

## The Trouble with Awards

by Erica Richler

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Awards season has arrived in North American popular culture. Some critics argue that such recognitions are flawed for numerous reasons including the use of non-inclusive selection criteria and providing a platform for celebrities to speak out on issues outside of their expertise.

Regulators often also bestow awards to leaders or members of the profession who inspire by their dedication, altruism or talent. Such recognition can encourage the profession to aspire to excellence. It can also remind the profession that the regulator does not just enforce minimum standards, but also fosters superior performance. The broader pride in the profession that can result from such acknowledgements can counter-balance the discouragement that many practitioners face and which can negatively affect both their performance and attitude. Properly structured awards criteria can actually promote values such as diversity and advances within the profession.

However, these benefits need to be balanced against the risks. One risk from regulatory awards arises where the recipient later requires an investigation, discipline or other enforcement measures. There have been a number of media reports of such situations including a best teacher of the year recipient accused of sexual abuse, and a lawyer/politician who received a prominent award, later alleged to have sexually harassed women for decades. See, for example: <https://www.ctvnews.ca/world/teacher-of-the-year-accused-of-sex-acts-with-student-1.4706767> and

<https://www.theglobeandmail.com/opinion/article-everyone-turns-to-lawyers-for-metoo-advice-but-the-legal-community/>.

These circumstances bring discredit to the regulator. More importantly, the ability of the regulator to perform its primary public protection functions is compromised. Harmed clients, colleagues and other witnesses may be reluctant to come forward because of the public accolades previously bestowed on the practitioner. Apparent conflicts of interest may arise as those involved in the recognition of the practitioner may not be seen as impartial in an investigation of that same person. Public confidence in the process or the appropriateness of the outcome could be undermined.

Additional risks exist. The time, energy and cost of the awards process are not available for core regulatory activities. Registration applications, investigations and discipline activities may be delayed to the extent that staff, Board and committee members take time to prepare for and attend the events. The amount of time committed to such an occasion may be surprising, especially if it takes the form of a gala event.

Public perception can also be an issue. Awards and recognitions are often seen as a professional association activity. Self-congratulatory functions can confuse members of the public and even the profession as to the public protection role of the regulator.

Regulators who confer awards to practitioners should constantly evaluate whether the public interest benefits outweigh the risks. There is a strong case to be made that this activity should be left to a separate

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professional association. A candid debate should be held as to the real reason why those in favour of continuing with the awards like them.

Regulators who decide to continue with this activity might consider some or all of the following safeguards:

- The public interest purpose of the award should be clearly articulated.
- All communications related to the award, including its name, should promote that public interest purpose.
- The criteria and process for selecting award recipients should be transparent and should reflect the public protection values of the regulator.
- There should be a rigorous screening of award candidates.
- There should be consideration as to whether the event can be downscaled so as to use an appropriate level of resources.

The selection and administration of the award should be separated as much as possible from the regulatory functions of the regulator. Ideally a separate awards committee or group, which does not involve compliance and enforcement staff or committee members, is ideal. It is even preferable that as few Board members as possible participate.

Should a concern about the conduct of an awards recipient arise, specific measures should be taken to avoid even a perception of a conflict of interest. For example, those involved in the acknowledgement should, as much as is possible, not be involved in the investigation, screening or adjudication of the concern.

Regulators should include explicit terms and conditions for the award that include the possibility of rescinding the award should the recipient, in the past or future, engage in conduct incompatible with the values of the regulator.

At first glance it may seem that acknowledging outstanding contributions by members of the profession is innocuous. However, further reflection may identify substantial risks to regulators who grant awards to practitioners.