



4.17.1. Complaint Management and Administrative Penalties Procedure

1. Introduction

The Building Officials' Association of British Columbia (Association) manages and investigates complaints about persons who may be making compliance decisions about building regulations on behalf of local authorities without holding the building official qualifications required under the Building Act.

The Association also manages and investigates complaints about local authorities that may be allowing or requiring persons to make compliance decisions without holding the building official qualifications required by the Building Act.

The Registrar may issue administrative penalties to individuals or local authorities to address complaints received by the Association and substantiated through review or investigation.

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 person, individual, or local authority.
- 4.2. *investigator* means the individual employed by the Association who is responsible for conducting investigations.
- 4.3. *local authority* as defined in section 1 of the *Building Act* but does not include the City of Vancouver.
- 4.4. *Registrar* as defined in section 1 of the Building Act.
- 4.5. *respondent* means a person, individual, 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 person contravening section 10(3) or 23(2) of the Building Act; or
 - 5.1.2. a *local authority* contravening section 10(2) 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 summary of the complaint will be provided to the *respondent*.
 - 5.4.1 The identity of the *complainant* will only be released with their written permission.
- 5.5 The *Registrar* will review information submitted by the *complainant* and *respondent* 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:
 - 5.5.1.1 may be decided pursuant to section 5.11 of this procedure; or
 - 5.5.1.2 requires further investigation pursuant to this procedure; or
 - 5.5.2 the complaint will 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, will be taken to address the complaint;
 - 5.5.4 the complaint, in whole or part, will be referred to the Complaints Committee, which is established by the Executive Committee under the Building Officials' Association Act.



- 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 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 An investigator must provide the *complainant* and *respondent* with an opportunity to provide information as part of an investigation.
- 5.10 The investigator must complete the investigation and submit a final report to the *Registrar* as soon as practicable.
- 5.11 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.

Registrar Decision

- 5.12 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.
- 5.13 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's* efforts to correct the contravention.
- 5.14 Before an administrative penalty is imposed, the *Registrar* must 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 Building Act.
- 5.14.1. The *Registrar* will establish a deadline for submitting the written submission pursuant to 5.13 and may revise that deadline based on a request from the *respondent*.
- 5.13 The *Registrar* will notify the *complainant* and *respondent* in writing as to their decision under 5.11 and the reasons for that decision.

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.
May 11, 2024	Procedure amended to clarify when the Registrar can make a decision regarding a complaint, revise the process for sharing information with the parties, align with language in the <i>Building Act</i> , and revise formatting for defined terms.