



9.1.1. Complaint Management and Administrative Penalties Procedure

1. Introduction

The Building Officials' Association of British Columbia (Association) manages and investigates complaints about unqualified building officials or other persons making compliance decisions about building regulations on behalf of local authorities. The Association also investigates complaints about local authorities that allow or require unqualified persons to make compliance decisions about building regulations on their behalf. The Registrar may issue administrative penalties based on results of these investigations.

2. Procedure Objective

- 2.1. This procedure establishes the process that the Association and Registrar use to manage the submission, review, investigation of complaints, and, where applicable, the imposition of administrative penalties under the *Building Act*.

3. Authority

- 3.1. This policy supports the Registrar in fulfilling responsibilities under section 23 of the *Building Act*.

4. Definitions

- 4.1. **"complainant"** means a person who submits a complaint about a building official, other person, or local authority.
- 4.2. **"Coordinator"** means the individual employed as the Member Services Coordinator at the Association.
- 4.3. **"Investigator"** means the individual employed by the Association who is responsible for conducting investigations.
- 4.4. **"local authority"** as defined in section 1 of the *Building Act* but does not include the City of Vancouver.
- 4.5. **"qualified building official"** as defined in section 1 of the *Building Act*.
- 4.6. **"Registrar"** as defined in section 1 of the *Building Act*.



- 4.7. “**respondent**” means a qualified building official, other person, or local authority about whom a complaint has been made.

5. Procedure

Preliminary Complaint Submission and Assessment

- 5.1 A **complainant** must submit a completed *Complaint Submission Form* that is signed, dated, and includes supporting information that relates to their complaint about:
- 5.1.1. a **qualified building official** or other person contravening section 10(2) or 23(2) of the *Building Act*; or
 - 5.1.2. a **local authority** contravening section 10(3) of the *Building Act*.
- 5.2 The **Registrar** will review the *Complaint Submission Form* and supporting information provided by the **complainant** to determine whether the complaint is or may be, in whole or part, within scope of 10(2), 10(3), or 23(2) of the *Building Act*.
- 5.3 If the **Registrar** decides that the complaint is, in whole or part, outside the scope of 10(2), 10(3) or 23(2) of the *Building Act*, the **Registrar** will notify the **complainant** that the complaint will, in whole or part, be closed and will provide reasons for that decision in writing.
- 5.4 If the **Registrar** decides that the complaint is or may be, in whole or part, within scope of 10(2), 10(3), or 23(2) of the *Building Act*, a copy of the complaint will be provided to the **respondent** once the consent to disclose the complaint has been obtained.
- 5.4.1 Where the **complainant** does not provide consent to disclose the complaint, the **Registrar** may close the complaint.
- 5.5 The **Registrar** will review information submitted by the **complainant** and **respondent** pursuant to 5.4 above to determine whether:
- 5.5.1 the complaint is, in whole or part, within scope of sections 10(2), 10(3), or 23(2) of the *Building Act* and will be investigated; and
 - 5.5.2 the complaint should be closed, in whole or part, because it:
 - 5.5.2.1 is outside the scope of 10(2), 10(3), or 23(2) of the *Building Act*; or
 - 5.5.2.2 is unsubstantiated to warrant investigation; or
 - 5.5.2.3 is frivolous, vexatious or constitutes an abuse of process;
 - 5.5.2.4 would not constitute a violation of section 10(2) or 10(3) of the *Building Act* if the allegations are verified or substantiated; or
 - 5.5.3 alternative measures, including mediation, could be taken to address the complaint.
- 5.6 The **Registrar** will notify the **complainant** and **respondent** of their decision under 5.5 and reasons for that decision in writing.



Investigation of Complaint

- 5.7 Where the **Registrar** determines that the complaint warrants further investigation, the complaint may be assigned to an **Investigator**.
- 5.8 The **complainant** and **respondent** will be advised that an investigation has commenced.
- 5.9 The **Investigator** will interview the **complainant**, **respondent**, and any other parties or bodies deemed relevant by the **Investigator** as soon as practicable and submit a final report to the **Registrar**.

Registrar Decision

- 5.10 The **Registrar** will review the report before deciding whether they are satisfied, on a balance of probabilities, that the **respondent** has contravened sections 10(2), 10(3) or 23(2) of the *Building Act*.
- 5.11 If the **Registrar** decides that, on a balance of probabilities, the **respondent** has contravened sections 10(2), 10(3) or 23(2) of the *Building Act*, the **Registrar** must determine if an administrative penalty is warranted and, if so, the nature of that penalty.
- 5.12 In making their decision pursuant to section 5.11 above, the **Registrar** must consider:
 - 5.12.1 previous enforcement actions for contraventions of a similar nature by the **respondent**;
 - 5.12.2 the gravity and magnitude of the contravention;
 - 5.12.3 whether the contravention was repeated or continuous;
 - 5.12.4 whether the contravention was deliberate;
 - 5.12.5 any economic benefit derived by the **respondent** from the contravention; and
 - 5.12.6 the **respondent** efforts to correct the contravention.
- 5.13 Before an administrative penalty is imposed, the **Registrar** will give the **respondent** an opportunity to explain, in writing, how the **respondent** exercised due diligence to avoid contravening sections 10(2), 10(3), or (23(2) of the Act.
 - 5.13.1 The **Registrar** will establish a deadline for submitting the written submission referenced in 5.13 and may revise that deadline based on a request from the **respondent**.
- 5.14 The **Registrar** will notify the **complainant** and **respondent** in writing as to their decision and reasons pursuant to section 5.11 and, if necessary, 5.12.

6. Scope

- 6.1 This policy applies to employees, contractors, and volunteers of the Association.



7. Related Policies and Procedures

7.1 9.1 Complaint Management and Administrative Penalties Policy

8. Version History

| DATE | DESCRIPTION |
|---------------|----------------------------|
| June 14, 2022 | New procedure established. |