

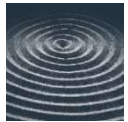


Complaint Resolution Process

**An Overview of Part 4 of the
Regulated Forestry Profession Act**

**Chris Luhtala, RPF
Complaints Director**

WHO IS INVOLVED:

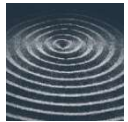


- The “Complaints Director” & “Hearings Director” - appointed by Council (section 14)
- A “Complainant” & an “Investigated Person” (section 1 - definitions)
- “Membership List”- at least 4 RPFs appointed by Council who serve on Hearing Tribunals (HTs), Complaint Review Committees (CRCs) or in Alternative Complaint Resolution (ACR) process (section 14)
- “List of Public Members” - appointed by Minister of EI (section 13)
- “Investigator” (sections 1, 51, 52 & 55)

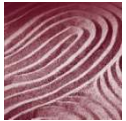
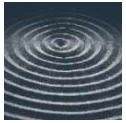


TRIBUNALS & COMMITTEES

(sections 13 through 15)

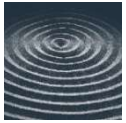


- Any Hearings Tribunal or Complaint Review Committee must consist of 2 or more RPFs from the Membership List & 25% component of Public Members
- Usually consists of 4 people - 3 RPFs and 1 Public Member



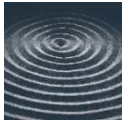
COMPLAINT (sections 44 & 46):

- Written, Signed complaint to the Complaints Director – on unprofessional conduct
- Regarding a current “regulated” or “former” member (2 years)
- Information the Complaints Director is made aware of may be treated as a complaint



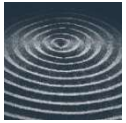
COMPLAINT:

- Within 30 days the Complaints Director must give notice to the complainant of the action taken
- The Complaints Director has a variety of ways to deal with the complaint



COMPLAINT (section 45):

- **Complaints Director may:**
 - Encourage the parties to resolve the complaint
 - Attempt to resolve the complaint
 - Refer matter to an ACR process
 - Request an expert to assess and provide a written report on subject matter of complaint
 - Personally conduct an investigation or appoint an investigator
 - Dismiss the complaint



COMPLAINT:

- **Dismiss complaint if:**
 - Trivial or vexatious
 - Insufficient or no evidence of unprofessional conduct
 - Must notify complainant of dismissal within 30 days and right to apply for a review of the dismissal by CRC



ALTERNATIVE COMPLAINT RESOLUTION (sections 47 – 49):

- A mediation type of process
- Use only in appropriate circumstances
- A regulated member must participate in or conduct the ACR
- The person who conducts the ACR must be impartial

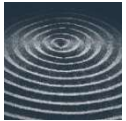


ALTERNATIVE COMPLAINT RESOLUTION

- If the complainant and investigated person agree on a settlement, then a CRC shall review that settlement and:
 - Ratify the settlement
 - Amend the settlement with consent of the parties and then ratify it, or
 - Refuse to ratify the settlement



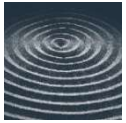
APPOINT INVESTIGATOR:



- If an investigation is to be conducted the Complaints Director must:
 - Give the complainant the name of the investigator, and
 - Give the investigated person the name of the investigator and reasonable particulars of the complaint being investigated (unless this would significantly harm the investigation)



PRELIMINARY INVESTIGATION:



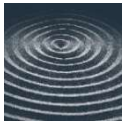
- **Investigator may:**



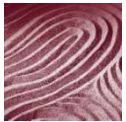
- Require any member to answer questions and provide documents
- Enter work sites (except private dwellings)



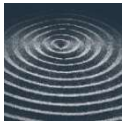
INVESTIGATOR'S POWERS



(section 52):

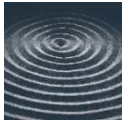


- The Complaints Director, on the request of an investigator, may apply to the Court of Queen's Bench for an Order directing any person to give to the investigator documents, etc., or for an order directing any person to attend before the investigator to answer relevant questions



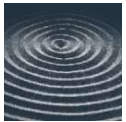
REPORT OF INVESTIGATOR (section 55):

- Upon reviewing the report, the Complaints Director must:
 - Refer to a hearing tribunal, or
 - Dismiss the complaint if:
 - The complaint is trivial or vexatious, or
 - There is insufficient evidence of unprofessional conduct



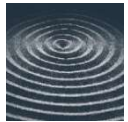
NOTICE OF ACTION TAKEN:

- Complaints Director must notify the complainant and the IP if complaint is dismissed:
 - Must give reasons, and
 - Notify the complainant of the right to apply for a review of the decision



REVIEW OF DISMISSAL OF COMPLAINT:

- Complainant may apply within 30 days
- Hearings Director must notify IP and give copy of review application and investigator's report to Complaint Review Committee
- Within 60 days of that, Complaint Review Committee must commence review of report and decision

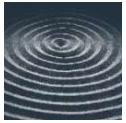


DECISION ON REVIEW OF DISMISSAL

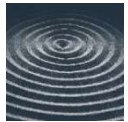
- The Complaint Review Committee, after reviewing the investigator's report, the decision and receiving submissions must:
 - Refer to a hearing,
 - Appoint an investigator for a further investigation, or
 - Confirm the complaint is dismissed



HEARING



- The Hearings Director must set a date for a hearing within 90 days after receiving a referral, unless an extension is granted
- Notice of the hearing must be sent to the IP at least 30 days before the hearing
- Notice must include reasonable particulars of the subject matter of the hearing
- All witnesses will also be given a notice to attend

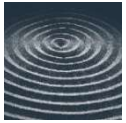


ADMISSION OF UNPROFESSIONAL CONDUCT

- Any time after a complaint but prior to a hearing, an IP may submit a written admission of unprofessional conduct
- The admission can be accepted in whole or in part by the Hearing Tribunal
- Any outstanding matters may proceed to investigation



THE HEARING



- Bias prevention



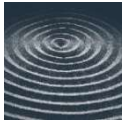
- IP may be represented by legal counsel



- IP present during entire hearing and entitled to hear all testimony and review all documentation
- Other witnesses present only during their testimony



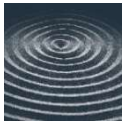
THE HEARING



- Purpose is to present evidence so the Hearing Tribunal understands clearly what happened.
- Hearing Tribunal decides whether the conduct is unprofessional.



ACCESS TO HEARINGS



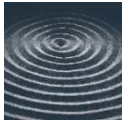
(section 67):



- Hearings are open to the public



- May be held in private in limited circumstances:
 - Protect safety of a person
 - Protect confidential information
 - Presence of public compromises the ability of witness to testify, or
 - Other reasons

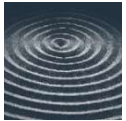


THE HEARING

- **Wide range of Tribunal Orders including (Section 71(1)):**
 - Costs (note: RFPA - Expenses & Review Fees Regulation)
 - Fines
 - Practising under supervision or restricting practice
 - Require further training
 - Suspension or cancellation (of Practice Permit or Registration)
 - Order reduction or repayment of fees
 - Any appropriate Order



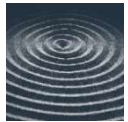
THE HEARING:



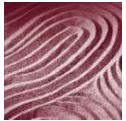
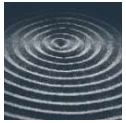
- The Hearing Tribunal must give their decision in writing with reasons in a reasonable time after the hearing (section 72)
- This decision will be given to everyone involved and the IP will be notified of the right to appeal (section 73)



APPEALS (sections 76-78):



- An IP found guilty of unprofessional conduct is entitled to appeal that decision, within 30 days, to the College's governing Council
- A decision by the Council can likewise be appealed, within 30 days, to the Alberta Court of Appeal for a Judicial review



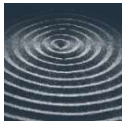
UNPROFESSIONAL CONDUCT

- **Unprofessional conduct can have two aspects:**
 - immoral, unethical or dishonourable conduct
 - Technical skills and their application (lack of judgment, knowledge or skill)

See Section 1(1)(gg)



UNPROFESSIONAL CONDUCT



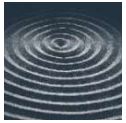
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- Peer-review based

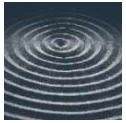


- Members of the profession are best qualified to determine whether conduct is unacceptable



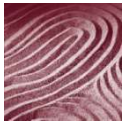
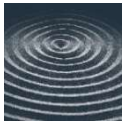
PROTECTION OF THE PUBLIC

- Main goal of any Order is to protect the public
- Ensure that a disciplined member does not put the public at risk in the future
- Ensure that other members do not do this out of fear of similar consequences



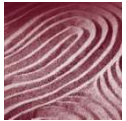
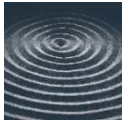
PROCEDURE REVIEW

- Procedure review is an application to the Ombudsman for a review of how the complaint was handled
- The Ombudsman will review the process to see if there was a failure to conform to the Act



PAST EXAMPLES

- Only a couple of complaints since the act was passed
- One dismissed as vexatious
- One the IP admitted unprofessional conduct had restrictions on practice permit
- One was dismissed due to lack of evidence.



QUESTIONS?