

# Section 103 No Reprisals: Frequently Asked Questions

VERSION 1.0

December 13, 2023

Issued by:



---

Kate Haines, Superintendent



# OSP PG

Office of the Superintendent  
of Professional Governance



## Version Control History

Version #	Date (YYY-MM-DD)	Modification	Approved by
1.0	2023-12-13	Initial Version	Kate Haines, Superintendent



## Background

This document includes answers to some of the frequently asked questions about section 103 (No Reprisals) in the *Professional Governance Act* (PGA). Please also see the accompanying slide deck for a framework of questions to help registrants understand if a reprisal has been taken against them. Section 103 (No Reprisals) states:

***A person must not evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on or otherwise retaliate against a registrant because that registrant***

- (a) has reported a matter as described in section 58 [duty to report] with respect to a registrant or other persons,*
- (b) complains or is named in a complaint under section 65 [complaints], or*
- (c) gives evidence or otherwise assists in respect of a prosecution, a complaint or another proceeding under this Act.*

*[emphasis added]*

Under the PGA the protection in section 103 (No reprisals) is only afforded to registrants. A person (registrant or non-registrant) who takes a reprisal against a registrant under the PGA commits an offence under section 106 (Offences) of the PGA.

## Frequently Asked Questions

**The questions and answers presented below should be considered broadly. Each situation is unique and will be considered by regulatory bodies on a case-by-case basis. Regulatory bodies will determine the final approach that should be taken for each case presented to them.**

1. What should I do if I am threatened with a reprisal?
  - Take note of the incident so that if a reprisal is taken you have information documented about actions leading up to the reprisal. You can also report the matter to your regulatory body, the regulatory body of the registrant threatening to take a reprisal against you, or the OSPG (if the person threatening to take a reprisal against you is a non-registrant). This may result in actions being taken to try to prevent the reprisal. See question 2 below.
2. Can a reprisal be prevented?
  - If the individual threatening to take a reprisal is made aware that taking a reprisal is an offence under the PGA, they may decide not to take a reprisal.

For instance, if a registrant is threatening to take a reprisal against another registrant, the regulatory body of the registrant threatening to take the reprisal may reach out to them. The regulatory body can inform them that this action is prohibited by the PGA and that they may face an investigation and discipline if they proceed with the reprisal.



If a non-registrant is threatening to take a reprisal against a registrant, the OSPG may reach out to the non-registrant to inform them that this action is prohibited by the PGA. This may result in the individual threatening the reprisal either withdrawing any comments previously made that could constitute a threat, [as happened in August 2021](#) (see page 21: “Enforcement of no reprisals provision” for more information), and/or not proceeding with taking a reprisal.

3. What should I do if I think a reprisal has been taken against me?

- If you think someone has taken a reprisal against you:
  - Document the reprisal so you have a record.
  - Make copies of any e-mails or other records that illustrate the reprisal.
  - Make note of when the suspected reprisal was taken against you, who took the suspected reprisal against you, and why you think a reprisal was taken against you.

If the person taking the reprisal is a registrant under the PGA, report the reprisal to the regulatory body of the registrant that took the reprisal. The regulatory body will review the information to determine if they will accept your complaint.

If the person taking the reprisal is not a registrant under the PGA, report the matter to your own regulatory body or the OSPG. Only the OSPG can investigate non-registrants in relation to section 103 (No Reprisals) under the PGA.

4. What organization will lead the investigation into a reprisal and what are the potential penalties for someone who takes a reprisal against a registrant under the PGA?

Party responsible for taking a reprisal against a registrant	Organization leading the investigation	Available Penalties
Registrant: A registrant takes a reprisal against another registrant.	The regulatory body of the registrant that took the reprisal against another registrant will lead the investigation.	Investigation by their regulatory body for professional misconduct and violating their code of ethics, which may lead to penalties under section 75 of the PGA.
		Prosecution for committing an offence under section 106 of the PGA.
Non-registrant: A non-registrant takes a reprisal against a registrant.	The OSPG will lead the investigation into the non-registrant that took the reprisal against a registrant.	Investigation by the OSPG, which may lead to enforcement action, including an administrative penalty under section 99.
		Prosecution for committing an offence under section 106 of the PGA.



5. Can I report a reprisal anonymously?
  - Regulatory bodies have the authority to determine how they will accept reports of reprisals or any other complaint under the PGA, including whether they will accept an anonymous report of a reprisal.
  - To complete a full and administratively fair investigation into a report of a reprisal, complainants should be aware that their identity will be divulged to the individual accused of taking a reprisal during the investigation.
  - Efforts can be made to anonymize the identity of complainants in any publicly posted investigation or discipline findings. Findings will be posted to either the OSPGs website or the regulatory body's website depending on which organization investigates the matter.
6. Am I eligible for any compensation for lost income if I am the victim of a reprisal (e.g., fired from my job or contract)?
  - If an investigation determines a reprisal was taken, the PGA allows for disciplinary action against the person who took the reprisal.
  - The PGA does not award compensation for lost income if you are the victim of a reprisal. To determine if you are eligible for compensation for lost income if you are the victim of a reprisal, you should seek independent legal advice.
7. Are there any supports for registrants who have had a reprisal taken against them?
  - Your regulatory body may have supports available for registrants who have had a reprisal taken against them. For example, Engineers and Geoscientist BC has a secondary professional liability insurance program available to registrants. Check with your regulatory body to see if there are any supports available to registrants who have had a reprisal taken against them.
8. Does the PGA contain whistleblower protection?
  - There is no 'whistleblower' protection in the PGA.
  - There is an obligation on registrants to comply with the legislation and make reports to regulatory bodies as required through section 58 (Duty to Report) of the PGA. To discourage any reprisals being taken against registrants for complying with the legislation, section 103 (No Reprisals) was included in the PGA. Section 106 (Offences) of the PGA makes it an offence to take a reprisal against a registrant for the reasons set out in sections 103(a), (b), and (c).



9. Can a non-disclosure agreement (NDA) override section 103?
- As stated in the answer to question 7 above, registrants must comply with the legislation and make reports to their regulatory bodies as required through sections 58 and 65 of the PGA.
  - Registrants under NDAs should seek their own independent legal advice to fully understand any punitive clauses in the NDA. NDAs are outside of the scope of the PGA and the OSPG cannot provide legal advice on this matter.

## Other Resources:

For general information on how complaints under the PGA are handled by the OSPG and the regulatory bodies, see [“OSGP Guidance: Making a Complaint to the OSPG”](#).

For specific training on registrant reporting obligations under the PGA, include the ethical responsibility to report in section 65 of the PGA and the duty to report in section 58 of the PGA, please see:

Webinar Recordings:

- [Part 1: Registrant Reporting](#)
- [Part 2: Section 58 Statutory Duty to Report](#)

Supporting materials:

- A new guidance document title [“Duty to Report: Framework Questions, Scenarios, and Frequently Asked Questions”](#) which includes the detailed framework questions, additional scenarios and frequently asked questions.
- [A pdf copy of the slide deck presented in the webinar recordings.](#)
- [A standalone pdf copy of the slide that contains the questions that must be answered to determine if the Statutory Duty to Report has been triggered.](#)