



Professional Engineers and Geoscientists of BC

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COMPLAINT INVESTIGATION PROCEDURE

In case of any discrepancy between this document and the Engineers and Geoscientists Act (the "Act") or the Bylaws passed under the Act, the Act and the Bylaws shall govern. In case of any conflict between any of this document, the Act, the Bylaws and the BC Freedom of Information and Protection of Privacy Act ("FIPPA"), FIPPA governs.

Complaints to the Association about its members and license holders are governed by sections 28-39 of the Act, as interpreted by the courts. If the Association receives a complaint, the Registrar first determines that the complaint falls within the jurisdiction of the Act. Then the Registrar must designate a member to review the complaint (the "Designated Reviewer"), who determines if the complaint file should be closed or sent to the Association's Investigation Committee for detailed and further investigation. After completing its investigation, the Investigation Committee will either close the file or, if warranted, will send the complaint to the Association's Discipline Committee for disciplinary action.

This procedure was created to advise complainants and members of the Association's investigation and discipline process and how, when and by whom decisions are made. The procedure is also designed to assist the Registrar, the Designated Reviewer and the Investigation Committee in reaching informed decisions on the disposition of complaint files expeditiously, while striving to maintain fairness to all the parties involved.

In accordance with the Act, and the FIPPA, all information about complaints and investigations is kept strictly confidential until a Notice of Inquiry has been served, except where public duty requires earlier disclosure.

Any person wishing to make a complaint (a "complainant") about the professional conduct or behaviour of a member or license holder can do so through the following procedure:

Intake and Confirmation of Complaint

1. A letter setting out the circumstances on which the complaint is based is sufficient, but copies of relevant documents should be included. Complaint letters and enclosures should be mailed or delivered to the Association c/o the Director, Investigation & Discipline (the "Director") and should be of reproducible quality.
2. The Association will write to the complainant to acknowledge receipt of the complaint and may request further information or clarification from the complainant. In cases where the complaint concerns common strata property and the complainant is not the duly designated representative of the Strata Council, the Association requires written confirmation from the Chair of the Strata Council that the complaint is being made on behalf of all of the owners.
3. Once the required information and documents have been received from the complainant and the Association has verified that the complaint relates to the Act, the Association will normally write to the member, enclosing a copy of the complaint materials and requesting a written response to the complaint. However, the Registrar may choose to refer the complaint directly to the Designated Reviewer without seeking a response to the complaint from the member.

4. Upon receipt of the member's response, the Association will determine if further information or comments on the response are required from the complainant.
5. The Association may also request or obtain documents from other sources, as necessary.

Designated Reviewer's Decision on the Complaint

6. Once the information necessary to make a determination has been gathered, the Registrar will appoint the Designated Reviewer for the complaint.

If after the review the Designated Reviewer determines that the complaint file should be closed because the allegations and/or evidence in support cannot possibly result in charges against the member under the *Act*, the Registrar will write to the complainant and the member informing them of the closure of the file and the Designated Reviewer's reasons.

If the Designated Reviewer considers that further investigation of the complaint is warranted, the Designated Reviewer will submit a report to the Investigation Committee with his or her reasons for recommending further investigation.

Investigations of members can also be initiated by the Association's Investigation Committee pursuant to its powers under subsection 30(3) of the *Act*. The procedures set out below from paragraph 9 onwards are generally applicable to an investigation under subsection 30(3).

Further Investigation by the Investigation Committee

7. The Investigation Committee will consider the report from the Designated Reviewer and decide whether it is appropriate to investigate the matter further. If it decides to investigate, the Committee or a subcommittee may request additional information and documents from the member or others with knowledge of the circumstances relating to the complaint. The collection of documents and information and its review by the Investigation Committee or subcommittee can be a time consuming process. Failure by a member to respond to a request for information or documents from the Investigation Committee is a breach of the *Act* and may result in disciplinary action.

Decision by the Investigation Committee

8. If the Investigation Committee determines that the complaint should not be sent to the Discipline Committee for disciplinary action, the Association will write to the complainant and the member informing them of the Investigation Committee's reasons for its decision. The Investigation Committee or subcommittee may also make recommendations in writing or in person to the member on how the member can improve his or her practice or conduct.
9. If the Investigation Committee feels that the matter should be sent to the Discipline Committee for further action,, the Investigation Committee will ask the Association's lawyer to review the file materials and, if there is sufficient evidence to proceed, the lawyer will draft a Notice of Inquiry for consideration by the Investigation Committee.
10. After approval of the Notice of Inquiry by the Investigation Committee as its recommendation for a disciplinary inquiry (hearing), a member of the Discipline Committee signs the Notice of Inquiry and it is served on the member. The Notice of Inquiry sets out the allegations and the date for a hearing before a panel of the Discipline Committee.

Decision by the Discipline Committee - Consent Order

11. Prior to the hearing, a Consent Order may be offered to the member by a Discipline Committee Review Panel (the "Review Panel") to resolve the complaint voluntarily without having to proceed to a hearing. The Consent Order is prepared by members of a Review Panel, who review the file materials and, on the assumption the charges will be proven, determine an appropriate penalty to offer to the member to conclude the case.
12. If the member decides to accept the Consent Order, the allegations contained in the Notice of Inquiry are admitted and the agreed upon penalty is imposed. The Consent Order is signed by the member and the Review Panel. Notice of the Consent Order is distributed to municipalities throughout the Province, to engineering and geoscience and other relevant regulators within and outside BC, and is published in the Association's magazine, on its website, and in local newspapers.

Decision by the Discipline Committee – At Hearing

13. If the Consent Order is rejected by the member, a hearing is held before a Discipline Committee Hearing Panel (the "Hearing Panel") comprised of at least three members of the Discipline Committee who were not part of the Review Panel.
14. The hearing is conducted in a formal manner generally following the procedures used in a Court. The hearing is open to the public and there is a court reporter present during the hearing to transcribe the proceedings. Hearings are conducted in two phases: liability; and then penalty and costs.
15. If the member is found liable (guilty) of the allegations in the Notice of Inquiry, the Hearing Panel may order as a penalty one or more of the following:
 - a) reprimand the member;
 - b) impose conditions on the continued membership of the member;
 - c) suspend the membership of the member;
 - d) cancel the membership of the member;
 - e) impose a fine of not more than \$25,000 on the member to be paid to the Association.
16. In addition, if the member is found liable the Hearing Panel may direct that the costs of the investigation and the hearing be paid by the member. Similarly, if the member is found not liable, the Hearing Panel may direct that the Association pay the member's costs.
17. If the member is found liable, the Hearing Panel's decision is published on the Association's website, and notice of the decision is published in the same manner as a Consent Order.

Decision by the Supreme Court of British Columbia

18. The member or the Association has 42 days from the date of the Hearing Panel's decision to appeal the decision to the Supreme Court of British Columbia. The appeal is not a new hearing and is limited to arguments on alleged errors by the Hearing Panel. (There is no statutory appeal from the decision of the Designated Reviewer or the Investigation Committee to close a file).

Further information on the complaint process and on preparing and filing a complaint can be obtained from Beverley Mitovic, Compliance Officer, at 604-412-4869 (toll free at 1-888-430-8035 ext. 272) or email bmitovic@apeg.bc.ca.

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