



[Duty to Report: Sections 58\(4\) & 58\(5\) Frequently Asked Questions](#)

Background

The *Professional Governance Act* (PGA) was brought substantially into force on February 5, 2021. Section 58 of the PGA creates and places a new statutory duty to report on registrants to make a report to a regulatory body when they have “*reasonable and probable grounds to believe that the behaviour of an identified Registrant may pose a risk of significant harm to the environment or the health and safety of the public or a group of people.*” Sections 58(4) & 58(5) also include reporting requirements for individuals who are employers, partners or associates of identified registrants engaged in the behaviour described in section 58(2) of the PGA.

The Duty to Report Working group, which includes representatives from the Office of the Superintendent of Professional Governance (OSPG) and regulatory bodies under the PGA, have worked to develop this document to assist employers and others with a professional relationship or association with an identified registrant in understanding their reporting obligations under the PGA.

A complementary framework of questions has also been developed to help individuals determine if sections 58(4) & 58(5) apply to them and if their reporting obligation has been triggered.

“Professional Governance Act, Section 58, Duty to report

58 (1) In this section, “**identified registrant**” means a registrant of a regulatory body who is believed to be engaged in conduct described in subsection (2) (a) or (b).

(2) If a registrant has reasonable and probable grounds to believe that an identified registrant is

(a) engaged in the regulated practice in a manner that may pose a risk of significant harm to the environment or to the health or safety of the public or a group of people, or

(b) engaged in a matter or conduct prescribed by the Lieutenant Governor in Council,

the registrant must promptly report this to the registrar of the identified registrant's regulatory body

(3) Subsection (2) applies even if the information on which the belief is based is confidential and its disclosure is prohibited under another Act.

(4) If a person

(a) terminates the employment of an identified registrant,



(b) revokes, suspends or imposes restrictions on the privileges of the identified registrant,
or

(c) dissolves a partnership or association with the identified registrant,

based on a belief described in subsection (2), the person must promptly report this in writing to the registrar of the identified registrant's regulatory body.

(5) If a person intended to act as described in subsection (4) (a), (b) or (c) but the identified registrant resigned, relinquished privileges or dissolved the partnership or association before the person acted, the person must report this in writing to the registrar of the identified registrant's regulatory body.

(5.1) The Lieutenant Governor in Council may, by regulation, exempt a class of persons from the requirements of this section.

(6) On receiving a report under subsection (2), (4) or (5), the registrar must act under section 65 [*complaints*] as though the registrar had received a complaint under that section.

(7) Subject to the registrar's approval, the identified registrant, if ordered under this Act to cease or restrict the regulated practice as a registrant of the regulatory body, may employ another registrant of that regulatory body to carry on the regulated practice."

This document is a companion document to other materials available on the [Duty to Report webpage](#) on the website of the Office of the Superintendent of Professional Governance.



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. Why is there a Statutory Duty to Report imposed in section 58 of the PGA?

- The PGA and the OSPG were created in response to recommendations on professional governance provided in the independent final report on professional reliance in the natural resource sector completed by Mark Haddock in June 2018.

Several of the recommendations in the report centered on creating a statutory duty to report to ensure that regulatory bodies were aware of instances of harms to the natural environment or the built environment, non-compliances and risks to health and safety. These recommendations resulted in the creation of section 58 in the PGA. Mark Haddock's final report is available at this hyperlink:

https://professionalgovernancebc.ca/app/uploads/sites/498/2019/05/Professional_Reliance_Review_Final_Report.pdf .

2. What is the Statutory Duty to Report?

- The Statutory Duty to Report places a statutory duty on registrants, employers and those with a professional relationship or association with an "identified registrant" to promptly report to a regulatory body if they have reasonable and probable grounds to believe that an identified Registrant engaged in their regulated practice in a manner that may pose a risk of significant harm to the environment or to the health or safety of the public or a group of people.

3. What is the intent of the Statutory Duty to Report?

- The intent behind the creation of the Statutory Duty to Report was to:
 - Overcome barriers to professionals reporting, including a reluctance to report on peers and fear of reprisals.
 - Create clear penalties for failing to report situations that might pose a risk of significant harm to the environment or the health and safety of the public or a group of people.
 - Overcome a lack of confidence from registrants that their reporting would lead to the regulatory body addressing the concern.
 - Ensure regulatory bodies were made aware of such instances so that they could appropriately address them.



4. How do I determine if the person responsible for the risk of significant harm is an identified registrant under the PGA?
 - An “Identified Registrant” is a registrant of a regulatory body (under the PGA) who is believed to be engaged in conduct that may pose a risk of significant harm to the environment or to the health or safety of the public or a group of people or engaged in a matter or conduct prescribed by the Lieutenant Governor in Council¹
 - See Schedule 1 of the PGA for a list of regulatory bodies.
 - You can check the searchable public register on each regulatory body website to identify registrants and confirm their registrant status.
5. Is the person responsible for the risk of significant harm an identified registrant under the PGA?
 - If the person responsible for the risk of significant harm is not an identified registrant under the PGA, then the duty to report under sections 58(4) & 58(5) has not been triggered.
 - If the person responsible for the risk of significant harm is not an identified registrant under the PGA but they have engaged in the regulated or reserved practice of a profession under the PGA, you should make a complaint to the regulatory body responsible for the profession under the PGA. The person may have engaged in practice infringement and an investigation by the regulatory body may be needed.
6. Are you the employer of the identified registrant or do you have a professional relationship or association with the identified registrant?
 - If you are the employer or if you do have a professional relationship or association with the identified registrant, sections 58(4) and 58(5) apply to you.
 - If you are unsure if you are an employer or have a professional relationship or association with the identified registrant, please seek independent legal advice to confirm your relationship to the identified registrant.
 - If you are not the employer of the identified registrant or you do not have a professional relationship or association with them, sections 58(4) & 58(5) do not apply to you and the duty to report under sections 58(4) & 58(5) has not been triggered.
7. Do you think the behaviour of the identified Registrant posed a risk of significant harm to the environment or health or safety of the public or a group of people?
 - If the answer to this question is yes, you should be able to identify what behaviour presented the risk of significant harm and what receptors were at risk. This means that

¹ A matter or conduct must be included in a regulation to have been prescribed by the Lieutenant Governor in Council. As of the date of this publication, the Lieutenant Governor in Council has not prescribed a matter or conduct.



you must be able to say what environment was at risk and why; how the public is at risk; or what group of people was at risk and why that group of people was at risk because of the behaviour of the identified registrant.

8. Was the identified registrant engaged in the regulated practice when the risk of significant harm occurred?
 - If the answer to this question is yes, you should be able to identify the work the identified registrant was engaged in and whether they were engaged in their regulated practice at the time.
 - The statutory duty to report applies to situations that occurred after the PGA came into effect in February 2021. This means that the statutory duty to report applies to the past behaviour of registrants, if the behaviour occurred after February 2021.
9. Do you have reasonable and probable grounds to believe there is a risk?
 - To answer yes to this question, you should have objective and credible information that led you to believe that the behaviour of the identified registrant may pose a risk of significant harm to the environment or health and safety of the public or a group of people. The information does not need to prove this occurred; it only needs to result in the belief that it may have occurred. If the regulatory body investigates your complaint, they will gather the information needed to determine whether a risk occurred as a result of the behaviour of the identified registrant.
 - If you are unsure if there is a risk arising from the behaviour, it is advisable to discuss the situation with another registrant who has the same or similar areas of practice as that of the identified registrant whose behaviour you are concerned about.
10. Did you terminate the employment of the identified registrant; revoke, suspend or impose restrictions on the privileges of the identified registrant; dissolve a partnership or association with the identified registrant because you had reasonable and probable grounds to believe that an identified registrant engaged in the regulated practice in a manner that posed a risk of significant harm to the environment or to the health or safety of the public or a group of people?
 - If you answered yes to this question, you must make a report to the regulatory body of the identified registrant. Please see the website of the regulatory body for information on how to make a statutory duty to report complaint.
11. Did you intend to terminate the employment of the identified registrant; revoke, suspend or impose restrictions on the privileges of the identified registrant; dissolve a partnership or association with the identified registrant, but before you were able to do this did the identified registrant resign; relinquish privileges; or dissolve the partnership or association?



- If you answered yes to this question, you must make a report to the regulatory body of the identified registrant. Please see the website of the regulatory body for information on how to make a statutory duty to report complaint.
12. If I am an employer, partner or associate of an identified registrant and I am also a registrant, which section do I make a report under?
- If you are an employer, partner or associate of an identified registrant and you are also a registrant, you will need to turn your mind to which reporting obligation was triggered. It may be possible that all three reporting obligations under sections 58(2), 58(4) and 58(5) are triggered. Regardless, when you make the statutory duty to report complaint, be sure to identify which reporting obligation you are fulfilling and keep a record of your report so you can prove that you discharged your legal obligations if questioned in future.
13. What happens if I make a Statutory Duty to Report complaint?
- If you make a Statutory Duty to Report complaint the regulatory body will review the complaint to determine if there is substance to the complaint and if an investigation to gather more information is warranted. The regulatory body may contact you to discuss the process after a complaint is made.
14. What happens if I don't make a Statutory Duty to Report complaint when I should have?
- If you don't make a Statutory Duty to Report complaint when you should have, you failed to comply with the PGA. Failure to comply with the PGA may result in an investigation and enforcement action.



Version Control History

Version #	Date (YYY-MM-DD)	Modification	Approved by
1.0	2029-09-18	Initial Version	Kate Haines, Superintendent