

OSPG Guidance: Making a Complaint to the OSPG

VERSION 1.0

March 23, 2023

Issued by:



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OSPG

Office of the Superintendent
of Professional Governance



Version Control History

Version #	Date (YYY-MM-DD)	Modification	Approved by
1.0	2023-03-23	Initial version	Kate Haines, Superintendent



OSPG Guidance on making complaints to the OSPG

The Office of the Superintendent of Professional Governance (OSPG) was created under the *Professional Governance Act* (PGA) to conduct oversight of systemic and general matters relating to professional governance of the regulatory bodies listed in Schedule 1 of the PGA¹. The PGA establishes regulatory bodies to oversee regulation of certain professions and professionals in B.C. and ensure consistency and best practices are applied to the governance of regulated professionals by the regulatory bodies.

Both the OSPG and regulatory bodies receive and adjudicate complaints under the PGA. The nature of the complaint will determine if the OPSG or the applicable regulatory body will conduct the complaint review.

This document:

- Does not explain the complaint process of the regulatory bodies. See the respective regulatory body's website for information on their complaints process.
- Is not a formal rule of practice or procedure established under section 8 of the PGA but may support one at a later date.

Principles:

The OSPG's audits, investigation and performance management portfolio will be guided by the following principles when conducting complaint intake, review, and adjudication:

Fair

The OSPG is committed to ensuring all processes are fair and that full and fair consideration is given to all impacted parties. This includes applying the principles of administrative fairness including:

- The duty to act in good faith and without bias in making statutory decisions; and,
- Giving each party an opportunity to know the case against them and to provide a response before making a final decision on the findings.

Transparent

The OPSG is committed to ensuring complainants are informed of the process during an inspection or investigation of a complaint bearing in mind its obligations under the *Freedom of Information and Protection of Privacy Act*.

Collaborative

The OSPG is committed to working in collaboration with regulatory bodies when responding to matters of shared jurisdiction under the PGA.

Flexible

The OSPG is committed to being flexible in its approach to receiving complaint information. For instance, the OSPG will, in addition to taking complaints directly from individuals and organizations, also consider

¹ [Schedule 1](#) of the PGA lists the regulatory bodies governed by the PGA.



information presented in the media or matters referred from other government agencies in B.C. to be a potential source of information to initiate a complaint under the PGA.

Responsive

The OSPG is committed to being responsive. This includes responding to inquiries about the status of a complaint submitted to the OSPG. However, the OSPG will not at any time:

- Release information which could compromise or impede a complaint review; or,
- Publicly release or discuss the findings until the subject of the complaint has been given an opportunity to respond and the results have been finalized.

Freedom of Information and Protection of Privacy Act limits the information that the OSPG can share with individuals about cases concerning the treatment or experiences of individuals other than themselves.

Accountable

The Superintendent is required by section 19 of the PGA to present an annual report for the preceding year to the Minister on the activities of the OSPG, including information about complaint intake and reviews, by no later than May 31st each year. This annual report is posted to the OSPG website.

Making a Complaint to the OSPG:

A complaint can be made to the OSPG about any matter that falls under the PGA. See table 1 below for a list of the types of complaints that might be made and who will typically lead the complaint review based on jurisdiction designated in the PGA.

Table 1: Primary Jurisdiction by Complaint Type

Type of Complaint	OSPG Complaint Oversight	Regulatory body Complaint Oversight
Complaint about a regulatory body	<ul style="list-style-type: none"> • The Superintendent will oversee complaints about: <ul style="list-style-type: none"> ○ Systemic² or general matters related to professional governance by a regulatory body. ○ The compliance of regulatory body operations or administration with the PGA. 	<ul style="list-style-type: none"> • No role

² For an issue to be considered a systemic or general matter the Superintendent would need to be aware of concerns about multiple instances of the same operational matter from a variety of sources (e.g., complainants, referrals from regulatory bodies or other government agencies, media coverage, etc.). This does not typically include multiple concerns about a single registrant or decision of the regulatory body in respect of a single registrant.



Type of Complaint	OSPG Complaint Oversight	Regulatory body Complaint Oversight
Complaint about a Registrant (Individual or Firm)	<ul style="list-style-type: none"> • The Superintendent may only investigate or audit an individual registrant or firm in response to a complaint in limited circumstances. The superintendent must determine that the investigation or audit: <ul style="list-style-type: none"> ○ is necessary in the public interest, ○ relates to an aspect of the administration or operation of a regulatory body or the state of practice of a profession, ○ is part of an investigation or an audit of a general or systemic matter relating to the regulated practice, and ○ is in respect of a matter under the following provisions of the PGA: <ul style="list-style-type: none"> ○ section 52 [<i>prohibition and limitation — use of reserved titles</i>]; ○ section 54 [<i>prohibitions regarding reserved practice</i>]; ○ section 58 [<i>duty to report</i>]; ○ section 67 [<i>extraordinary action to protect public</i>]; ○ section 103 [<i>no reprisals</i>]; ○ section 104 [<i>obstruction</i>]. 	<ul style="list-style-type: none"> • Regulatory bodies respond to complaints about the practice of individual registrants, consistent with the key principles set out in OSPG’s Guidance on Audits, Investigations and Performance Reviews.
Complaint about a Non-registrant (Individual or firm)	<ul style="list-style-type: none"> • The Superintendent may oversee complaints about non-registrants taking reprisals and will oversee complaints about obstruction of the Superintendent during an investigation. 	<ul style="list-style-type: none"> • Regulatory bodies typically oversee complaints about non-registrants using reserved titles or offering services in reserved areas of practice.



Type of Complaint	OSPG Complaint Oversight	Regulatory body Complaint Oversight
Complaint about the State of Practice of a Profession	<ul style="list-style-type: none"> The Superintendent has jurisdiction to investigate or audit in response to a complaint about the state of practice of a profession in BC. 	<ul style="list-style-type: none"> No role; However, regulatory bodies may choose to conduct a practice review of a registrant as a result of a complaint.

The Superintendent may not consider questions related to:

- The Canadian Constitution.
- The Canadian Charter of Rights and Freedoms.
- The Canadian Human Rights Code.

The OSPG is not an appeal body for the decisions of regulatory bodies about individual Registrants.

The OSPG is not responsible for reviewing government policy. Government policy is set by each Ministry in accordance with its mandate. Complaints about government policy, and not the specific actions of a registrant or regulatory body, will be referred to the responsible government agency for resolution.

How to make a Complaint

Complaints can be made through e-mail, mail, or phone.

- E-mail (preferred): OSPGEnquiries@gov.bc.ca
- Mail: PO Box 9222 Stn Prov Govt Victoria BC V8W 9J1
- Telephone: 1-(236)-478-1940

In addition to receiving complaints from individuals, the OSPG may receive complaints from other sources such as:

- Regulatory bodies.
- Referrals from other government agencies (Federal, Provincial, Local or Indigenous).
- Reports published as part of government reviews or other topic specific issues that touch on matters relevant to professional governance (i.e. Auditor General Reports, Commissions of inquiry, etc).
- Members of Indigenous Nations or the public.
- Issues raised in the media.

The OSPG may use information obtained through these sources to initiate a complaint.



Complaint Information

Complainants should include as much of the information listed below as possible in their complaint to the OSPG.

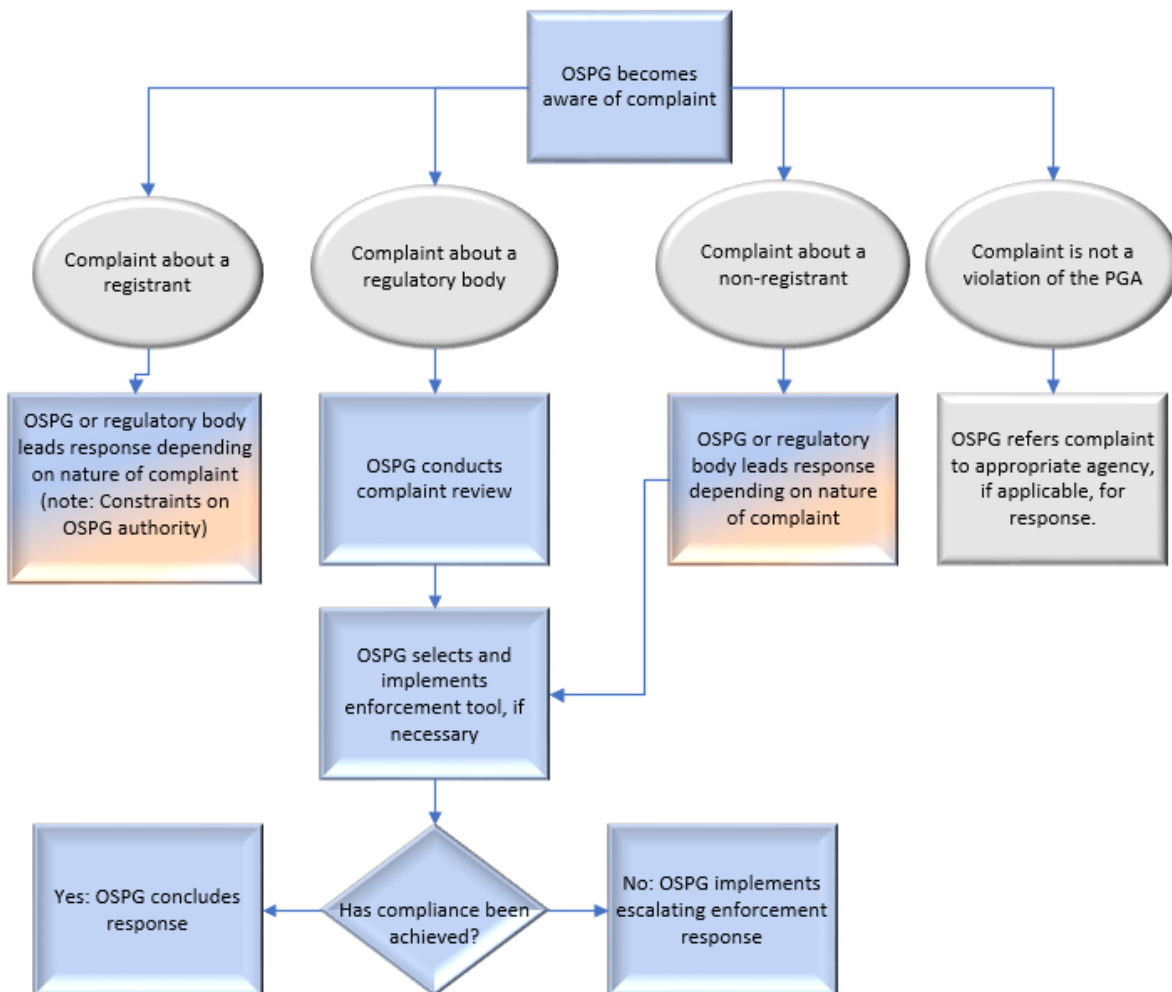
1. Who or what is the subject of the complaint? Provide the regulatory body, company or person's name.
2. What did or did not happen to make the complainant think a non-compliance with the PGA occurred? Include the section of the PGA that has been violated or was not complied with.
3. When did the alleged non-compliance occur? If possible, write down the date and time of the alleged non-compliance.
4. Where did the alleged non-compliance occur? A detailed description of the location is helpful when reviewing complaints. For example, include the location name, physical address, or global positioning system (GPS) coordinates if possible.
5. Did anyone else witness the alleged non-compliance and can their name and/or contact information be provided? The names of witnesses and their contact information are often helpful when reviewing complaints.
6. Are there any other records or information documenting the alleged non-compliance that may be helpful? For example, drawings, photographs, videos, or reports prepared or submitted for use.
7. Complainant contact information. Providing contact information will allow the OSPG to contact the complainant if we need to confirm details later or to ask further questions.



Responding to Complaints:

The first step the OSPG will take after receiving a complaint is to determine if it has jurisdiction to review the complaint or if the complaint will be referred to a regulatory body or other entity for resolution. See figure 1 below to see how the OSPG makes this determination.

Figure 1: Complaint jurisdiction decision process



Referral of Complaints

The OSPG will refer complaints if:

- The OSPG does not have jurisdiction to look into the matter. Typically, the OSPG will work with the complainant to try to identify the jurisdiction with the authority to look into the matter and refer the complainant to that authority.
- The complaint is about government policy. Complaints about government policy will be referred



to the Ministry responsible for administering the policy to submit a complaint about it. Where possible, and in line with confidentiality requirements, regulatory bodies may disclose the reported concerns to the secretariat of the Professional Governance Advisory Committee (PGAC), who would then share the tracked concerns with the PGAC and Ministry representatives who could follow up to confirm that filed concerns were brought to the attention of the appropriate policy teams.

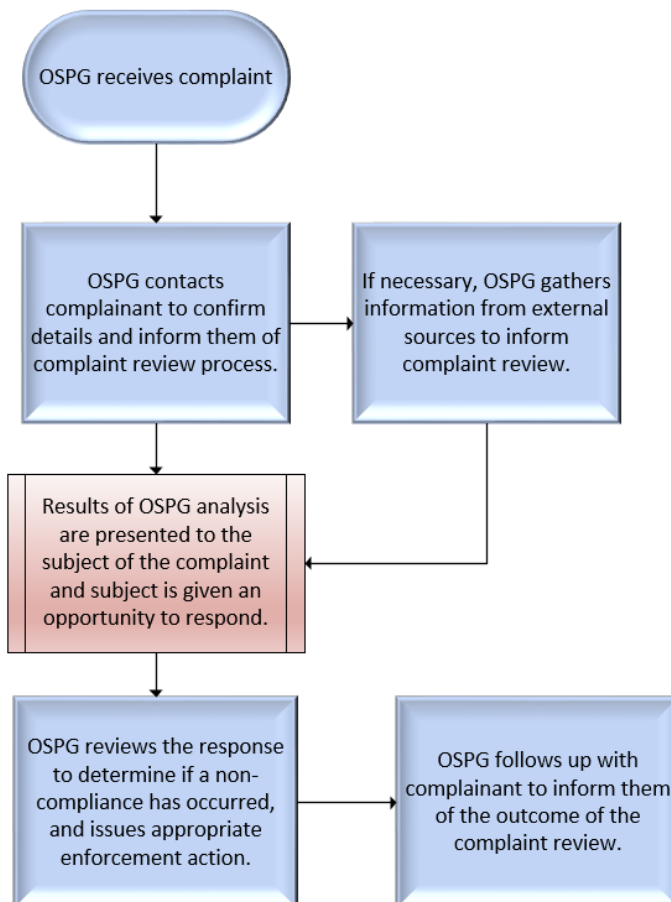
- Falls into one of the categories listed in [Table 1: Primary Jurisdiction by Complaint Type](#) where the regulatory body has been identified as having primary jurisdiction over the matter. In this situation the OSPG will ask the complainant to submit their complaint to the applicable regulatory body or may, with the consent of the complainant, refer the complaint to the applicable regulatory body.



Complaint Review Process

If the OSPG has jurisdiction to accept a complaint and lead the response, the complaint review process begins. See figure 2 below for an overview of the steps in the complaint review process.

Figure 2: OSPG Complaint review process



Acknowledge, document, and confirm details of the complaint

- After initial receipt of a complaint the OSPG will contact the complainant before the complaint review commences to confirm the details of the complaint.
- The OSPG will determine whether the complaint relates to the PGA and whether the OSPG has authority to review the matter. If the OSPG does not have authority to review the matter, OSPG will :
 - Assist the complainant with finding a contact person at the appropriate agency to review the complaint; or,
 - With the consent of the complainant, forward the complaint to the appropriate agency.



Gather and review information

If there are sufficient grounds to determine that a non-compliance may have occurred, the OSPG may gather additional information related to the complaint from various sources. This may include:

- Conducting inspections or investigations;
- Requesting information from the subject of the complaint; or,
- Requesting additional information from the complainant.

If the OSPG becomes aware of a possible violation of other regulatory requirements, the OSPG may record and report that information to the appropriate agency.

Opportunity to respond

If a complaint review indicates that an alleged non-compliance may have occurred, the OSPG will provide the subject of the complaint with an opportunity to respond to the findings in accordance with the principles of administrative fairness³. The opportunity to respond ensures there are no factual errors in the OSPG's analysis of the information related to the complaint and typically occurs after the initial review of the complaint.

An opportunity to respond occurs when the OSPG notifies the subject of the complaint that a complaint has been made about them, presents the facts of the complaint, and provides the subject of the complaint with an opportunity to respond to the complaint.

The opportunity to respond is time bound; it will remain open only for a specific period of time. Only relevant information provided during an opportunity to respond will be considered. The opportunity to respond will include directions on how to provide information to the OSPG.

Complaint findings and resolution by the OSPG

If a non-compliance is confirmed, the OSPG will determine if an enforcement response is appropriate and consider an escalating enforcement response to any repeated non-compliance. This means that the OSPG would typically select and apply the least punitive enforcement response to achieve compliance. If that non-compliance is repeated, escalating enforcement, by applying progressively more punitive enforcement measures, would typically be applied until such time as the regulated party comes back into compliance with the PGA.

If an enforcement response is appropriate, the OSPG may:

- Issue a guideline under section 9 of the PGA;
- Issue a directive under section 11 of the PGA;
- Appoint a public administrator under section 12;
- Amend or repeal a bylaw under section 38;

³ Administrative fairness includes the following: The duty to act in good faith and without bias in making a statutory decision, to give each party an opportunity to know the case against them and provide a response, and for only the person who hears the case to decide it.



- Issue an administrative penalty under section 99⁴; or,
- Pursue prosecution for an offence under section 106.

Follow up with the complainant

After the complaint review is complete, the OSPG will follow up with complainant to identify how the complaint was addressed.

Transparency and accountability are important considerations during a complaint review. Therefore, during the review process we will make all efforts to share information that can be shared with respect to the complaint.

However, we will not at any time:

- Release information which could compromise or impede the complaint review; or,
- Publicly release or discuss the findings until the subject of the complaint has been given an opportunity to respond and the results have been finalized.

Please be aware that the *Freedom of Information and Protection of Privacy Act* limits the information that the OSPG can disclose about cases concerning the treatment or experiences of individuals other than themselves.

If a complaint results in an investigation or audit, the final results will be posted to the OSPG's website.

Timing Considerations:

Please note that some complaints are resolved quickly within a few days, while others can be highly technical in nature and take much longer to resolve. If this is the case with your complaint, we will provide you with updates on the status of your complaint during the complaint review process in accordance with the information above.

Dissatisfaction with complaint findings

There is no appeal body that reconsiders the findings of a regulatory body or the OSPG under the PGA; the OSPG is not an appeal body for the decisions of regulatory bodies about individual Registrants.

If an individual is dissatisfied with the outcome of their complaint, they may be able to seek resolution through the Office of the Ombudsperson of BC or Judicial Review:

- Concerns related to unfair decisions, actions, omissions, or procedures may be brought to the attention of the BC Ombudsperson. Please refer to the *Office of the Ombudsperson website* for more information about their complaints process and resolution options.
- Individuals who are not satisfied with the outcome of a complaint may be able to seek a judicial review. Legal representation may be needed to take this step; the individual should seek legal advice.

⁴ At the time of publication of this document, the OSPG has not yet operationalized Administrative Penalties under section 99 of the PGA. A regulation must be brought into force for Administrative Penalties under section 99 to be operationalized.



Confidentiality

Complainants should be prepared to have their identity included in the contents of their complaint and released to the subject of the complaint during the complaint review process. They should also be prepared to have their information included in the final investigation report that may be posted to the OSPG website, if the complaint proceeds to an investigation.

If a complainant does not want their identity provided to the organization or person they are complaining about, they can ask to keep their identity confidential or remain anonymous as described below:

- If a complainant wishes to identify themselves to the OSPG but keep their identity confidential to other parties, the OSPG can remain in contact with the complainant to seek additional details or provide updates on the complaint review. OSPG will not disclose the complainant's identity to other parties or identify the complainant in any formal reports.
- If the complainant chooses to remain entirely anonymous, they would not divulge their name or contact information in the complaint to OSPG. The OSPG will not be able to contact complainant to seek additional details or provide updates on the complaint review.

If a complainant chooses to remain entirely anonymous or keep their identity confidential from other parties, the amount of information that can be released to the subject of the complaint is necessarily limited. OSPG may not be able to disclose the full facts of the case to the subject and the subject's ability to provide an informed response to the allegations will be limited. These limitations may impede the complaint review process or compromise the findings of the process.

Questions

If you have questions about this document, contact the OSPG by phone at 1-(236)-478-1940 or by e-mail at OSPGEnquiries@gov.bc.ca.