

Type	Commissioner’s Procedure/Policy	CP-009
Title	Denial/Withdrawal/Reinstatement of FPO Services	
Effective date	June 12, 2020	
Replaces	Denial/Withdrawal/Reinstatement of FPO Services [December 23, 2019]	
Next review date	June 11, 2023	

1 Purpose

This policy sets out the reasons why a member of the public, including a worker, their dependants, or an employer may be denied services or have services withdrawn by the Fair Practices Office (“FPO”).

2 Definitions

These definitions are intended to aid FPO staff and managers in their application of this Policy and to provide transparency to clients and individuals affected by this Policy.

- a. **“Abusive behavior”** includes, but is not limited to, aggressive, threatening, intimidating, insulting, degrading, racist, sexist, hateful, obscene or violent language or actions which can reasonably be expected to cause fear, distress or anxiety in the person who is the target of the behavior.

***Note:** Given the nature of the FPO’s business operations, there is an ever-present possibility for emotions to run high.*

Individuals may at times express themselves in a less than ideal manner. There may be profanity, insults and accusations. FPO staff have developed skills, and will continue to develop skills, that help them defuse such behavior. It is anticipated that most individuals will eventually regain their composure and may even offer an apology.

There will, however, be times when an individual’s behavior is so egregious, and surpasses the norms of acceptable social behavior, that it crosses a line into abusive behavior which will not be tolerated.

In keeping with the Commissioner’s Policy, the response to such behavior will be measured, well considered, and communicated in a respectful and transparent manner.

[Definition and Note taken from Commissioner’s Zero Tolerance Policy (CP-002)]

- b. **“Serious threats”** includes, but is not limited to, threats of suicide, bombings, or threats of physical violence towards any FPO staff, or public servant.
- c. **“Vexatious behavior”** includes, but is not limited to, persistently bringing matters forward that have already been determined by the Appeals Commission for Alberta Worker’s Compensation (“AC”), or by the Courts or other Tribunal, and that FPO staff have concluded cannot succeed. This type of conduct also meets the definition of “abusive behavior” and “abuse of process”.
- d. **“Alternate representation”** occurs when an individual or employer has signed a Formal Representative Form or Informal Representative Form—through the Workers’ Compensation Board (“WCB”), the

Medical Panels Office (“MPO”), or the AC – making someone other than a FPO Worker Appeals Advisor or FPO Employer Appeals Advisor to represent them.

Note: *The WCB allows multiple representatives to be active on one file. So does the MPO. The AC does not allow it. Allowing multiple representatives on a file may occur, for example, if a worker was injured in a motor vehicle accident. This gives rise to a “third party” action whereby a worker may be allowed to hire a lawyer to sue the person who caused the accident, as long as the other person at fault was “not in the course of employment.”*

Although the FPO recognizes that the WCB system sometimes allows multiple representatives, for the purposes of pursuing workers’ compensation appeals, the FPO will generally insist that they be the sole representative to avoid potential conflicts or disagreements with other representatives listed on the claim.

If the FPO is aware that a paid representative is acting on the file, even if listed as an Informal Representative, the FPO will withdraw services.

3 Authority

Fair Practices Office Regulation s.3(2)

4 Rationale

FPO services are accessible to all Albertans and Alberta-based employers. There are, however, situations when services may be denied or withdrawn.

5 Scope

FPO branch managers decide when to refuse, withdraw, or to reinstate services. These decisions are reviewable by the Fair Practices Commissioner (“FPC”) if the decision is disputed. Individuals/clients may re-apply for services in six months, or earlier if the respective branch manager or the FPC deems it appropriate.

6 Policy

The FPO *may* deny or withdraw services for the following reasons:

6.1 Behavioral

- a. If the individual behaves in an abusive, aggressive, violent, or threatening manner towards FPO staff, other FPO clients, or damages FPO property.
- b. If services have been previously denied or withdrawn and the individual has provided no indication of behavioral change.
- c. If an individual makes serious threats, including bomb threats or threats of suicide.
- d. If there are indications of vexatious behavior or abuse of process.
- e. If there are indications of misrepresentation, WCB or criminal fraud investigations in progress, Criminal Code charges laid or existing convictions related to WCB matters.

6.2 Standing

- a. If the individual does not meet the definition of “worker” in the Alberta *Workers’ Compensation Act*.
- b. If the employer does not meet the definition of “employer” under the Alberta *Workers’ Compensation Act*.
- c. If an individual or employer has missed a statutory time limit under the Alberta *Workers’ Compensation Act*; in doing so they have lost their standing—the right to challenge the related decision or determination made by the WCB.
- d. If the Alberta Ombudsman or the Courts are seized with the same individual/client and issue(s).
- e. If a client has or obtains alternate representation.

6.3 Merit/inconsistent purpose

- a. If the Worker Appeals Advisor Branch (“WAAB”), the Employer Appeals Advisor Branch (“EAAB”), or the Fairness Review Branch (“FRB”) determines there is a lack of merit to the request for services based on the current evidence on the file.
- b. If the individual requests assistance with disentitlement of their own workers’ compensation benefits.
- c. If the individual requests assistance with an application under Section 21(3) of the *Workers’ Compensation Act* to have another worker’s claim denied.
- d. If the individual requests assistance with an agreement to waive or forego WCB benefits under Section 140 of the *Act*.
- e. If FPO assistance will put the individual at risk of decreased benefits or serious financial hardship.

Note: The above list is comprehensive, but is not exhaustive. There may be other matters that are similar in type and quality to the matters listed above that may trigger the denial or withdrawal of FPO services.

7 Process

7.1 General/initial steps

- a. The Administrative Assistant, Business Process Specialist (“BPS”), Case Assistant or Appeals Advisor (“AA”) will inform their manager if there are concerns about providing services to a client.
- b. The manager will review the individual/client’s WCB claim file and any additional information provided by the individual/client.
- c. The manager will determine whether to provide services or not.

7.2 Informing the individual/client

- a. If the individual does not dispute the decision to deny, withdraw or not reinstate services, the BPS, AA or manager will write to the individual confirming the reasons for the decision and the agreement not to proceed ***The reasons must draw from this Policy.***

- b. If the individual disagrees with the decision, the manager will write to the individual and explain the reasons for not providing services. The letter will also inform the individual or client that they can re-apply for services in six month's time if the reasons are "behavioural" (see 7.3 below), and that they can request the FPC review the manager's decision (see 7.4 below).

7.3 Applications for reinstatement of services

- a. When the reasons for denying or withdrawing services are "behavioral" and six months has passed from FPO's decision date, the barred individual may apply in writing to the FPO to reinstate services. In exceptional cases where the WCB is pursuing fraud charges against a client, the period of denial may extend beyond six months. The individual should take ownership over their behavior and its effects and show that they will not repeat the same or similar behavior on the go-forward.
- b. Upon receiving a request in writing for the reinstatement of services, the responsible manager will organize an in-person discussion with the affected AA or administrative staff and, with input from those present, determine if services will be reinstated.
- c. If the responsible manager declines to reinstate services, the reasons for their decision will be sent in writing to the individual, along with notification of the individual's right to have the FPC review the manager's decision (see Policy FPO-001, s.3.5).
- d. If services were denied or withdrawn because an individual obtained alternate representation, the individual or client can apply for reinstatement at any time with proof that they have named the FPO as their authorized representative.

7.4 Request for FPC to review decision

If an individual/client disagrees with the manager's decision to deny, withdraw or not to reinstate services, they may make a submission to the Fair Practices Commissioner. The submission to the Commissioner must:

- a. be in writing,
- b. set out detailed reasons for the request, and
- c. be submitted to the FPC within 30 days of the manager's decision.

The submission should be sent to the FPO's Executive Assistant, whose mailing and email address will be included in the manager's letter.

8 Related content

- a. CP-002 – Zero Tolerance Policy
- b. FPO branch policies operationalizing this Policy
- c. *Workers' Compensation Act*, Section 21(3), Section 140
<https://www.qp.alberta.ca/documents/Acts/W15.pdf>

9 Authorizing signature and date

Approved by	Harold Robinson, Fair Practices Commissioner
Signature	[original signed]
Date	June 12, 2020