#14 Decoding HRPA’s objects

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Recently, I published an article on the importance of objects\(^1\), especially for statutory professional regulatory bodies. This time around let’s have a look at how to interpret objects. It simply isn’t as easy as saying that HRPA can do anything and everything that can be linked to any of its objects. The reason is this latter approach can lead to conflicting actions.

“For instance, one object states that HRPA must enforce standards of ethics, but another object states that HRPA is to promote and protect the welfare and interests of the human resources profession. Doing the former may be seen as working against the latter. How are these different tensions resolved?”

Objects are meant to be interpreted as a whole. The Ontario Legislature did not intend HRPA to have contradictory objects—if it had, the Legislature would also have provided some means or guidance as to how to resolve the conflicts. So what did the Ontario Legislature intend? This

\(^1\) - https://www.linkedin.com/post/edit/why-objects-so-importantin-500-words-less-claude
brings us to the art and skill of statutory interpretation. Statutory interpretation refers to a set of principles and analytical techniques that help make sense of legislation.

One such principle is to consider the intent of the legislation. William Lahey² has noted:

“It is worth stressing that to be self-regulated under legislation means to be self-regulated in the public interest. As explained above, the rationale for any regulation of [a profession] is that regulation is needed in order to protect those who require the specialized knowledge and skill of [the regulated professionals]. One implication of this is that the institute/association or Board that it is given legislative authority and responsibility to carry out regulatory functions must be thought of as a public body that is accountable to the public.”

In other words, the public protection mandate must inform the interpretation of any and all the objects.

A second principle is that of coherence. The idea is that the Legislature did not intend HRPA’s objects to be inconsistent or contradictory. Any interpretation of an object that leads to harmony amongst and between the objects is to be preferred to an interpretation that leads to conflict amongst and between the objects. Any interpretation of an object that reinforces other objects is to be preferred to one that does not. The various objects should be interpreted in such a way that the objects are at least consistent if not synergistic.

A third useful principle is that ‘the specific trumps the general’—specific provisions will take precedence over general statements. For instance, HRPA’s first object is quite specific in stating what activities HRPA must include in governing and regulating its members and firms. This specificity is a way for the Legislature to underscore its intent.

Let’s return to the initial example. One object states that HRPA must enforce standards of ethics, another object states that HRPA is to promote and protect the welfare and interests of the human resources profession. How is this tension resolved? Given the intent of the legislation which is to promote and protect the public interest, given the principle of coherence, and given the specificity of HRPA’s first object requiring HRPA to establish, maintain, develop and enforce standards of professional ethics, the correct interpretation is pretty clear.

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