

# Complaint Process Bulletin



October 19, 2009

The purpose of this bulletin is to explain what you should expect when you lodge a complaint against an ABCFP member and what ABCFP members should expect if complaints are lodged against them.

1. Lodging a complaint:
  - (i) A complaint must be in writing and addressed to the ABCFP registrar or the council (refer to the complaint form available on the ABCFP website at <http://www.abcfp.ca/>).
  - (ii) A complaint must concern a member or former member. When a complaint is received the member(s) involved are deemed to be the subject member(s) in the complaint.
  - (iii) A complaint must provide sufficient information to allow an investigation to proceed. There is no definition of sufficient information; however, the ABCFP registrar must be able to verify that there are suitable details provided to support the allegations made in the complaint.
  - (iv) The allegations in a complaint, if proven, must involve a breach of the *Foresters Act* or the ABCFP bylaws.
  - (v) The *Forester Act* requires the registrar to ensure that the parties have attempted to resolve the matter on a reasonable and appropriate basis. In cases where this is not appropriate then it is not required. However, in cases that involve disputes between two members the registrar will attempt to get the parties to resolve the complaint outside of the formal complaint review process.
  - (vi) All information regarding the names of the individuals involved in a complaint will be kept confidential until such time as there is a citation issued by the registrar or there is agreement on a finding of a breach of the *Foresters Act* or the ABCFP bylaws. The ABCFP requires that all members involved in a complaint investigation maintain that confidentiality as well.
  - (vii) All parties involved in a complaint need to understand that the complaint resolution process can take a considerable amount of time to complete. Generally the decision on accepting a complaint will take about a month. If the complaint is referred to the Standing Investigation Committee for investigation, this process will take a number of months depending upon the complexity of the case. It is not unusual for an investigation to take from four to eight months. If, after the investigation, the registrar determines that a hearing is required this process is likely to take at least another three to five months depending again upon the complexity of the case and the schedules of the lawyers involved.

2. Complainants role in the complaint review process:
  - (i) Once a complaint is received, the ABCFP registrar will review it and inform the complainant that the allegations are being considered.
  - (ii) The ABCFP registrar will generally refer each complaint to the Complaints Resolution Committee (CRC) for review. After review by the CRC, the registrar must determine whether to accept a complaint . The complaint may be dismissed at this stage if it does not meet all the tests in section 1 (i) to (iv) above. The complainant will be informed whether the complaint is dismissed or accepted.
  - (iii) The complaint may be referred to alternate complaint resolution (ACR) which includes negotiating a resolution, conditional admission, mediation, arbitration or a combination of the above. The complainant will be notified if the registrar believes that arrangements should be made for ACR. No ACR can take place without agreement by the complainant, the registrar and the member who is subject to the complaint.
  - (iv) If ACR is not agreed to or is unsuccessful then the complaint becomes a matter between the ABCFP and the subject member. The complainant has no further role to play other than providing evidence to an investigation committee or at a hearing.
  - (v) The registrar will inform the complainant of the status of the complaint in terms of whether it is going to an investigation or hearing and what the outcome of these activities may be.
  
3. What an ABCFP member who is subject to a complaint should expect:
  - (i) When a complaint is received the member(s) involved is/are deemed to be the subject member(s) in the complaint. The ABCFP registrar will inform the subject member(s) of the particulars of the complaint generally within a week of accepting the complaint.
  - (ii) The name of the subject member will be kept confidential by the ABCFP and will remain confidential until such time as there is a citation issued by the registrar or there is agreement on a finding of a breach of the *Foresters Act* or the ABCFP bylaws. If a case is closed without issuance of a citation or a finding of a breach of the Act or bylaws the name(s) of the subject member(s) will remain confidential.
  - (iii) Before accepting a complaint the registrar will want to ensure that the parties have attempted to resolve the complaint on a reasonable and appropriate basis. This means that the parties are expected to have made an attempt to resolve the complaint if it is appropriate to do so. The registrar may help to facilitate this process.
  - (iv) If an accepted complaint cannot be reasonably resolved between the parties then the registrar will give each subject member the opportunity to respond

to the complaint. All reasonable time will be given to provide a response. Each subject member has the option of choosing not to respond but we do not advise this.

- (v) The subject member(s) response (if any) and the information provided by the complainant will then be referred to the Complaints Resolution Committee (CRC) for its review. The CRC will make a recommendation to the registrar regarding how the case should proceed. The registrar must then decide on how to proceed and will inform the subject member(s) of this decision.
- (vi) The complaint may be dismissed if it does not meet all the tests in section 1 (i) to (iv) above.
- (vii) The complaint may be referred to alternate complaint resolution (ACR) which could mean negotiation of a resolution, conditional admission, mediation, arbitration or a combination of the above. Each subject member will be notified of the decision of the registrar and arrangements will be made for ACR if all parties are in agreement to do so. No ACR can take place without agreement by the subject member(s), the complainant and the registrar.
- (viii) If ACR is not deemed to be appropriate or if ACR fails, the complaint may be referred to the standing investigation committee (SIC) for investigation. Each subject member will be informed prior to the start of an investigation.
- (ix) The decision to investigate is not in any way an indication of professional misconduct on the part of a subject member. The ABCFP maintains at all times that members are innocent until proven guilty. The decision to investigate is a determination that there is insufficient information to make a decision at this time and more information and evidence are required to making a decision on how to proceed with the complaint.
- (x) Each subject member may be asked to meet with the investigation committee (IC) to provide his or her side of the case. If so, the chair of the IC will contact each subject member to arrange for a meeting where he or she can discuss the complaint and provide the IC with evidence such as documents, journals, photos, etc.
- (xi) Once the investigation is complete the IC will write a report outlining their findings. This report will then be referred to the registrar and the CRC.
- (xii) If the report concludes that there are no grounds for issuing a citation, and the CRC and the registrar agree, then the complaint is dismissed and each subject member (and the complainant) will be notified of this decision.
- (xiii) If the report concludes that there are grounds for the issuance of a citation then the report will be sent to each subject member who will be given the opportunity to respond to the report and explain his or her side of things. Each subject member will be given a reasonable time to provide a response. Each subject member has the option of choosing not to respond but we do not advise this.

- (xiv) The response from the subject member(s) (if any) and the IC report will then be referred to the CRC for their review. The CRC will make a recommendation to the registrar regarding how the case should proceed. The registrar must decide whether the complaint should be dismissed or whether there are grounds to issue a citation.
- (xv) Each subject member (and the complainant) will be informed by the registrar whether the complaint was dismissed or if a citation will be issued. If the complaint is dismissed then no further proceedings are required.
- (xvi) If a citation is issued, the citation must provide each subject member with sufficient detail to clearly understand the allegations and identify the matters to be considered at a discipline hearing. Though not required, each subject member may wish to obtain the services of a lawyer to aide in their defense at a hearing.
- (xvii) Once a citation is issued the registrar must send it to the chair of the discipline committee and ask the chair to convene a panel for the hearing.
- (xviii) At any time in the process after the CRC has reviewed the initial complaint a subject member may tender a settlement proposal to the registrar. If agreement can be reached between a subject member and the registrar on a settlement proposal, this proposal must be approved by a panel of the discipline committee. If the panel approves the proposal the subject member will be notified and the terms of the proposal will be implemented to settle the complaint.
- (xix) Should the matter proceed to a hearing each subject member will be notified well in advance of the date and time for the hearing. Each subject member may be compelled to provide evidence at a hearing.
- (xx) In order to allow each subject member to prepare for the hearing we will disclose all documents, records and things that the ABCFP intends to rely on or refer to at the hearing.
- (xxi) The hearing panel must determine whether; (i) a subject member has incompetently engaged in the practice of forestry and/or; (ii) engaged in conduct unbecoming a member and/or ; (iii) contravened the *Foresters Act* or the bylaws or resolutions; or (iv) dismiss the citation.
- (xxii) At the conclusion of the hearing the panel will provide a written decision and each subject member will be provided a copy of this decision.
- (xxiii) If the panel finds a subject member guilty it may: (i) reprimand the subject member; (ii) impose penalty of up to \$10,000; (iii) impose conditions on the subject member's membership; (iv) suspend the subject member's membership for a period of time; (v) rescind the subject member's membership; (vi) require the subject member to complete a remedial program; (vii) require the subject member to appear before a board of examiners to prove his or her competence; and/or (viii) record in writing an order for costs against the subject member.

- (xxiv) Should a subject member be found guilty by a hearing panel, our policy direction is that we will generally expect the subject member to be subject to an order for costs that will amount to the ABCFP's cost relating to the complaint. The hearing panel will make this determination. If the hearing panel decides to record an order for costs against the subject member, they may include all of the substantial costs of the hearing and investigation.
- (xxv) Each subject member may exercise the rights of appeal to a panel decision that are set forth in the *Foresters Act*.