

Measuring Regulatory Performance Part 1 – Recurring Features

by Rebecca Durcan
December 2022 - No. 273

How should regulators measure their regulatory performance? We were surprised at a [newspaper reporter's observation](#) that securities regulators were less effective regulators because they obtained lower fines and less prison time than in previous years.

We have conducted a review of the most recent annual reports (all for 2021) of ten Ontario regulators. Five were for regulators of health professions and five were for regulators for other professions. We selected a mix of larger, medium and smaller sized regulators. Our goal was to identify what objective measures of performance the regulators highlighted in their annual reports.

We were struck by the diversity of approaches taken to annual reports. A few were innovative and looked like a PowerPoint presentation with less narrative. Other reports were more traditional. For example, they contained statements from organizational leaders, recognized the contributions of board and committee members, included reports from all or the more significant committees or program areas, described recent initiatives, and attached a copy of the financial statements of the organization.

In our assessment, six of the regulators predominately followed the traditional model, even though performance measures were also included in the reports. For example, one report from a smaller regulator listed the names of all of the registrants who were no longer members for various reasons (e.g., retirement, resignation, revocation, suspension, death). Another report listed the registrants who had passed away in the previous year. One annual report was dominated by a transcript of the verbal

presentation made at the annual general meeting of its registrants.

This two-part series of articles is not intended to take away from the importance of qualitative information. For the foreseeable future, prose descriptions, analysis, proposals, and predictions about regulatory activities will continue to provide immensely significant information about the performance of regulators.

However, the main take away from these articles is to examine how regulators of professions can choose to publish quantifiable measures of their performance.

Dashboards

Dashboards provide a pictorial or graphic display of information that allows the reader to quickly assess information. Dashboards are increasingly used by organizations to provide executive level insight to Boards or Councils so as to enable high level monitoring while, at the same time, discouraging operational level intrusion.

Seven of the reports contained a significant amount (ten or more) of dashboards in their annual report.

A somewhat related concept is the length of the report. Reports containing numerous dashboards tended, with notable exceptions, to be shorter and less wordy than reports with fewer dashboards. Three of the reports were fewer than 25 pages and three contained between 26 and 50 pages. Four of the reports were over 50 pages long. One was over two hundred pages long. Another of the longer reports was difficult to measure in this way because the report was in a webpage format with numerous links. In total, the report would have been many hundreds of paper pages long.

FOR MORE INFORMATION

This newsletter is published by Steinecke Maciura LeBlanc, a law firm practising in the field of professional regulation. If you are not receiving a copy and would like one, please contact: Steinecke Maciura LeBlanc, 401 Bay Street, Suite 2308, P.O. Box 23, Toronto, ON M5H 2Y4, Tel: 416-599-2200 Fax: 416-593-7867, E-Mail: info@sml-law.com

WANT TO REPRINT AN ARTICLE

A number of readers have asked to reprint articles in their own newsletters. Our policy is that readers may reprint an article as long as credit is given to both the newsletter and the firm. Please send us a copy of the issue of the newsletter which contains a reprint from Grey Areas.

Throughput Numbers

All of the reports contained “throughput numbers” such as the number of applicants registered, the number of registrants participating in some form of quality assurance, the number of complaints, or the number of discipline hearings. Interestingly, which throughput numbers were included varied although most included registration, complaints / investigations and discipline numbers.

Seven of the reports compared at least some of the throughput numbers to previous years so that comparisons could be made.

Five of the reports provided information about the nature of the outcomes of complaints, investigations and discipline proceedings. Five of the reports (but not precisely the same five) also set out the frequency of the type of concerns raised (e.g., professionalism, standards of practice, competence, practice management). Some of the reports may have minimized this information because the information was contained elsewhere (e.g., for the health regulators, in their College Performance Measurement Framework¹ (CPMF) reports). In fact, one report referenced the CPMF and reported on its degree of compliance with the CPMF requirements rather than to report on those matters directly in its own annual report.

Eight of the reports contained information about the outcomes of quality improvement activities, such as participation rates in the programs and the percentage of successful completion of activities on a first attempt.

Timeliness

Surprisingly, perhaps, given the recent emphasis on timeliness, including by the courts, only three of the reports contained at least some indication of how quickly core regulatory activities (e.g., processing applications for registration, assessing complaints, completing discipline hearings) were accomplished.

Surveys

Three of the reports contained results of surveys. These included registrant satisfaction with their participation in the quality improvement program, participant satisfaction with continuing professional development programs offered by the regulator, satisfaction surveys about mentoring programs, and satisfaction with the practice management helpline.

Another report contained reference to one survey result related to customer satisfaction with its customer service in responding to inquiries.

Preliminary Observations

Annual reports of regulators are quite diverse in format and content. Even recurring measures of performance are not universally adopted and vary in their presentation. As such, regulators and policy makers can learn much by studying the annual reports of other regulators and adopting the more useful performance measures for themselves.

¹ While some might view the College Performance Measurement Framework (CPMF) reports of the health regulators as representing a better presentation of their performance, this article focuses on the annual reports of the regulators. The performance measures contained in the

CPMF reports are prescribed externally through a government-led process. The performance measures in a regulator’s annual report are largely (there are some minimum requirements that are externally imposed) chosen by the regulator themselves.

Grey Areas

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

Part 2

In Part 2 of this series, we will look at some of the less common and even unique performance measures contained in some regulators' annual reports.

To see the reports themselves, go to:

- [AOLS](#)
- [CMLTO](#)
- [CMO](#)
- [CNO](#)
- [COptomO](#)
- [CPSO](#)
- [HRPA](#)
- [LSO](#)
- [OAA](#)
- [RECO](#)