



## Questions and Answers from the Member Consultation Meeting on September 30<sup>th</sup>

**Q: Would you please provide additional info for what is considered "multiple instances of non-compliance"?**

**A:** Multiple instances of non-compliance would include repetitive non-compliance issues. For example multiple late locates.

The Board Policy on Late Locates helps to define multiple instances as it relates to late locates. Please see a copy of the Board Policy on Late Locates [here](#)

**Q: Where did the number of \$10,000 for fines come from?**

**A:** That is the number that exists in O. Reg. 92/14: GOVERNANCE OF THE CORPORATION. When developing the regulations in 2014 the province established a regulation under the act that has two parts to it:

- 1) Schedule 2 of By-Law 2 will be binding upon the membership
- 2) The maximum Administrative Monetary Amount (AMA) will be \$10,000

The \$10,000 is a fairly standard number in comparison with other provincial regulatory regimes.

**Q: The funding for the new Compliance Committee will come from what source?**

**A:** Ontario One Call would pay for the new Compliance Committee through its Member's fees. Each party would be responsible for their own legal fees. The member will not incur any additional costs other than their own.

**Q: Based on past experience how often in a year would you expect an issue to go to mediation?**

**A:** In theory, a member could end up before the Compliance Committee multiple times in a year. There are several offenses, such as late locates, digging without locates, and delinquent accounts, that could be escalated. Some matters may go to a full hearing or they could be resolved in arbitration or mediation. Most challenges can be dealt with through an operational





approach like the complaints process.

**Q: Would AMAs only apply to late locates, or anything a member does?**

**A:** Anything a member does that is in contravention of the Act and the terms of Membership could be subject to a financial penalty. It is not just late locates but also excavation without locates, not providing mapping records, delinquent accounts, and much more. In theory, there are several ways a member could end up in a compliance process, practically speaking late locates are 99% of the challenges Ontario One Call faces, but there are other ways that a member could end up in a compliance process.

**Q: What is the thinking behind fee schedule changes needing to be approved by a majority of members and not 2/3 majority?**

**A:** When the by-laws were created in 2014, there was a sense that there should be a supermajority for fee schedule changes. A regular majority would be fine for routine items like voting in a new board of directors or improving by-law changes. For big items like a fee schedule change, there needed to be a supermajority. A fee schedule vote is different from a by-law vote because with a by-law vote, all members vote in their category and all categories have the same number of points but in a fee schedule change, it's a one member, one vote scenario.

**Q: Currently project and standard locates have the same compliance timelines; will that change?**

**A:** The 5 business days is in the law so nothing in the by-laws can change that. By-laws must stay consistent with the legislation. The best way to deal with issues related to timelines is for members to work with excavators to determine a different timeline or how locates can be delivered. This is an appropriate approach under the law and permitted under the act.

**Q: Understand the reasoning for mandatory DIRT reporting.. however.. by leaving out the small members - you may miss the metrics of % damages vs % tickets received.. analysis of the data with smaller members may reveal issues with smaller members needing more support to meet the requirements of the Act**

**A:** Smaller members may still participate in the DIRT report voluntarily, and that would be very welcome. The intent of having mandatory participation for the Top 20 members by notification volume was to make sure there is a critical mass of representative data submitted (since those





members receive approximately 2/3 of the notifications) without putting an administrative burden on the other 800 members.

**Q: How is Ontario One Call compliance being corrected?**

**A:** Three improvements are being suggested

- 1) Revisions to ON1Call By-Laws
  - Establishes new compliance process focused on impartial mediation & arbitration
- 2) Implementation of the performance-based fee schedule
  - Allows day-to-day late locates to be dealt with outside of compliance; promotes market-driven solutions
- 3) New Board Policy on compliance
  - Provides guidance and clarity to Compliance Committee, members, excavators, and stakeholders

**Q: 360 feedback: What is the consequence if Members cannot comply with the 3 days turnaround to update the status?**

**A:** A vast majority of 360 feedback responses are provided instantaneously. Most members have updated their processes allowing 360 feedback to be updated automatically when their locator completes a locate. When Ontario One Call is looking at a Member locate performance, we are not looking at it in real-time, we look at it retrospectively, usually once a month after it is completed. Looking at September as an example, Ontario One Call would look at a Member's September locate performance around mid-late October.

**Q: What about when renegotiated dates put up are put into 360 feedback, but there were no talks between the excavator and the locator?**

**A:** Renegotiated dates must be agreed to by both the Member and the Excavator. If a renegotiated date has been entered without the Excavators consent, they will need to start the compliance process by reaching out to the compliance department at [Compliance@OntarioOnCall.ca](mailto:Compliance@OntarioOnCall.ca)





**Q: Approximately how many fines, if any, have been issued by the current Compliance Committee to date? If fines have been issued, what was the maximum value?**

**A:** To date, no penalties have been issued to those that have been before the Compliance Committee. That is one of the key reasons why Ontario One Call wants to move forward with a different Compliance approach.

**Q: How are renegotiated dates considered in the performance-based billing? If an excavator mutually agrees to reschedule the locate with the Member/LSP, would this still be considered a Late locate as it would be completed after the original scheduled due date?**

**A:** No, the renegotiated data becomes the new due date. So, if a renegotiated date is fulfilled it looks like an on-time locate a delivery in our system.

**Q: By making DIRT reporting a requirement for the top 20 companies, will Ontario One Call financially support the ORCGA for the tracking of the information into the DIRT database?**

**A:** The Ontario One Call Board of Directors has approved modest funding for the top 20 members to help offset the administrative costs of providing data to the DIRT reporting system.

**Q: Can we request a copy of our performance data so we can see if we are a winner or loser prior to changes to allow for operational changes to be made?**

**A:** Members can check their performance data at any time by logging into 360 feedback. If you need help please reach out to [MemberServices@OntarioOneCall.ca](mailto:MemberServices@OntarioOneCall.ca)

Before Performance-Based Billing goes into effect, data with relative performance will be sent to Members to help them understand what to expect.

**Q: FEES SCHEDULE: Can you confirm that performance-based billing will be based on REQUESTS RECEIVED by Ontario One Call, not on TICKETS ISSUED to Members?**

**A:** Performance-Based Billing will use Member notifications. Member notifications include notifications sent to a Member as well as system processed notifications like checkbox clearances, ALA, and suppressions.





**Q: Will members be provided with the 360 feedback regularly throughout the year?**

**A:** Members have always been able to access their 360 feedback and review performance by logging into the Web Portal. If a Member has a question or needs assistance please reach out to [MemberServices@OntarioOneCall.ca](mailto:MemberServices@OntarioOneCall.ca). Plus, if the Membership approves Performance-Based Billing, Ontario One Call will provide more details on relative performance data, so Members will not only know their performance data, but will be able to see how they compare to others in their area, sectors, and overall.

**Q: Would it be possible to get monthly performance reports?**

**A:** Members can currently pull their performance reports through our Web Portal. If approved by the Membership, Ontario One Call will look into providing relative reports so members can see how they are performing compared to others. If you aren't sure how to access your performance data please reach out to [MemberServices@OntarioOneCall.ca](mailto:MemberServices@OntarioOneCall.ca)

**Q: Why the "fee swing" capped at 30%? I would expect a 95% increase in fees shown in Example #2 in one year would provide a very strong incentive to get locates under control!**

**A:** The 30% performance fee cap has been discussed with the Board, and they are open to hearing feedback. The Board's general thought was that they wanted the fee swing to have enough financial consequences. If you feel that Members should have a greater swing, both negative and positive, feel free to write that down in your feedback and share that information. Make sure to send written feedback before October 16<sup>th</sup>. The Board would be open to hearing if the Membership would be willing to increase or decrease the percentage swing.

**Q: How will Ontario One Call manage ticket dumping by Contractors? How would an excavator be charged an AMA if they aren't members?**

**A:** It's a great question, as it relates to how compliance works with Excavators. Excavators are not Members under the legislation and are not subject to Schedule 2 of By-Law 2. So, they wouldn't go to hearings, and they are not subject to AMA's. The approach that we take with Excavators who abuse the system, whether it's ticket dumping or relocate abuse, is that Ontario One Call needs to address it on an operational basis. Our teams in Client Services, Compliance, and Education & Training help to identify and work with these Excavators to help prevent and correct these behaviours.





**Q: Who do I contact for help with reporting**

**A:** Please contact [MemberServices@OntarioOneCall.ca](mailto:MemberServices@OntarioOneCall.ca)

**Q: Municipalities have several utilities i.e water, sanitary, storm, traffic signals, etc. How does this fee schedule model factor this in terms of determining fees for municipalities? Are the fees determined overall for a municipality or by utility type?**

**A:** Fees are determined by how a Member has set-up their station codes. Some Municipalities have one set of station codes for water and another set of station codes for traffic lights, while other Municipalities combine their work into one station code. Depending on how a Member has these set-up, will determine how they will be billed. For example, if a Member has a water station code and does well they might have a lower payment for that station code, but if the same Member has a traffic light station code that struggles with the timely delivery of locates they might have to pay more for that code.

**Q: My peer group is province-wide but the pressures we experience are not equal province-wide. How will you account for - for example, extreme construction boom in GTA versus relatively quiet times in Ottawa or Sudbury?**

**A:** Construction booms happen all over and pressures can be felt throughout the province. Often pressures that are felt in one area are repeated in other areas.

It's important to realize that everyone who is putting in a locate is doing important work, and it's important that Members and their LSPs properly resource.

But, if there are atypical volumes or if an excavator has an unusual project, the best advice we can give is for them to utilize different industry solutions. Like utilizing dedicated locator programs. By utilizing these types of solutions, Excavators can resource for themselves and keep their projects on-time.

**Q: Is there a reason you are looking to start performance-based billing in 2022, especially when the late locate issues are so prevalent in the past couple of years?**

**A:** Ontario One Call wanted to provide time for Members to understand their performance





relative to others. The new fee schedule would be an important metric for everyone. If you feel that the new fee schedule should be implemented earlier or later, that is good written feedback you should be providing to Ontario One Call before the October 16<sup>th</sup> deadline.

**Q: If a third party performs locates on a Members behave, and the locates are late, does this affect the Members performance rating and fees?**

**A:** Regardless of who performs a locate, the Member themselves or a third-party Locate Service Provider, it is the responsibility of the Member to ensure that locates are complete within the 5 business days, as stipulated in the Act. Performance numbers will reflect how the Member or the Members designate (Locate Service Provider) responds to the locates.

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