

By-Law Review – Late Locate Policy

Policy Title: Late Locates

Policy: In the situation where the ~~Manager of Investigations and Compliance of Ontario One Call~~ (“~~Manager of IC~~”) ~~investigator~~ becomes aware of a member’s deficiency in delivering timely locates and the performance is deemed to be outside the ~~guidelines requirements~~ of the Act, S 6-1 (a) (b),2, the ~~Manager of IC investigator~~ will identify the late locate matter to the member and provide any relevant assistance ~~and information in Manager of IC’s possession in order~~ to assist the member in correcting the matter. Where this approach has not resolved the matter the investigator may refer the matter to the Compliance Committee for a hearing.

Purpose: ~~To assist any member encountering late locates in becoming compliant and staying within the scope of the Act and its Regulations, this policy gives a clear understanding of how the Manager of IC will action non-compliance regarding late locates.~~ To ensure that matters of ongoing non-compliance in providing timely locates are addressed in a prompt and measured manner.

Scope: All members of Ontario One Call.

Procedure: Members are responsible for tracking and reporting their own locate delivery performance. Ontario One Call shall assist members and stakeholders by providing transparency in how that data is collected and reported. The ~~Manager of IC investigator~~ is to be guided by the following principles relating to the late provision of locates:

1. The amount of non-compliance, relative to a member’s overall volume of requests
2. The duration of non-compliance beyond the statutory time frame
3. The impact of non-compliance on excavators and other stakeholders
4. The impact of non-compliance on other members

The ~~Manager of IC investigator~~ will use various methods that they consider useful for the disposition of the matter in order to assist the member, regarding the non-compliance of late locates, under Schedule 2, to By-Law No.2, Part II. These steps could include the provision of further information and analysis, support in determining different locate delivery options and other actions to improve the member’s performance through changes in their system settings with ON1Call.

If the volume of late locates exceeds that which can be reasonably excused on factors beyond the members’ control (Acts of God, faulty information provided by excavators, etc.), the ~~Manager of IC investigator~~ may refer the matter to the Compliance Committee of Ontario One Call for a hearing.

While members are evaluated on their overall performance, the ~~Manager of IC investigator~~ and Compliance Committee will recognize and give appropriate weight to individual complaints which have been documented.

Compliance activities around late locates generally focus on a large volume of locates tracked over typically two or three months. Any improvement subsequent to the period in question does not constitute a “cure period” or an action which may mitigate the consequence of the previous non-compliance. A member could conceivably find themselves before the Compliance Committee for late locates multiple times in a given calendar year.

As Ontario One Call has a performance-based fee schedule where members are rewarded or penalized for their relative locate delivery performance, the Compliance Committee should not frame its thinking around imposing penalties for each individual occurrence of non-compliance. Rather, the Compliance Committee should think about making a decision that would address the systematic issues at hand.

It is fully appropriate for the Compliance Committee to impose an AMA on a suspended basis, providing that members take certain actions and achieve specific outcomes within a specified time frame no greater than six months.

Any AMA applied by the Compliance Committee for any case referred to it should be no greater than \$10,000. While a matter might contain multiple numbers of violations, there should be one global amount applied to the entire matter which cannot be greater than \$10,000, as per O. Reg. 92/14.

The Act states in Section 6 (2) that a member shall make “all reasonable attempts” to fulfil its requirements in providing a locate. For greater clarity, the Board’s interpretation of “reasonable attempts” for an individual locate is that a member has attended the site but was not able to complete a locate for technical reasons, or was prevented from attending a site due to adverse weather or Act of God. With respects to longer time frames, where they may be thousands of locate requests, the Board’s expectation is that members would be able to demonstrate “reasonable attempts” by showing how their staffing resources and business plan was appropriate based on previous volumes and expected future volumes. The onus is on the member to demonstrate how their actions may be considered reasonable and how events which negatively impacted their delivery of locates were not reasonably foreseeable.