can refuse to issue a licence, a C of A or other class of licence under Section 14(2) of the Act for things other than failing to meet requirements under certain instances. Grounds for refusal, suspension or revocation of a licence include past conduct by a licence holder for non-technical conduct and/or breach of a term and condition (ethical conduct concerns) but such powers surprisingly do not extend to technical conduct concerns (incompetence).
- 4.64 Non-complex files are generally processed more expeditiously and it was noted that the fastest time recorded at PEO for disposing of a complaint file is 92 days. The current average/median complaint file processing time is around one year (343 days). The staff told us they consider these timelines are comparable with other engineering regulators in Canada and other professional regulators generally. PEO staff told us that complex files involving serious engineering issues and requiring expert report(s) can take years to investigate.
- 4.65 As established through a DIC appeal in 2017, the Act does not provide for jurisdiction over pre-licence conduct of licence holders and PEO staff considers their inability to prosecute an Ontario licensed engineer for a matter that occurred in another jurisdiction prior to him/her being licensed by PEO, as a huge enforcement gap. Staff told us they consider that PEO should be able to prosecute based solely on another regulator's investigation in its own jurisdiction; however they have a legal opinion that questions PEO's jurisdiction in prosecuting a member for a matter that occurred outside Ontario and in the absence of PEO's own investigation into the matter and member.

This standard is met.

CDCE5: The complaints, discipline and enforcement processes are transparent, fair, proportionate and focused on serving and protecting the public interest.

- 4.66 Performance falls short of this standard in a number of areas.
- 4.67 The processes guiding these statutory functions are complex in nature and are overseen by different and distinct departments within PEO. While transparency in the complaints processes is necessarily limited by confidentiality provisions in the Act, transparency with respect to the disciplinary and enforcement processes is not. Transparency in these processes is not consistently evident.
- 4.68 Considerable information about the complaints process is provided to the public on PEO's website; information on how to file a complaint, and the

³⁰ Ontario College of Pharmacists. [Professional Misconduct Regulation](#)

steps that may follow submission of a complaint, including the investigation process; the role of COC; the role of the CRC; and the role of the DIC, should a matter be referred. However, we note that the website provides conflicting messages: the complaints form states that the information provided on the form is confidential, yet the website reasonably states that 'PEO cannot guarantee that the information you provide, or the information we obtain from other parties during the course of our investigation, will remain confidential'.³¹

- 4.69 Members of the public or the profession who wish to file a complaint must complete a Complaints Form. Among the questions that must be answered is one that asks, 'What is the public interest relating to your complaint?' which appears to put the onus on a complainant to demonstrate that their complaint is being made in the public interest and may act as a deterrent to making a complaint. We understand that this was introduced to deter trivial or vexatious complaints but this is not the right way to solve that problem. Notwithstanding the fact that public interest is included on the complaints form, it was our observation at the COC meeting we observed that it did not consider the public interest in its deliberations, but primarily focused on whether or not an engineer had breached a standard.
- 4.70 The COC, we understand, views its role primarily as a 'screening' committee: its focus is to consider the matter under investigation, determine what allegations exist and then decide whether these are serious enough to warrant a referral to DIC. A 'Complaints Committee Decision Aide/Criteria' document dated December 2012 has been developed for use in guiding the COC in making decisions: to refer to Discipline; to not refer with Voluntary Undertaking; to not refer with Letter of Advice/Interview; or to not refer. Criteria for referral are focused primarily on two questions: whether the referral is warranted and whether there is a reasonable prospect that the allegations can be proven. The factors to be considered in deciding to refer should include, in accordance with identified best regulatory practices, consideration of how such a decision to refer or not is likely to impact the public's trust and confidence in both the profession and in PEO as a regulator. Public interest is not explicitly included in factors for considering non-referrals with letters of advice or interviews. Only in the category, 'Not to refer to Discipline' is public interest included under 'Other elements to consider..... Is the public interest potentially compromised by non-referral?'. In our observation of the COC this question was not explicitly raised or addressed in the deliberation of complaints that were not referred.
- 4.71 During the COC meeting we observed that the personal situation of a registrant, for example their health status or intention to retire soon, was taken into account. The Decision Aide directs the COC to consider certain questions before making a decision to refer. The first question is whether or not a referral is warranted. In answering this question, the COC members are guided by the following factors, none of which mention the public or public interest:

³¹ PEO. [Complaints, Investigations](#)

- The matter's seriousness
 - Whether the allegations are isolated or part of a continuing course of conduct
 - Prior findings of misconduct
 - The member's motivation for the alleged wrongdoing
 - Whether the alleged misconduct is a problem generally in the profession
 - How the member responded to the investigation (for example, cooperative, willing to re-educate and change)
 - Whether the member would learn a lesson from something less than a referral (for example, whether the process itself has provided the lesson).
- 4.72 The personal circumstance of a member may be relevant to the DIC, if determining a sanction, as mitigating or aggravating factors but are not relevant in a screening decision.
- 4.73 A decision of the COC is accompanied by a Notice advising the complainant of the right to apply for a review by the CRC. Under section 26 of the Act, a complainant may apply for a CRC review of procedural fairness, or timeliness concerns where a complaint is not disposed of by the COC within 90 days after it was filed with the Registrar. The CRC is not under any statutory obligation to undertake such a review, and may in certain circumstances, issue a decision not to make a review or not to continue one. We consider that there is a lack of clarity around the role and responsibility of the CRC. We could not find evidence of articulated criteria that the CRC must follow when making their decision to undertake a review, or to not continue one. Greater transparency and clarity respecting the CRC's role and function are warranted.
- 4.74 The current practice for the COC decisions to include reasons only when it has decided not to refer to the DIC gives rise to further concerns respecting transparency. Decisions to refer to the DIC are captured through two separate documents-the first being notation that a matter is being referred and the second being a corresponding statement of allegations. We note that PEO has taken steps to attach these separate documents to one another to make it easier for the member and the complainant to understand why a referral has been made. We consider that it would be in the public interest that the COC clearly state its reasons for decisions in all matters, whether the matters are referred to the DIC or are not.
- 4.75 We found a lack of transparency and consistency in the amount and nature of information publicly provided respecting Discipline decisions. We note that on 26 September 2014 – with a view 'to uphold Principal Objects of the PEO and to maintain transparency and openness in its regulatory activities' – the Council approved a policy that information available to the public on the register should include allegations of professional misconduct referred to the DIC prior to a hearing being held, and findings of professional misconduct by the DIC. We question why PEO did not implement this policy until it was compelled to do so under the amended Act in 2017.

- 4.76 The DIC has the power to control whether or not names of members would be published yet no defined criteria to guide the DIC in such decisions have been articulated or implemented. There are numerous examples of decisions published without member names in the Gazette part of *Engineering Dimensions* prior to the amendments coming into force in December 2017. Such lack of transparency is not aligned with public interest or protection.
- 4.77 We note that disciplinary sanctions arising from incompetence take effect immediately, even if the decision is appealed. Yet sanctions arising from professional misconduct are suspended, pending any appeal. We fail to see the public interest in the difference of approach.
- 4.78 Members of the DIC are not independent from the Council and we observed a willingness on the part of some Council members to comment on the Registrar's decision to appeal a DIC decision demonstrating an indifference to the importance of avoiding conflicts of interest and role.

This standard is not met.

CDCE6: Risk of harm to the public and of damage to public confidence in the profession related to non-holders using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

- 4.79 PEO's Enforcement processes are overseen by the Deputy Registrar for Regulatory Compliance and deal with complaints or reports received about individuals or businesses who are alleged to be providing engineering services without possessing a licence or certificate of authorization. The vast majority of these matters relate to non-authorized use of title or scope, and are discovered through PEO's scrutiny of advertisements and through reports received from the field, sometimes in response to PEO alerts on its website and in *Engineering Dimensions* encouraging members to report unauthorized activity(s). Fewer reports or complaints about unauthorized practice or title use are received from the public at large.
- 4.80 The first step in the enforcement process is to issue a 'cease and desist' letter. Staff told us that approximately 98% of alleged unauthorized activity comes into compliance following this first step, satisfying the expectation that PEO attempts to mitigate risk in a proportionate manner.
- 4.81 In rare instances where individuals or organizations fail to come into compliance, PEO has pursued injunctions and other measures to protect the public through provincial courts.
- 4.82 PEO commits significant human and financial resources to its Enforcement process, and encourages members of the profession to identify and 'turn in' persons who are not authorized to practice. The numbers of reports received from professional members far outweigh those received from the public and we believe, in the absence of evidence related to public 'harm', that the amount of resources committed to the current enforcement process is non-proportionate to any evidence or risk of public harm.

- 4.83 We note that no enforcement notices have been published on PEO's website under the section 'How we protect the public' since 2016, and we were told these were moved to a section under 'news/media releases'. In the absence of specific direction or enhanced search capabilities on the website to take someone directly to the right place, information related to PEO's enforcement activities is difficult to find.

This standard is met.

CDCE7: Conduct and competence cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to engineering clients or the public. Where necessary the regulator protects the public by means of interim orders (or equivalent).

- 4.84 The average time for a complaint to be concluded by the COC after it has been filed with the Registrar is approximately one year (mean: 343 days). Time fluctuates depending on the complexity of a complaint and the ensuing investigation. Staff told us that they now prioritize complaints based on seriousness, so that non-complex files are streamed through the complaints process quickly. The fastest a complaint file has been concluded has been 92 days. As noted previously, staff consider PEO's current average timeline of one year to be comparable with other engineering regulators in Canada but also told us that files involving serious engineering issues and requiring expert report(s) can take 'years' to investigate.
- 4.85 There is currently no provision in the Act to allow the Registrar, the COC or any other PEO committee to make interim orders where there are reasonable and probable grounds to believe that inherent or imminent danger or risk to the public exists. In an attempt to accommodate, PEO staff have implemented internal processes that give priority to such matters, essentially 'fast tracking' these through the investigative process. Since 2017, changes made to Section 38 of the Act has allowed disclosure of confidential information by the Registrar (or Deputy Registrar), where there are reasonable grounds to believe that there may be a risk of harm to any person or property or to the public welfare. The Deputy Registrar has used this power to write to Chief Building Officials to inform them of potentially unsafe situations, in accordance with the Act change, and prior to a matter being referred to the DIC. Examples of these letters were made available to us.

This standard is not met.

CDCE8: All parties to a case (including the complainant) are kept updated on the progress of their case and supported to participate effectively in the process

- 4.86 The COC and PEO staff told us they strongly believe that the current legislative expectation that complaints must be resolved in 90 days is not a reasonable one to meet. Although not a requirement under the Act, staff have implemented a process to ensure that complainants and respondents are communicated with by the assigned investigator at least once every 90 days,

even if the communication is limited to an email indicating that the matter remains under investigation.

- 4.87 Complainants and respondents are provided with an opportunity to be interviewed by the assigned investigator. However, we note that many members who are subject to complaints do not respond to investigators and unlike other regulators, PEO does not currently have the right to require members to engage or respond to their requests for action or response. Respondents can provide materials to be included in their 'response' right up to the COC's consideration of the file, and both 'parties' are informed of when the file is to be considered by the COC in advance.
- 4.88 Under the Act, PEO licence holders are not required or obliged to respond to, or even acknowledge PEO's request to respond to complaints and ensuing investigations and a significant number do not bother to respond. When this occurs, it can have a negative impact on PEO's ability to fully investigate complaints in the public interest.

This standard is met.

CDCE9: All decisions made at the initial and final stages of the complaints and discipline process are well reasoned, consistent, and protect the public interest.

- 4.89 We reviewed a small number of COC decisions provided to us by the PEO staff. Complaints decisions provided were grouped into two categories: those that resulted in a referral to DIC and those that resulted in a decision not to refer. All decisions we reviewed were finalized in 2018 and appeared to follow prescribed templates to ensure consistency in decision writing.
- 4.90 In our review, we noted that two distinct templates that are used for COC decisions 'to refer' to Discipline; the first part, although called 'Decision and Reasons' includes a brief, one page, signed decision simply noting that the COC has made the decision to refer a said matter to Discipline. The Act does not require provision of reasons when a matter is referred although we question why the COC does not exceed expectations by including more rather than less information for the complainants even if not required to do so. For each referred matter there is a second corresponding document that sets out the Statement of Allegations against the member. While the statement of allegations provide some insight into why the COC made its decision to refer, we found no references to concerns of public safety or protection included in either document. In these recent examples, all from 2018, consistency in appearance of the decisions and accompanying statements of allegations is noted.
- 4.91 We found that all of the five COC decisions not to refer, that we reviewed, included an accompanying action, as example, to send the member a letter of advice proposing the member take remedial steps to improve their practice and/or conduct. The COC has power to take other action(s) that are not inconsistent with the Act. It is noted that where such actions are taken, the COC decision consistently includes the following statement 'The Committee believes that the public interest would be appropriately served by providing a

letter of advice to the respondent which may assist them to improve their practice(s) or conduct'. However, we consider that the value to the public interest is uncertain if such a letter of advice is sent to a member who has not seen fit to respond to the Investigator or engage with the COC.

- 4.92 With respect to Discipline, a number of sources expressed a lack of confidence in the DIC decision-making processes. It is a widely held view among those who provided evidence to us, that it is very hard to lose a licence and that the DIC generally puts the interests of the members and PEO before that of the public. We do not know if this widely held view is justified but we were told, that the COC is increasingly taking other actions (that are not inconsistent with the Act) to address concerning behaviours raised through complaints as long as these do not pose imminent threat or danger to the public. In taking such actions, the COC considers that voluntary undertakings, letters of advice and strong cautions through personal interviews are appropriate to ensure that action(s) are being taken in the public interest and are concerned that, if referred, the matter may be dismissed without action by the DIC.
- 4.93 A lack of consistency is noted in respect to the written decisions of the DIC. Until very recently these were only published in the Gazette part of *Engineering Dimensions* which are widely available to PEO members, but are not as easily available to the public or others. Links to published Disciplinary decision were not easily found through a search of PEO's website and a review of the provided links demonstrates an inconsistency in approach. As example, most of the links refer to 'Summary of Decisions and Reasons', while three refer to 'Decisions and Reasons'. We found the latter provides more detail and information than the summary does. It is unclear as to how decisions respecting what is published with respect to Discipline decisions are made.
- 4.94 We think PEO should consider publishing all disciplinary decisions on a suitable accessible platform to provide greater transparency and search capabilities for the public.
- 4.95 In reviewing the discipline decisions available through links found on PEO's website, we found a high percentage of decisions do not include the published name of the member or certificate holder who have been disciplined. In the decisions reviewed from 2018 and 2019 (to date), just under half of the decisions did not include names or other identification while just over half did. It is clear, from reviewing the decisions, that the majority of members request that their names not be published and that in a high number of cases, their requests are granted. It is not clear how such decisions to grant such requests are made, and no defined or approved criteria for guiding the Discipline panels in making such decisions are found to exist; lack of these contributes to concerning perceptions that the interests of the profession or PEO take precedent over the public interest.

This standard is met in relation to Complaints but is not met in relation to Discipline.

CDCE10: All final decisions of the Complaints and Discipline Committees, apart from matters relating to the health of a licence holder or C of A holder, are published and communicated to relevant stakeholders, within the relevant legal frameworks.

- 4.96 Under the Act, decisions of the COC are not public and are only shared with the complainant and the member who was subject of the complaint. The COC, when choosing to not refer a matter to Discipline, can, however, take additional other action not inconsistent with the Act.
- 4.97 Depending on the level of seriousness or risk, the COC may issue Letters of Advice, invite respondents for an interview before the committee, or, for more serious matters that meet the threshold for referral, invite respondents to enter into voluntary undertakings (VUs). VUs are negotiated between the respondent and the committee, and recently, have included an agreement to publish the complaint matter and the VU itself, including publication with names, in PEO's Gazette. The Jan/Feb 2019 and the May/June 2018 issues of *Engineering Dimensions* include published information respecting voluntary undertakings signed between the COC and members. In the most recent issue, it was noted that no names of the members/ certificate holders are included; they are however published in the May/June issue.
- 4.98 DIC decisions prior to the end of 2017 are not published on the website in their entirety, or in a distinct folder even though there is no specific requirement that they could not be published; they simply did not have to be published. Links to those decisions that have been published in the Gazette section of *Engineering Dimensions* can be found with searching, but were not easily located. The decisions that are published in the Gazette provide a comprehensive summary of the matter before the panel, the factors and evidence considered, considerations, and the decision with reasons.
- 4.99 The Discipline decisions published in the Gazette, and the published VUs negotiated by the COC inconsistently include the names of the licence or certificate holders. A review of the links to the decisions published in the Gazette in 2018 and 2019 revealed that just under half (eight) did not include names while just over half (11) did. As previously noted, we found no articulated criteria or process that Discipline panels should follow when making the determination to publish or not publish names, giving rise to concern that such decisions may be more influenced by personal details or biases than by public interest.

This standard is not met.

CDCE11: Information about complaints and discipline cases is securely retained.

- 4.100 We were satisfied with information provided to show that complaints and discipline information is securely stored and accessible only by those who are authorized.
- 4.101 We note however that PEO does not have a digital case management system and that large numbers of paper files are couriered between sites and stored physically within the office. This does not comply with modern best

practice in terms of the management of confidential information and data security.

This standard is met.

Professional Standards and Guidance

- 4.102 These Standards of Good Regulation cover practice guidelines, professional standards and other material developed by PEO to support the practice of professional engineering. These standards also provide the basis against which complaints and disciplinary action can be considered. There are four Standards of Good Regulation relating to the setting of standards and guidance by the regulator. We conclude that PEO has fully met one Standard and partially met two Standards.

PSG1: Standards of practice and guidelines reflect up-to-date practice and legislation. They prioritize the public interest and service provision centred on the needs of engineering clients.

- 4.103 PEO's legislation requires it to maintain and develop professional standards across education practice and ethics (section 2(4)). PEO has no consistent process for reviewing and changing Standards. Standards are not routinely or frequently brought to Council for review or revision. Several Council members we spoke to indicated that they could not recall standards being brought to Council for revision, consideration or approval during their tenure although in fact Performance Standards for tower cranes were approved in 2015.³² Licensure requirements as stated in the regulations, were initially established around 1984, and have not changed. Engineering education and practice has evolved since then however, creating a 'disconnect' between current engineering practices as they apply in today's multiple engineering environments and the Standards of Practice which reflect engineering practice that PEO regulated in 1984.
- 4.104 PEO is not helped in developing up-to-date standards by its legislation that requires standards to be in statutory regulations. Standards as they currently exist relate primarily to structural engineering.
- 4.105 PEO does have a large number of engineering guidelines and an effective process for developing them. Guidelines are certainly more flexible and possibly more useful to engineers than Standards. We recognize that a lot of expertise and care goes into this process but it has an undesirable side effect. In regulatory practice there is an important distinction between 'standards', which must be followed and 'guidance' which is advice on best practice. The status of guidance when it comes to complaints and discipline is not always clear and in the absence of standards there is a risk that complaints which relate only to guidance will not be adequately addressed or enforced through discipline. PEO needs a clearer policy in relation to the enforcement of guidance and clearer advice to the COC and DIC on this matter.

³² PEO. (2015) [Review of Tower Cranes as Required by the Occupational Health and Safety Act](#)

This standard is not met in relation to Standards but is met in relation to guidance.

PSG2: Additional guidance helps licence holders and C of A holders apply the regulator's standards of practice to specific issues.

- 4.106 As noted above PEO has an effective, if lengthy, process for identifying areas of engineering practice which need new guidance and for updating existing guidance. The Professional Standards Committee is responsible for managing this area of PEO's work. The Committee is responsible for identifying new areas of engineering that might need guidance and for monitoring and keeping up to date existing guidance. Guidance needing to be created or updated is delegated to numerous expert groups who report back to the committee. Inevitably, depending on volunteers mean that some expert groups progress more rapidly than others but the committee and the staff supporting it showed a good grasp of their considerable work program.
- 4.107 The guidance currently published on PEO's website covers a wide range of engineering practice and takes account of new developments in specific areas.
- 4.108 We note that despite its title the Committee is more concerned with guidance than standards for reasons set out above (paragraph 4.105).

This standard is met.

PSG3: In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in Canadian and international regulation and learning from other areas of the regulator's work.

- 4.109 We observed a meeting of the Professional Standards Committee which we considered well managed and efficient with relevant expertise and good working relationship with supporting staff. The committee took account of the number of complaints received about particular areas of practice in determining its priorities and demonstrated effective tracking of projects.
- 4.110 The Committee is open to suggestions from a wide range of stakeholders including of course from the Council. PEO has responded to recent significant engineering failures in the province appropriately. Ethical standards and guidance do not appear to receive the same attention as technical engineering issues do.

This standard is met in relation to guidance only.

PSG4: The standards and guidance are published in accessible formats. Licence holders and C of A holders, potential licence holders and potential C of A holders, employers, clients and members of the public are able to find the standards and guidance published by the

regulator and can find out about the action that can be taken if the standards and guidance are not followed.

- 4.111 It is not easy for a member of the public or engineering client to find on PEO's website, the standards of competence or conduct they should expect from a professional engineer. Standards for engineering does not appear as a link on the main page. 'How we protect the public' is prominent but a click on that leads you to a list of the licensing and enforcement powers of PEO. At the bottom of that list a link 'preparing performance standards in regulation' takes you to the Ontario government website and the Regulations set out in the Act. Reference to the Code of Ethics appears under 'What is PEO' not under 'Performance Standards' or 'Practice Guidelines' and to find the Code itself, it is necessary to find and read Clause 77 of the Regulation.
- 4.112 Practice Guidelines can more easily be found under the 'resources' tab on the website. Here there is a lengthy list. Understandably the guidelines are written for the benefit of engineers but it would help if there were some general explanation of how they are used or applied. There is no explanation of the difference between 'Standards' and 'Guidelines' and no cross-reference at all to PEO's Code of Ethics in this section.
- 4.113 The document 'Making a Complaint a public information guide'³³ takes a potential complainant through the process but says nothing in plain English about what would be a valid complaint. It includes two extracts from the Regulation: the Code of Ethics and Definition of Professional Misconduct. These are hardly accessible to a member of the public or engineering client.
- 4.114 The standards and guidance are published but not in accessible formats. It is not easy to find them and although there is guidance on how to make a complaint there is little help on what to a person can complain about. It would be helpful if the Standards, Guidance and Code of Ethics were accessible together in a single place on the website.

This standard is not met.

³³ PEO. [Making a Complaint. A Public Information Guide](#)

5. Protecting the public

- 5.1 In this Section we review and summarize PEO's performance as a professional regulator and ask to what extent it is fully engaged in protecting the public through the creation and enforcement of high standards for engineering practice.
- 5.2 PEO's website sets out how it protects the public:³⁴
PEO's mandate, as described in the Professional Engineers Act, is to ensure that the public is protected and that individuals and companies providing engineering services uphold a strict code of professional ethics and conduct. PEO protects and serves the public by:
- *ensuring all licensed professional engineers are qualified – and by licensing all who qualify;*
 - *disciplining professional engineers found guilty of professional misconduct;*
 - *taking action against unlicensed individuals who illegally describe themselves as engineers. Similarly, the association can prosecute companies or entities who illegally provide engineering services to the public;*
 - *investigating all complaints brought to it about unlicensed, unprofessional, inadequate, or incompetent engineering services;*
 - *conducting disputes resolution and hearings;*
 - *preparing performance guidelines as benchmarks for quality of service in the engineering profession; and*
 - *preparing performance standards in regulation.*
- 5.3 The website goes on to advise people how they can report someone who is claiming to be an engineer but is not:
If you have concerns about either the work of an engineer, or suspect that a person or a company is practicing engineering and may not be licensed, you can contact PEO's Enforcement hotline...'
- 5.4 What it does not explain is how to complain about a practising engineer whose work or behaviour is unsatisfactory. This omission suggests that PEO sees its primary purpose as protecting licensed engineers from unlicensed practice rather than protecting the interests of their clients or the public.
- 5.5 Our assessment of the PEO's performance against the Standards of Good Regulation provides a mixed picture. As explained in paragraphs 1.13–1.14 above a Standard cannot be met if there is no evidence that it is met. A lack of data collection and analysis in some areas of PEO's work has contributed to some standards not being met.
- 5.6 There are 22 Standards in all. PEO has met eight fully and three partially. However, the pattern is not consistent. PEO met only one standard out of seven relating to licensing and registration, while it met half the Standards for complaints, discipline, compliance and enforcement, and half of those applicable to professional standards and guidance. Overall though this is a

³⁴ PEO [How We Protect the Public](#)

disappointing result and should direct PEO's attention to many areas of regulatory practice where modernization and a much greater focus on the public interest is necessary.

- 5.7 PEO's processes for awarding licences to engineers have come in for a great deal of criticism from a wide range of informants: applicants, engineers, PEO staff, council and committee members, employers and the OFC. There is no doubt that the staff and volunteers working on the process are working hard and diligently but they are working with a massively over complicated set of procedures, with too many options, too little objectivity and some built-in discriminatory practices. For example, the requirement for a year's practice in Canada has no objective engineering justification. When we asked why it was necessary we received different answers: you have to understand the geology of Canada, you have to understand Canadian culture, it gives people a chance to acclimatize. Similarly, the use of face-to-face interviews with no ethnic or gender balance of panels and no compulsory annual training for panelists is deeply unsatisfactory.
- 5.8 Once engineers are licensed, the register is inadequate. It is neither up-to-date nor complete for individuals. A reliable and comprehensive register is a fundamental to regulation. PEO does not provide one.
- 5.9 The whole licensing and registration process could benefit from an end to end review against the principles of right-touch regulation, particularly those of simplicity, proportionality, fairness and avoidance of unintended consequences. This would include a review of licensing and designation categories, to ensure that all PEO's regulatory activities are focused on those that are necessary to protect the interests of the public rather than promoting the interests of the profession.
- 5.10 We are concerned in particular about the inherent unfairness of the licensing process, its potential for bias and PEO's slow response to criticism from the OFC.
- 5.11 We have found that the complaints and discipline process is competently managed, but we have concerns about its lack of complete independence from PEO's Council and therefore PEO's corporate interests. These concerns were compounded when we observed that some members of Council attempted to challenge the Registrar's legitimate decision to appeal a disciplinary decision and that members of Council involved in that decision did not recuse themselves from the discussion.
- 5.12 We consider the COC works carefully and diligently but think there needs to be greater clarity about its role. Is it a screening committee merely checking that there is sufficient evidence for a case to answer or is it making its own assessment on the evidence and anticipating what a disciplinary hearing might subsequently decide? At the committee meeting we observed there was speculation about mitigating factors. The file presentation template used by the COC allows it to take into account 'Mitigating Information.' Such as admissions, explanations, expressions of regret or subsequent remedial actions. These are all after the event and therefore not relevant to whether or not a standard has been breached. Mitigating factors are only relevant to sanction; they are not relevant to a breach of standards.

- 5.13 We have noted (paragraph 4.103 above) that by not setting standards for engineering practice but restricting itself to guidance PEO limits the extent to which engineers can be held to account for poor practice. We were told that their legal advice was that failure to follow guidance could not be the basis for disciplinary action. But this interpretation was disputed by others. We note that legal advice can differ between lawyers and that the correctness of that advice can only be determined by the Court. We consider that PEO should take a less cautious approach and be more open to challenging precedent to test the range of its powers in court when it judges it in the public interest to do so. In this regard we commend the Registrar for exercising his right of appeal against decisions of the DIC.
- 5.14 We recognize that PEO is constrained by privacy legislation in general and the restrictions of its own legislation but there should be a much greater focus on transparency of both the complaints and discipline process and the outcome of proceedings.
- 5.15 We also note that the role, process and outcome of the decisions by the CRC are opaque and that indeed the value of the role, given its limited scope in legislation, is doubtful.
- 5.16 The lack of a digital infrastructure limits PEO in numerous ways, it limits efficiency, data security, the physical layout of the office, communications and the ability to analyse and report on performance.
- 5.17 Our consideration of council meeting agendas and our observation of meetings suggest that the majority of time is taken up with the internal affairs of PEO, with fees and finance, chapters and volunteers, awards and recognition and less with the broader public interest, with the standards and safety of engineering or with the ethics of the profession.
- 5.18 We did not get a sense of a risk-based approach to the regulation of the practice of professional engineering except in the development of guidance. We also did not find that the Council had addressed and was constantly cognizant of key present and future engineering risks that its activities should be directed to prevent.
- 5.19 If the Council is to remedy the weaknesses in its performance as a regulator identified in this review it will need to redirect its resources very substantially towards professionalizing its regulatory processes and procedures and reducing its reliance on volunteers. The volunteers who run PEO are expert professional engineers, but they are inevitably amateur regulators. PEO needs to adopt better business and regulatory practices, to focus on professional regulation not on being an association of engineers and to seek efficiency and cost-effectiveness. Significant investment in a corporate digital infrastructure will be necessary. This change of focus will require courage to challenge the existing culture and established ways of working.
- 5.20 There are many people in PEO who are committed to it being an effective regulator and who seek to protect the public and maintain standards of engineering practice. They are hindered, not helped, by its complicated, volunteer-led structure and its lack of clarity about its role and responsibilities.

- 5.21 PEO does fulfil its mandate but it does not do so with the steadfast focus on regulation in the public interest that its task requires.
- 5.22 PEO does not seek out, embrace or demonstrate through its current practices and processes that is it a good regulator. A good regulator puts energies and resources into the right things. PEO commits much energy, human and financial resources into things that have more to do with advocacy for and service to the professional interest than it does to ensuring that risks of harms from engineering practice are identified and are appropriately mitigated.
- 5.23 The leadership of PEO, both voluntary and staff, do have together the skills and energy to make the necessary changes to its structure, processes and performance. Our conversations, observations and engagement with PEO and its people over the last six months leads us to believe that many also have the will to change. We hope that this report and the recommendations we make below will assist them in that endeavour.

6. Recommendations

- 6.1 At the beginning of this report we set out the expectations of PEO. We noted that the background of the decision of PEO's council to commission this review included expressed internal and external concern that PEO was not sufficiently focused on its mandate to protect the public, that its practices and processes were not in line with the principles of Right-touch regulation³⁵ and that it could learn from best practice in professional regulation elsewhere. PEO asked for recommendations for improvement and whether further consideration needs to be given to both PEO governance and the legislative framework.
- 6.2 We hope and intend that the recommendations set out below met the requirements of this commission and that they will assist PEO in its intention to improve and refine its work in protecting the public, licensing engineers and setting standards for the practice of engineering in Ontario. Relevant sections of the report are noted in parentheses at the end of each recommendation.
- **Recommendation 1:** PEO should review all its committees, subcommittees and working groups to ensure they are both necessary and fit for a regulatory purpose (3.28-3.36).
 - **Recommendation 2:** PEO should clarify the roles of Council members, Staff and volunteers. It should delegate more operational decision-making and responsibility to executive staff and streamline its internal accountabilities, policies and procedures (3.17-3.27).
 - **Recommendation 3:** PEO should consider if its Chapters are either necessary or desirable in delivering its functions as a regulator and should redirect its financial support for them to its core regulatory functions and activities (3.17-3.21).
 - **Recommendation 4:** PEO should implement all the recommendations of the OFC in his report of 2014 and his subsequent letters. It should consider the way it uses negative language about everyone who is not a licensed P.Eng. and describe people as what they are rather than as what they are not (3.37, 4.10–4.27).
 - **Recommendation 5:** The process for application for a professional engineering license should be simplified and speeded up, the discriminatory aspects of written examinations, a Canadian year of experience and face to face interviews should be discarded. Appeals against refusal of licence should be made available on request of the applicant, who should be provided with legal support in the event of an appeal hearing (4.16–4.27).

³⁵ The Professional Standards Authority (2015). [Right-touch regulation – revised](#).

- **Recommendation 6:** PEO should review and revise all its current licensing categories and designation and eliminate those that do not directly contribute to protection of the public/serving the public interest (5.9).
- **Recommendation 7:** The public register of licensed engineers and other public directories published by PEO must be complete and kept up-to-date. Currently they are neither (4.6, 4.33–4.36).
- **Recommendation 8:** Licensed engineers employing another engineer should be required as a matter of good practice to check their registration status. PEO should promote to employers and the public the value of checking the register before engaging an engineer (4.37–4.38).
- **Recommendation 9:** PEO should establish a formal process for keeping engineering standards up to date and relevant to contemporary practice in all the fields of engineering that it aims to regulate. PEO should engage fully with setting standards as well as with guidance. PEO should be clear about the enforcement of guidance in complaints and discipline (4.103–4.108, and recommendation 11, below).
- **Recommendation 10:** PEO should revise its PEAK program to ensure it is proportionate and outcome focused and achievable by licensed engineers. It should then make participation in this CPD program mandatory for licensed engineers (4.39–4.42).
- **Recommendation 11:** PEO should review its approach to complaints and discipline. In particular it should:
 - take a more confident approach to the interpretation of its legislation, seeking to protect the public rather than itself (4.46–4.52)
 - enforce guidance (4.105)
 - pay more regard to professional conduct and ethics, as breaches of these bring the profession and its regulator into disrepute (4.56–4.57)
 - give fuller reasons for disciplinary decisions and publish them (4.89–4.99).
- **Recommendation 12:** Members of the COC and the DIC should not be drawn from the members of the Council. The members of these committees must be able to make judgements independent of the interests of PEO Council (3.15, 4.78, 5.11).
- **Recommendation 13:** PEO should commission a full digital strategy for the organization. This should include implementation of an electronic case management system and a database for to manage licensing and C of A applications, CPD and complaints and discipline. It should aim for automation of processes. In the meantime, it must improve the security and confidentiality of paper files (3.40, 4.17, 4.100-4.101).

- **Recommendation 14:** PEO should work with the Attorney General's office to seek changes to its statute to modernize its organization and regulatory powers (for example, 4.58, 4.62, 4.63, 4.85).
- **Recommendation 15:** Council should assess and implement these recommendations. It should require an action plan and time-frame for implementation from its executive staff. When it approves the action plan, Council should commit the necessary resources to deliver it (5.19).

Annex A: The Standards of Good Regulation used in the review

Licensing and registration

LR1. Only those who meet the regulator's requirements are licensed or authorized.

LR2. The licensing and authorization process, including the management of appeals (internal reviews and through the Registration Committee), is fair, based on the regulator's standards, efficient, transparent, secure, and continuously improving.

LR3. Academic requirements, experience requirements, the Professional Practice Examination, and good character requirements are linked to standards of practice. They prioritize the public interest and service provision centred on the needs of engineering clients. The process for reviewing or developing licensing and authorization requirements incorporates the views and experiences of key stakeholders and external events.

LR4. Information on academic requirements, experience requirements, and other requirements for licensing, authorization and designation, is publicly available.

LR5. Through the regulator's registers, everyone can easily access information about licence holders, C of A holders and Consulting Engineers, except in relation to their health, including whether there are restrictions on their practice.

LR6. Employers and supervising engineers are aware of the importance of checking the status of licence holders and C of A holders. Clients and members of the public can find and check the status of licence holders and C of A holders.

LR7. Through the regulator's continuing professional development systems, licence holders and C of A holders maintain the standards required for competent practice.

Complaints, discipline, compliance, and enforcement

CDCE1. Anybody can raise a concern, including the regulator, about the conduct and competence of a licence holder or a C of A holder.

CDCE2. Information about concerns regarding conduct and competence is shared by the regulator with employers/local arbitrators, and other regulators within the relevant legal frameworks.

CDCE3. Where necessary, the regulator will determine if a complaint has merit and if so, whether the conduct or competence of the licence holder or the C of A holder is impaired or, where appropriate, direct the complainant to another relevant organization.

CDCE4. All conduct and competence complaints are reviewed on receipt and serious cases are prioritized and where appropriate referred to an interim orders panel (or equivalent).

CDCE5. The complaints, discipline and enforcement processes are transparent, fair, proportionate and focused on serving and protecting the public interest.

CDCE6. Risk of harm to the public and of damage to public confidence in the profession related to non-holders using a protected title or undertaking a protected act is managed in a proportionate and risk-based manner.

CDCE7. Conduct and competence cases are dealt with as quickly as possible taking into account the complexity and type of case and the conduct of both sides. Delays do not result in harm or potential harm to engineering clients or the public. Where necessary the regulator protects the public by means of interim orders (or equivalent).

CDCE8. All parties to a case (including the complainant) are kept updated on the progress of their case and supported to participate effectively in the process.

CDCE9. All decisions made at the initial and final stages of the complaints and discipline process are well reasoned, consistent, and protect the public interest.

CDCE10. All final decisions of the Complaints and Discipline Committees, apart from matters relating to the health of a licence holder or C of A holder, are published and communicated to relevant stakeholders, within the relevant legal frameworks.

CDCE11. Information about complaints and discipline cases is securely retained.

Professional standards and guidance

PSG1. Standards of practice and guidelines reflect up-to-date practice and legislation. They prioritize the public interest and service provision centred on the needs of engineering clients.

PSG2. Additional guidance helps licence holders and C of A holders apply the regulator's standards of practice to specific issues.

PSG3. In development and revision of guidance and standards, the regulator takes account of stakeholders' views and experiences, external events, developments in Canadian and international regulation and learning from other areas of the regulator's work.

PSG4. The standards and guidance are published in accessible formats. Licence holders and C of A holders, potential licence holders and potential C of A holders, employers, clients and members of the public are able to find the standards and guidance published by the regulator and can find out about the action that can be taken if the standards and guidance are not followed.

Annex B: People and organizations providing evidence

Staff of Professional Engineers Ontario

- Scott Clark, Chief Administrative Officer
- Bernard Ennis, P.Eng., Director, Policy and Professional Affairs
- Moody Farag, P.Eng., Manager, Admissions
- Faris Georgis, P.Eng., Manager, Registration
- Sal Guerriero, P.Eng., Manager, Tribunals
- Steven Haddock, Enforcement and Advisory Officer
- Cliff Knox, P.Eng., Manager, Enforcement
- Sherin Khalil, P.Eng., Standards and Guidelines Development Coordinator
- Linda Latham, P.Eng., Deputy Registrar, Regulatory Compliance
- Pauline Lebel, P.Eng., Manager, Licensure
- Leah Price, Counsel, Regulatory Compliance
- Ken Slack, P.Eng., Manager, Complaints and Investigations
- José Vera, P.Eng., Manager, Standards and Practice
- Johnny Zuccon, P.Eng., Registrar

Council Members

- Ishwar Bhatia, P.Eng., (EXE committee)
- David Brown, P.Eng., President (EXE committee)
- Michael Chan, P.Eng., (EXE committee) LGA appointed professional member
- Lorne Cutler, P.Eng., LGA appointed professional member
- Bob Dony, P.Eng., Past President (EXE committee)
- Nancy Hill, P.Eng., President-Elect (EXE committee)
- Qadira Jackson, LGA appointed public member (and CRC)
- Tim Kirkby, P.Eng., LGA appointed professional member
- Lew Lederman QC, LGA appointed lay member
- Lisa MacCumber, P.Eng., West Central Region Councillor
- Tomiwa Olukiyesi, P.Eng., LGA appointed professional member
- Kelly Reid, P.Eng. (EXE committee) Vice President (appointed)

- Nadine Rush, LGA appointed lay member
- Marilyn Spink, P.Eng., LGA appointed professional member
- Marisa Sterling, P.Eng., Vice-President (E) (EXE committee)
- Ramesh Subramanian, P.Eng. Northern Region Councillor

Committees and Task Forces

- David Kiguel, P.Eng., Chair, Experience Requirements Committee (ERC)
- Kathryn Sutherland, Chair, Fees Mediation Committee (FMC)
- John Vieth, P.Eng., Chair, Discipline Committee
- Members of the Professional Standards Committee
- George Comrie, P.Eng., Emerging Disciplines Committee
- Peter DeVita, P.Eng., Chair, Emerging Disciplines Task Force
- Santosh Gupta, P.Eng., Emerging Disciplines Task Force
- Ramesh Subramanian, P.Eng., Chair, Academic Requirements Committee (ARC)
- Members of the Consulting Engineers Designation Committee (CEDC - Toronto Subcommittee)
- Chris Roney, P.Eng., Chair, Complaints Committee
- Peter Frise, P.Eng., Vice-Chair, Complaints Committee

External Stakeholders

- Irwin Glasberg, Assistant Deputy Attorney General, Government of Ontario
- Grant Jameson, Ontario Fairness Commissioner
- Bruce Matthews, P.Eng., CEO, Consulting Engineers Ontario (CEO)
- Sandro Perruzza, CEO, Ontario Society of Professional Engineers (OSPE)
- Richard Steinecke, LLB, Steinecke, Maciura, LeBlanc

Written comments and submissions

We received written comments from 38 engineers and others. The following gave consent for their names to be included in the report.

- George Ayer, P.Eng.
- Denis Carlos, MBA, PMP, P.Eng. FEC

- Pierre Dick, P.Eng.
- Vincenzo Donato
- Christopher Friedt, P.Eng.
- David Grant, P.Eng., FEC
- Roger Jones, B.Sc(Eng), DIC, M.Phil, MBA, LSMIEEE, P.Eng., FEC.
- John Morgan, P.Eng.
- former president Pat Quinn, P.Eng.
- Martin Sheet, P.Eng., M.Sc.Eng.
- Uditha Senaratne, P.Eng.

Annex C: Abbreviations

The Act	Professional Engineers Act 1990
AGO	Attorney General's Office
ARC	Academic Requirements Committee
CEAB	Canadian Engineering Accreditation Board
CEDC	Consulting Engineers Designation Committee
CEO	Consulting Engineers Ontario
CDPTF	Complaints and Discipline Process Task Force
COC	Complaints Committee
C of A	Certificate of Authorization
CPD	Continuing Professional Development
CRC	Complaints Review Councillor
DIC	Discipline Committee
ERC	Experience Requirements Committee
EXE	Executive Committee
FARPACTA	Fair Access to Regulated Professions and Compulsory Trades Act 2006
FMC	Fees Mediation Committee
JPB	Joint Practice Board
LGA	Lieutenant Governor Appointed
NoP	Notice of Proposal to Refuse a Licence
OFC	Office of the Fairness Commissioner of Ontario
OPSE	Ontario Society of Professional Engineers
PEAK	Practice Evaluation and Knowledge
P.Eng.	Professional Engineer
PEO	Professional Engineers Ontario
PPE	Professional Practice Examination
The Regulation	Ontario Regulation 941
VU	Voluntary undertakings

Annex D: The review team

Harry Cayton CBE BA BPhil DipAnth FFPH

Harry Cayton was chief executive of the Professional Standards Authority in the UK from 2007 to 2018. From October 2018 he will become International Advisor to the Authority. He has written extensively about professional regulation and created the approach to regulatory decision-making, Right-touch regulation, which has been adopted by regulators around the world. Harry is experienced in reviews and inquiries and has worked with regulators in the UK, Ireland, Canada, Australia and New Zealand. He has advised governments on regulatory issues in Hong Kong, Australia, Ontario and British Columbia as well as the UK. Last year he oversaw a review of the Engineers and Geoscientists of BC, and a special inquiry into the Nursing and Midwifery Council in the UK. He has recently completed a Statutory Inquiry into the College of Dental Surgeons of BC at the request of the Health Minister. His report was published in April 2019.

Harry Cayton is a trustee of the charity Comic Relief, a Board member of the Press Recognition Panel, Patron of Arts4Dementia and an advisor to Pilau Restaurants Ltd.

Deanna L Williams, BScPhm RPh CAE CDir

Deanna's breadth of experience includes senior policy work within the Ontario government's Ministry of Health and leadership roles with several regulatory authorities in Ontario. She was the Registrar/CEO of the Ontario College of Pharmacists from 2000-2011. In 2012, she was appointed by Ontario's Minister of Health and Long Term Care, as Supervisor to the College of Denturists of Ontario, a post she held until late 2013 when the College's self-regulatory authority was restored. Deanna served as Risk Officer for the Retirement Homes Regulatory Authority in Toronto, from 2014-18 and most recently, was appointed Expert Technical Advisor to Ontario's Minister of Health and Long Term Care in 2017, providing advice regarding identified best regulatory practices across professions and international jurisdictions.

Since 2011, Deanna Williams has provided consulting services in many areas related to professional and occupational regulation in Canada, the USA and abroad. Deanna has provided training and advice in regulatory governance, accountability and evaluation to regulators, and has led several external and independent reviews related to regulatory performance and effectiveness; legislation and compliance; governance and risk.

Kate Webb, BA MA

Kate Webb is a regulatory policy specialist who has worked across the UK health, legal services and energy sectors. With a background in consumer and patient advocacy, she has over 10 years' experience of oversight regulation. At the Professional Standards Authority she helped develop Right-touch regulation with Harry Cayton, and delivered thematic policy reviews across a wide range of topics, including of governance, cost effectiveness, and fitness to practise. While at the Authority, Kate also advised UK government health departments and the UK parliamentary health committee on the performance of the professional regulators, and on proposals for policy and legislative reform. As a member of the senior leadership team at the Legal Services Board she led the 2017 investigation into the independence of the Solicitors Regulation Authority, and worked with UK government officials on developments to Better Regulation policy. Kate has also worked on consumer energy policy at Ofgem (the regulator of gas and electricity markets).

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