



Process for Issuing FRPA Compliance Orders

I. POLICY STATEMENT

Under the *Fair Registration Practices Act* (“FRPA”), regulating bodies have a duty to carry out registration practices that are transparent, objective, impartial and procedurally fair. While regulating bodies are often amenable to information and advice provided by the FRPA Review Officer, occasionally consultations between the Review Officer and regulating bodies are unsuccessful at resolving issues of non-compliance with the FRPA. In such cases, it can be necessary for the Review Officer to take formal steps to order and enforce a regulating body’s compliance, in accordance with the Review Officer’s authority under the FRPA.

This policy is intended to support the FRPA Review Officer with respect to issuing compliance orders in a transparent, consistent, and procedurally fair manner.

II. DEFINITIONS

‘compliance order’ means an order requiring compliance with the FRPA, as authorized under subsection 17(1) of the FRPA.

‘FRPA Review Office’ and ‘FRPA Office’ mean the office comprised of the Review Officer and any other employees required for administration of the FRPA.

‘proposed compliance order’ means a proposed order as described in section 18 of the FRPA.

‘regulating body’ means a regulating body as defined in section clause 2(i) of the FRPA.

‘Review Officer’ means a Review Officer appointed pursuant to section 13 of the Fair Registration Practices Act.

III. POLICY OBJECTIVES

This policy addresses when and how a Review Officer can issue a compliance order. It details the steps that the Review Officer should take prior to issuing a compliance order.

IV. APPLICATION

This policy applies to Review Officers appointed under the FRPA, as well as any other employees required for administration of the FRPA.

V. POLICY DIRECTIVES & GUIDELINES

Before Issuing a Compliance Order

1. Where the Review Officer determines that a regulatory body is in contravention of the FRPA, the Review Officer will first attempt to resolve the issue through consultation.
2. Before taking formal action, the Review Officer must confirm that the regulating body's contravention of the FRPA is not mandated by the regulating body's enabling legislation. If the regulating body's governing legislation does not allow compliance with FRPA, no compliance order may be issued, according to subsection 17(2) of FRPA.
3. The Review Officer will issue a formal **warning letter** to the regulating body. The letter will outline the alleged compliance issue(s), invite the regulatory body to participate in consultations with the Review Office, and allow an opportunity for the regulatory body to submit an action plan remedying the compliance issue.

Deciding to Issue a Compliance Order

1. If consultations do not result in an action plan through which the regulating body subsequently remedies the contravention of the FRPA, the Review Officer may decide to issue a **compliance order**.
2. The Review Officer will develop a draft of the proposed compliance order containing the following:
 - a) a description of the regulation, rule, policy, process, procedure, or action of the regulating body that is in contravention of the FRPA,
 - b) the full text of the applicable section(s) of the FRPA that the regulating body is alleged to be in contravention of,
 - c) the steps that the regulating body must take to remedy their contravention of the FRPA and comply with the proposed order, and
 - d) the timeframe in which the regulating body must remedy its contravention.

Providing Notice of the Proposed Compliance Order

1. After drafting a proposed compliance order, the Review Officer shall:
 - a) give **notice** of the proposed compliance order to the regulating body that is the subject of the proposed order, in accordance with section 18 of the FRPA.
2. The notice of a proposed compliance order shall contain:
 - a) a draft copy of the proposed compliance order,
 - b) a copy of all records related to proposed compliance order in the possession of the Review Officer, subject to the *Freedom of Information and Protection of Privacy Act*,
 - c) information on the right of the regulating body to provide new information and make written and oral submissions to the Review Officer in respect of the proposed order,
 - d) the time within which the information and submissions must be made, and
 - e) such other written information as the Review Officer deems necessary.
3. A notice of a proposed compliance order is deemed to have been received by the regulating body on the earlier of:
 - a) the date the regulating body acknowledges receipt of the notice, or
 - b) if mailed, the fifth business day after mailing the notice.

Documentation and Submissions

1. Within 30 days of receiving the notice of the proposed compliance order, or a longer time if specified in the notice, the regulating body may provide new information and make oral and written submissions to the Review Officer, in accordance with Article 18(3).
2. Upon a request by the regulating body, the Review Officer may extend the timeline for filing of new information and submissions.

Reconsideration by Review Officer

1. Within 30 days of either receiving further information or submissions from the regulating body, or at the end of the time specified for the regulating body to provide further information or submissions, the Review Officer shall review all the information relevant to the proposed compliance order. The Review Officer may decide to confirm their decision and issue the compliance order, decide to vary the text of the proposed compliance order, or decide against issuing the compliance order.
2. If the Review Officer varies the proposed compliance order, the Review Officer shall provide a new notice of the proposed compliance order in accordance with subsection 18(4) of the Act and this Policy. The process would proceed as per the steps identified above under Documentation and Submissions.

Issuing the Compliance Order

1. If the matter has not been addressed to the satisfaction of the Review Officer through the proposed compliance order, the Review Officer will issue the proposed compliance order as a formal compliance order to the regulating body.
2. The compliance order is deemed to take effect on the earlier of:
 - a. the date the regulating body acknowledges receipt of the compliance order, or
 - b. if mailed, the fifth business day after mailing the notice.

Obligation to Comply

1. In accordance with section 20(c) of the FRPA, regulatory bodies are required to comply with orders issued by the Review Officer within the time specified in the order.

Statutory Rights Not Affected

1. Nothing in this policy affects the right of the regulating body to have the Review Officer's compliance order reviewed by the Supreme Court of Nova Scotia, pursuant to section 19 of the FRPA.

VI. REFERENCES

Fair Registration Practices Act, SNS 2008, c 38.

Inquiries regarding this policy can be directed to:

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