



Office of the Fairness Commissioner

2022-2025 Business Plan



FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

**OFFICE OF THE FAIRNESS COMMISSIONER
BUREAU DU COMMISSAIRE À L'ÉQUITÉ**

An agency of the Government of Ontario
Un organisme du gouvernement de l'Ontario

Mandate of the Office:

The Office of the Fairness Commissioner (OFC) is an agency of the provincial government, which performs an important oversight role across Ontario's regulated professions, health regulatory colleges and Skilled Trades Ontario.

Its mandate is to help ensure that the registration processes in place at these organizations are transparent, objective, impartial and fair. The work of the OFC is designed to provide better outcomes for applicants who wish to practice in their chosen trade or profession, including both domestically and internationally trained individuals.

The OFC is led by the Fairness Commissioner, whose overall mandate is set out in section 13(3) of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (FARPACTA). This section provides as follows:

It is the function of the Fairness Commissioner to:

- (a) assess the registration practices of regulated professions based on their obligations under this Act and the regulations;
- (b) specify audit standards, the scope of audits, times when registration practices shall be reviewed, times when fair registration practices reports and auditors' reports shall be filed, the form of all reports and certificates required under this Act and the regulations and the information that they must contain;
- (c) consult with regulated professions on the cost, scope and timing of audits;
- (d) monitor third parties relied on by regulated professions to assess the qualifications of individuals applying for registration by a regulated profession to help ensure that their assessments are based on the obligations of regulated professions under this Act and the regulations;
- (e) provide information and advice to regulated professions and to professions that may be named as regulated professions to assist them in understanding how to comply with the requirements of this Act and the regulations;
- (f) advise regulated professions, government agencies, community agencies, colleges and universities, third parties relied on by regulated professions to assess qualifications and others as the Minister may direct with respect to matters under this Act and the regulations;

- (g) advise ministries with respect to matters under this Act and the regulations that affect a ministry or a regulated profession that falls under the jurisdiction of the ministry;
- (h) establish eligibility requirements that a person must meet to be qualified to conduct audits;
- (i) establish a roster of persons who in the opinion of the Fairness Commissioner have satisfied the eligibility requirements established under clause (h);
- (j) advise the Minister on matters related to the administration of this Act;
- (k) report to the Minister on registration practices related to internationally trained individuals and their registration by regulated professions and to other ministers in respect of those same issues as they relate to regulated professions that fall under the jurisdiction of their respective ministries; and
- (l) perform such other functions as may be assigned by the Lieutenant Governor in Council. 2006, c. 31, s. 13 (3)

This legislation applies to the 15 non-health regulatory bodies and to Skilled Trades Ontario. Section 22.5(1) of Schedule 2 of *the Regulated Health Professions Act, 1991* (RHPA) confers a similar mandate on the Fairness Commission with respect to the 26 health regulatory colleges.

Sections 7 through 12 of FARPACTA outline a number of specific duties to which all regulators must adhere as part of the process to register applicants. These obligations relate to such matters as the provision of information to applicants, the timeliness of registration decisions, the development of appropriate assessment processes, the availability of an internal review or appeal process, the right of applicants to make submissions during these processes, and the right to access relevant records for this purpose.

These responsibilities are subsets of the overarching general duty articulated in section 6 of FARPACTA, which indicates that: “A regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair”.

The four principles of transparency, objectivity, impartiality and fairness guide and inspire the mandate of the Fairness Commissioner.

In fulfilling this mandate, the OFC seeks to identify artificial or systemic barriers, that can impede the ability of qualified applicants to work in their chosen profession or compulsory trade. These barriers are especially problematic for internationally trained applicants whose competencies can go unrecognized unless regulators incorporate fair and progressive practices into their registration schemes.

The OFC also works collaboratively with its partners at the Ontario Ministry of Labour, Training, and Skills Development (MLTSD) and other oversight ministries to help ensure that Ontario's labour market goals for the employment of skilled professionals and tradespersons are met.

The OFC now oversees the licensing practices of 41 regulatory bodies. These organizations cover virtually every sector of the province's economy. The available statistics indicate that Ontario's workforce is aging. On this basis, it is critical for the province to secure a sufficient supply of skilled workers to replenish employees who have retired or are about to leave the workforce.

Newcomers represent an important source of new entrants into the labour market. Net migration (derived from both immigration and inter-provincial movement) is projected to account for a full 83 per cent of all population growth in the province over the 2019 to 2046 timeframe.¹ This means that only 17 per cent of this growth will come from in-province increases in population.

On this basis, the need to promote fair and timely access to the professions and compulsory trades -- with a focus on removing barriers that unnecessarily restrict access for internationally trained individuals and those working in other provinces -- constitutes an important component of a strategic labour-market plan.

There is also a critical need to improve collaboration among the various parties involved in the immigration, labour market, post-secondary education, professional registration, skills training, and employment spheres to help ensure that more applicants can more easily obtain meaningful employment. The OFC will continue to explore approaches that have worked in other jurisdictions and to discuss these with its partners in government and stakeholders.

Since the OFC was established in 2007, the office's methods of operation have evolved through undertaking focused compliance activities, adopting best practices, consulting with regulators, re-adjusting its focus and adapting to an ever-changing social, public health and labour market environment. During this

¹ Ontario Ministry of Finance, Ontario Population Projections Update, 2019-2046. October 2020.

continuing journey, the office is striving to become a modern regulator, be responsive to the current environment and be driven by evidence-based and sound policy choices.

The OFC also recognizes that there are multiple routes to promote the adoption of fair registration practices ranging from focused compliance activities to the identification and dissemination of best practices, to the provision of advisory and educational services. Over the life of this business plan, the OFC plans to enlarge its “toolbox” with an unwavering focus on achieving better outcomes for applicants.

The OFC’s Registration and Stakeholder Ecosystem

Our office’s registration and stakeholder ecosystem is broad and multi-layered. It mirrors the journey of applicants through various stages of the immigration, education, credentials assessment, professional registration, and employment processes. Appendix A of this business plan provides a visual representation of this ecosystem.

While our office regularly engages with many stakeholders, our relationships with Ontario’s 41 regulators is particularly important as they are directly accountable for implementing fair registration processes. During the first year of our business plan, our office worked hard to strengthen these relationships. As an example, the Fairness Commissioner met personally with each regulator to discuss his vision and to explore common issues.

The OFC similarly takes stakeholder engagement seriously. The office has consulted broadly on a number of important public policy initiatives. These include the recent enactment of amendments to FARPACTA, the implementation of our risk-informed compliance framework and an ongoing project to explore accountability relationships involving regulators and third-party service providers (i.e., those organizations that provide services to applicants on behalf of regulators).

These discussions have materially improved the quality of our work products. We will continue to engage with stakeholders on all our major initiatives during the second year of our business plan.

Priority Initiatives for the 2022-25 Business Plan

The government's decision to appoint a full-time Fairness Commissioner has, and will continue to, enable the OFC to roll out a robust list of legislative, policy-based and operational initiatives over the course of this three-year business plan. While the OFC's main objective is to improve registration outcomes for applicants, it has also taken steps to assume the mantle of a modern regulator and to reduce burdens for OFC staff and regulators.

In addition, the government's decision to place the OFC in MLTSD has allowed our office to leverage the resources available in the ministry's labour market and global talent and settlement services programs. These synergies have enabled our office to promote more wholistic approaches for the registration and employment of individuals applying to the professions and compulsory trades, particularly those who are internationally trained.

The 2022-23 fiscal year will represent the second full year of the OFC's major change agenda. During this period, the office will focus on six inter-related priority initiatives which are described below. Depending on implementation timetables, our office will continue to work on these items in the out-years of the business plan, which will be updated annually.

1. Amendments to FARPACTA that Focus on International Credentials Recognition:

In Spring 2021, the OFC and MLTSD co-led a total of 15 stakeholder roundtables to address barriers to labour mobility for both domestic and internationally trained professionals and tradespersons.

The stakeholder roundtables were designed to:

- offer participants from a variety of backgrounds the opportunity to identify barriers to the registration process for internationally trained professionals and tradespersons, and to share their experiences on how such barriers could be eliminated; and
- more clearly delineate the barriers to domestic labour mobility that applicants encounter and ways to address these issues.

Based on a review of the comments received, participants generally formed a consensus on the barriers that precipitated delayed or frustrated registration

decisions. Once the stakeholder perspectives were further evaluated, the government decided to introduce five amendments to FARPACTA to enable applicants, particularly those who are internationally trained, to become registered in a more predictable and efficient fashion. These amendments are designed to:

- Eliminate Canadian work experience requirements for professional registration and licensing unless the Minister of Labour, Training and Skills Development grants an exemption based on a demonstrated public health and safety risk.
- Reduce duplicative official language proficiency testing, so that newcomers need not complete multiple tests for the purposes of immigration, post-secondary / bridge training and professional licensing.
- Prescribe mandatory time limits for the completion of registration processes.
- Enable regulators to maintain the continuity of registration during emergency situations such as a pandemic.
- Provide for alternative program pathways through which accurate and timely information can be disseminated to newcomers about the prospects of becoming registered in Ontario and the timelines involved.

On December 2, 2021, these amendments were proclaimed into force. During 2022, the OFC will continue to work with MLTSD on stakeholder consultations to inform the development of the regulations that will accompany the legislative amendments. The OFC will also draft new operational policies to be included in our recently released *Legal Obligations and Best Practices Guide* to provide guidance to regulators on how to comply with their new compliance obligations.

2. Modernizing the OFCs Compliance Framework:

The OFC has taken several important steps on its journey to become a more modern and strategic regulator. In April 2020, the office initiated this process by launching the first phase of its risk-Informed compliance framework (RICF).

Under this framework, the OFC's has developed a series of modern regulator principles, and both historical performance indicators and forward-looking risk factors to allow the office to develop risk profiles for individual regulators. Once these profiles are finalized in early 2022, the OFC will develop new compliance plans for its regulators, paying substantially more attention to those that fall within the medium and high-risk categories.

So far this year, the OFC has assessed the historical performance of individual regulators and shared the results with them. The OFC has also provided regulators with a March 31, 2022 deadline to comply with any outstanding compliance recommendations. The RICF will fully come into place on April 1, 2022.

Our office is continuing to develop tools and procedures to operationalize the framework. In addition, following extensive consultations with stakeholders, in January 2022, the OFC disseminated its *Legislated Obligations and Fair Registration Best Practices Guide for Regulated Professions and Compulsory Trades*.

The first iteration of these guidelines will apply to the non-health sector and will take effect on a date to be determined in early 2022. A version for the health colleges, where colleges are subject to a slightly different regulatory regime, will be issued shortly thereafter. The OFC also plans to develop education and outreach activities to promote the new guides and provide regulators with advice on how to most effectively apply them.

3. The Ongoing Impacts of COVID-19 on the Continuity of Registration Processes across the Professions and Compulsory Trades:

In late 2020, the OFC distributed a pulse survey to regulated professions and health regulatory colleges to assess the impact of the pandemic on their registration processes. While the survey results confirmed that there are high levels of resilience in the regulatory sector, they also pointed to several topics that require further attention.

In the survey document, the OFC also asked regulators what role our office could play to assist them in dealing with the new reality. Eighty-nine per cent of respondents indicated that the OFC should compile a list of best practices to be shared across the sector. Over 80 per cent of respondents expressed a willingness to participate in a stakeholder community of practice to continue identifying common pandemic related challenges and solutions.

The OFC has since established a partnership with the Ontario Regulators Access Consortium (ORAC) to develop these best practices. Now that this relationship has been formalized, the two organizations will work collaboratively in 2022-23 to develop this list.

In addition, following discussions with the OFC, the government has included an amendment in its FARPACTA legislative package designed to better enable

regulators to maintain the continuity of registration during emergency situations, such as a pandemic. The regulations necessary to operationalize this important provision will be developed in the near future.

4. Development of a Diversity and Anti-racism Lens for the Registration of Professionals:

The registration of professionals and skilled tradespersons is influenced by the same sources of institutional bias common to other broader public sector activities. In that respect, many regulators have recognized the need to squarely identify diversity, inclusion and anti-racism issues that may impact their registration decisions, particularly as they relate to internationally trained applicants. There has been considerable progress made across the sector as regulators have worked to more proactively reflect upon, and implement, these practices.

The OFC believes that it is important to build upon this proactive work and to develop a more formal inclusion and anti-racism lens to scrutinize the registration process, as well as other tools that may add value. During 2021, the Office began to engage regulators and other stakeholders on how such initiatives could best be launched and embedded into organizational cultures.

As an example, the OFC partnered with the Health Profession Regulators of Ontario (HPRO) to organize a webinar on the collection of race-based data that was presented by the Ontario Human Rights Commission. This presentation was extremely well received. The OFC hopes to further this conversation amongst regulators by continuing to work with organizations like HRPO and by developing more education and outreach materials, such as webinars and panel discussions.

Consistent with this theme, and as indicated previously, the government also enacted an amendment to FARPACTA to eliminate Canadian work experience requirements for professional registration and licensing unless the MLTSD Minister grants an exemption based on a demonstrated public health and safety risk. In the last iteration of its business plan, the OFC had identified this topic as a priority equity-based issue for further consultation.

5. Accountability Measures for Third Party Service Providers:

Increasingly, regulators in Ontario are devolving important components of their assessment, examination and registration processes to third party service

providers. The importance of the work that such third parties perform has been driven home by the Covid-19 pandemic, where a number of these service providers were compelled to cancel examinations that regulators had asked them to oversee. These decisions created material impacts for registrants.

Under section 10(2) of FARPACTA, “if a regulated profession relies on a third party to assess qualifications, it shall take reasonable measures to ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair”. The upshot of this provision is that regulators remain legally accountable for the work that their third-party service providers undertake.

During 2021, the OFC established three working groups to explore these accountability issues in greater detail. These separate groups were composed of regulators, third party service providers and representatives from the immigration and settlement communities. The OFC convened a total of eight meetings and found that the diagnostic work and insights provided were extremely useful.

To build on this work, the OFC has since formalized the membership of a consolidated working group to further explore mechanisms to enhance the accountability relationship between the parties, improve client service and more actively disseminate best practices. The work of this committee will launch in Spring 2022.

6. Establishing the OFC as a Centre of Excellence for Fair Registration Practices:

Based on consultations with regulators and other stakeholders, the OFC continues to believe that substantial gaps exist in the sharing of information and best practices among the regulatory community. This is not surprising given the highly disparate sectors in which regulators operate.

On this basis, the OFC believes that there is an opportunity for the office to continue to augment its traditional education and consulting roles by, for example:

- (a) serving as a more proactive aggregator and disseminator of best practices, key learnings and trends;
- (b) designing and delivering a variety of training opportunities and shared learning experiences for participants;

(c) establishing partnerships with other organizations; and

(d) serving as a strategic advisor and/or facilitator for ministries to address issues involving their professions or compulsory trades.

During 2021, the OFC undertook some preliminary work to flesh out this concept. To date, the office has focused on ramping up more traditional communications vehicles with stakeholders by continuing to publish monthly *Newsletter* publications, making presentations to regulators at their annual meetings and participating with stakeholders to present webinars and conferences.

For 2022-2025, the OFC plans to introduce more education, outreach, and partnership initiatives, and consider the desirability of a more robust internet and social media presence.

Internal Workplace Priorities

Beginning in October 2021, following a lengthy and successful virtual work arrangement, OFC staff began a smooth, partial return to the office with protocols in place to ensure that everyone's health and safety was protected.

The OFC has also implemented an innovative Workplace Charter that will define the parameters of a respectful workplace, address the ever-changing regulatory landscape, and promote mental health and wellness. The office has also shown leadership in establishing, and sharing new approaches to foster diversity, address anti-racism and promote digital wellness.

As an example, OFC management has developed and shared with staff a new Anti-racism Action Plan. This document has also been circulated to MLTSD's Diversity and Anti-racism team. This important work will continue into 2022-2025.

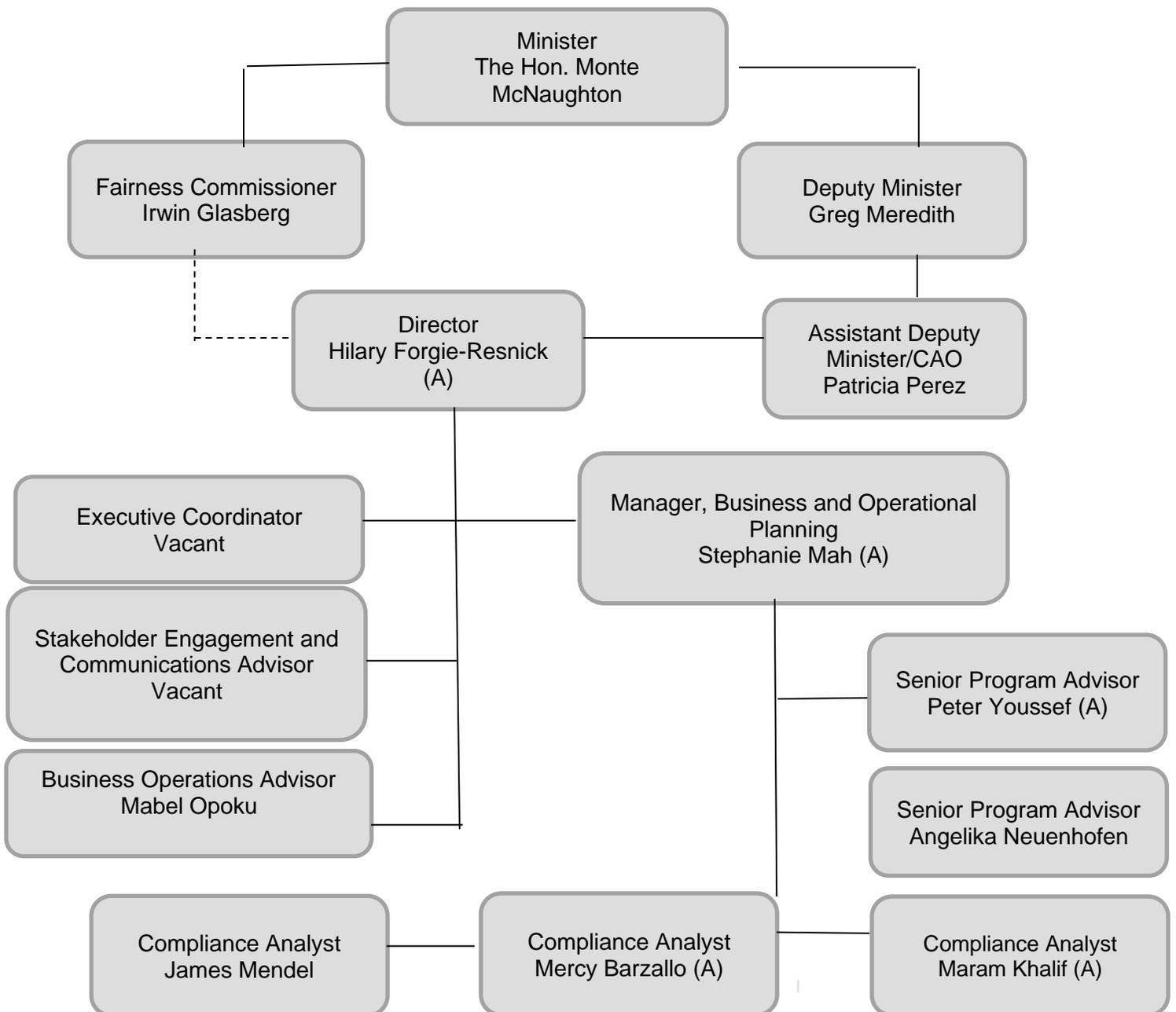
Office of the Fairness Commissioner Staff Functions

Position	Position Description	Position Number(s)	Classification
Executive Coordinator (Administration)	Coordinates key administrative and support functions for the Commissioner and Director	00263802	UEO009
Business Operation Advisor (Administration and Operations)	Coordinates office operations, budget forecasting, procurement, protection of health and safety, and facilities liaison	00263800	Executive Officer 1
Stakeholder Engagement and Communications Advisor	Coordinates all OFC communications and website-based activities	00263798	Information Officer 1
Compliance Analyst X 3	Carries out direct oversight of an assigned roster of regulators	00263804 00263805 00263806	Executive Officer 1
Senior Program Advisor X 2	Provides strategic policy input, development and research for OFC business plan activities	00264558 00264559	6A008
Manager, Business and Operational Planning	Provides manager level leadership, strategic direction, guidance and support to direct reports	00272527	M1104F
Director	Accountable for all office operations and the fulfillment of the Commissioner's vision for the OFC	00259685	Executive 2

OFFICE OF THE FAIRNESS COMMISSIONER

ORGANIZATIONAL STRUCTURE

(As described in Memorandum of Understanding between the Minister and The Fairness Commissioner)



Standard Account	2022-23 Estimates	2023-24 Estimates	2024-25 Estimates
Salaries & Wages	800,300	800,300	800,300
Benefits	119,500	119,500	119,500
Total SWB	919,800	919,800	919,800
ODOE: Transportation & Communication	0	0	0
Services (Including Lease)	858,200	858,100	858,100
Supplies & Equipment	0	0	0
Total ODOE	858,200	858,100	858,100
Grand Total	1,778,000	1,777,900	1,777,900

Performance Measurement Framework

The OFC believes that its overarching goal is to improve outcomes for registrants. At the end of the day, this means that all qualified applicants – including internationally trained registrants – can obtain employment that corresponds to their training and competencies.

As this is a system-wide performance metric and would be challenging for the OFC to measure on its own, the office does not believe that it can be used to evaluate its effectiveness. The OFC considers it important, however, to work with other organizations within the MLTSD ministry and elsewhere to ascertain whether a measure of this nature could be developed.

The OFC also has a mandate to work with regulators to incorporate the principles of transparency, objectivity, impartiality and fairness, as outlined in section 6 of FARPACTA, into their registration processes. In the past, the OFC

has reported that this goal will be achieved where “100 per cent of regulated professions achieve 100 per cent compliance with the fair access legislation”.

Given that the constituents of compliance are largely made up of output measures and that the OFC is migrating to a new risk-informed compliance framework, the office believes that the ongoing utility of this measure should be re-evaluated and that the OFC should identify one or more refreshed outcome measures.

In 2021, the OFC articulated four new interim performance indicators to constitute its new performance measurement framework. As the OFC transitions to its new risk-informed compliance framework and awaits the operationalization of the FARPACTA legislative amendments, the office concluded that it would be prudent to maintain these interim measures. These metrics are designed to test whether the OFC is taking concrete and proactive steps to encourage and assist regulators to improve their fair registration practices. These performance indicators are set out below:

- The annual reduction in the number of professions that the OFC places in its medium to high risk compliance categories.
- The number of best (commendable) practices that the OFC collects and disseminates to the professions on an annual basis.
- The number of events, webinars and publications that the OFC completes on an annual basis.
- The percentage of regulators and other stakeholders that identify the OFC as an effective or highly effective regulator and service delivery agency.

The particulars of this performance management framework are contained in the table that follows.

Performance Measurement Framework

Key Performance Indicators	Description	Related Activity	Performance Target* and 2021-22 Results
Annual reduction in the number of professions that the OFC places in its medium to high risk compliance categories	<ul style="list-style-type: none"> In 2021, the OFC plans to introduce a risk-informed compliance framework that will feature an analysis of key indicators to inform the placement of regulators into low/medium or high-risk compliance categories. This KPI will measure the OFC's success in monitoring/working with medium and high-risk regulators to improve their registration practices and to move them out of these categories. 	Oversight	20% reduction annually (The OFC will begin reporting on this commitment once the new framework is fully implemented. The transition phase of the new framework came into effect on April 1, 2021 and will be fully implemented on April 1, 2022).
Number of best (commendable) practices that the OFC collects and disseminates to the professions on an annual basis.	<ul style="list-style-type: none"> As part of the OFC's goal to become a Centre of Excellence, the Office will partner with regulators and other stakeholders to develop and/or distribute best practices to be shared across the regulatory community. 	Centre of Excellence	50 new best practices annually Fifty-six best practices have been included in the OFC's <i>new Legal Obligations and Best Practices Guide</i> . Others have been routinely included in the OFC's <i>Newsletter</i> publications.
Number of events, webinars and publications that the OFC completes on an annual basis	<ul style="list-style-type: none"> The OFC, in consultation with regulators, ministry partners and other stakeholders, will design, deliver and/or publish needs-based knowledge transfer or learning opportunities designed to address gaps in, and otherwise enhance, fair registration practices. 	Centre of Excellence	18 items in 2021-22 The OFC proceeded with 18 items in 2021-22, including monthly Newsletter publications, surveys, the OFC's annual report and business plan, and webinars in collaboration with our system partners (e.g., CNAR, HPRO). In addition, the OFC organized 15 roundtable sessions on the FARPACTA amendments and an additional eight on its third party service provider project

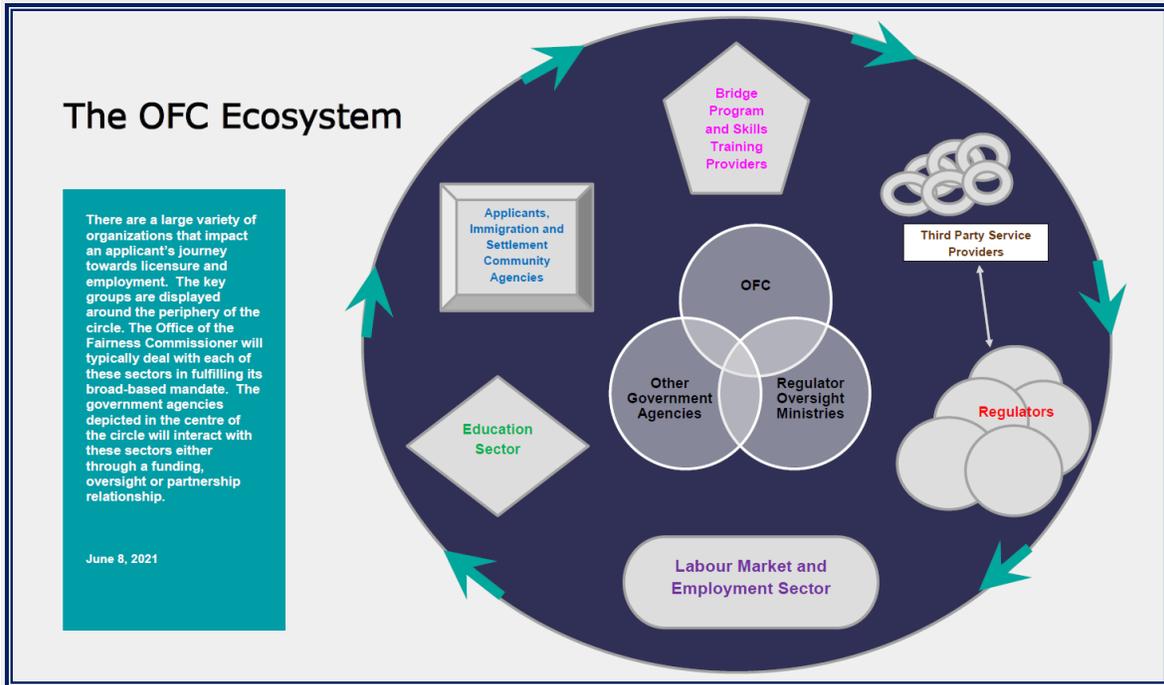
<p>Percentage of regulators and other stakeholders who identify the OFC as an effective or highly effective regulator and service delivery agency.</p>	<ul style="list-style-type: none"> The OFC will survey regulators and other stakeholders to track the Office's level of performance, degree of effectiveness and agility to produce better outcomes for registrants. 	<p>Centre of Excellence</p>	<p>80% Baseline</p> <p>The OFC sent a stakeholder satisfaction survey to regulators in December 2021 and the results will be available in the early new year.</p>
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*Each of these performance measures will constitute a three-year target and will be monitored and reported on annually.

Office of the Fairness Commissioner,

December 20, 2021

Appendix A – the OFC Ecosystem





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BUREAU DU COMMISSAIRE À L'ÉQUITÉ**

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