



COMPLAINT INVESTIGATION AND DISCIPLINARY PROCESS

September 2024

The following is an overview of the complaint, investigative, and disciplinary process and is meant to assist individuals in focusing on the allegations and their responses.

Receiving notice of an investigation from the Insurance Council of Manitoba (ICM) can be an unfamiliar and unsettling experience. This overview is meant to provide you with a better understanding of the process and possible outcomes.

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Authority

The ICM has obtained its authority through delegation by the Superintendent of Insurance in Manitoba. The establishment of the ICM is outlined in the *Insurance Councils Regulation 227/91*. The ICM includes two industry specific Councils; the Life Insurance Council and the General Insurance Council (the “insurance council”). The ICM may investigate a complaint that involves an insurance agent, broker, independent adjuster, or the distribution of insurance by an intermediary (the “complaintee”). The insurance council has the authority to take disciplinary action with respect to a licence holder or a former licence holder. The ICM may also make application to the Court of King’s Bench to enforce a compliance order for the violation of any provision of *The Insurance Act* of Manitoba or its Regulations.

Complaint Process

Complaints may be submitted from a member of the public, another licence holder, or an external regulator (e.g. Superintendent of Insurance), hereafter referred to as the “complainant”. The ICM may also investigate areas of concern which are posted to a public domain or initiate their own investigation. Complaints from anonymous sources will not be considered. Complaints submitted from outside sources must be made in writing and an official [Consumer Complaint Form](#) has been provided for convenience. The complaint and supporting documentation can be submitted via email to: contactus@icm.mb.ca, or mailed to:

The Insurance Council of Manitoba
Compliance Department
Suite 466 – 167 Lombard Avenue
Winnipeg, MB, R3B 0T6

Investigation Process

Upon receipt of a complaint, the ICM will review the allegations and determine whether or not the issues fall within ICM's mandate. The allegations are considered with respect to whether they could constitute a violation of *The Insurance Act* of Manitoba, its *Regulations*, its Licensing Rules, the applicable Code of Conduct and/or the Summary of Obligations.

Once an investigation commences, the investigator will contact the complainee with a "Notice of Investigation" outlining the issues of concern and a request for a written response regarding the allegations within a specified timeframe. The ICM is not obligated to provide a copy of the complaint or disclose the source of the complaint at this time.

The investigator may obtain written statements, conduct interviews, conduct on-site inspections, and obtain documentary evidence. The investigation may also include contact with:

- the complainant for additional information or documentation,
- insurers for policy and documentary evidence,
- the complainee's employer or sponsor
- other regulatory bodies, and
- any others who may have information relevant to the complaint.

Obligations of the Complainee

The complainee should provide a full and complete written response to the investigator, including all information and documentation to support their statement. If the allegations are true, the complainee may indicate any mitigating factors for the insurance council's consideration. A complete response avoids delays in the process and ensures that the complainee has a fair opportunity to present their position before the insurance council deliberates on the investigation findings. Complete co-operation is encouraged and is in the best interest of the complainee, as disciplinary action is a potential outcome of the process. Written responses should not be sent through another party, such as an insurance company or sponsor. Examples of items that may be useful supporting documentation are emails, letters, meeting notes, recorded phone conversations, or policies.

The ICM has the authority to request full participation of the complainee through *The Insurance Act* of Manitoba and the applicable Code of Conduct. Failing to respond to the ICM within the specified timeframe can, by itself, be reason for disciplinary action regardless of other violations. Where there are extenuating circumstances, extensions may be granted to ensure that the written response is full and complete.

Insurance Council's Review

Council members are appointed by the Minister and consists of individuals with industry experience and members of the public. The investigator will submit a written investigation report with evidence to the insurance council for its review in determining whether regulatory violations have occurred. The insurance council also considers the history of the complainee, aggravating circumstances and mitigating circumstances in its review.

If the insurance council determines that there was no substantiated evidence of a violation of *The Insurance Act* of Manitoba, its *Regulations*, its Licensing Rules, the applicable Code of Conduct or Summary of Obligations, the complaint will be closed. The complainee and the complainant will be informed in writing of the result of the review.

Where the insurance council determines that minor infractions have occurred, but formal disciplinary action is not warranted, a letter of caution will be issued to the complainee. This letter may include recommendations to improve the complainee's practices in order to avoid future complaints. Letters of caution are retained on file and are taken into consideration if future complaints of a similar nature are received. The complainant is advised in writing that a letter of caution has been issued.

Where the insurance council determines that the complaint was unsubstantiated or sends a letter of caution, public disclosure is not required. Information concerning the investigation will not appear on ICM's website.

Disciplinary Process

If the insurance council reviews the evidence and determines that there has been a major violation of *The Insurance Act* of Manitoba, its *Regulations*, its Licensing Rules, the Code of Conduct, or Summary of Obligations, it makes an “intended” disciplinary decision. The complainant is advised in writing, and a copy of the intended decision is provided. The intended decision summarizes the allegations, facts in evidence, and provides itemized regulatory/code violations upon which the insurance council based its intended decision. The insurance council will also specify the disciplinary action, such as a fine and costs, suspension or cancellation of licence, licence conditions or completion of an educational component.

The complainant can accept the disciplinary decision and fulfill the disciplinary action set forth.

The complainant will be advised in writing of the final disposition of their complaint once it has been concluded, and all avenues of appeal by the complainant have been exhausted. The disciplinary action is subject to public disclosure and is published on the Insurance Council of Manitoba website and the Canadian Insurance Regulators Disciplinary Actions database.

Show Cause Hearing

If the complainant does not agree with the intended decision, a request can be made for a Show Cause Hearing before the insurance council. This Hearing is an opportunity for complainant to “show cause” as to why the intended decision of the insurance council should not proceed. This is an opportunity for the complainant to provide any additional information or mitigating circumstances for the insurance council’s consideration.

A written notice of the Hearing is provided to the complainant with the time, date and place of the Hearing. The evidence upon which the insurance council relied on to make its intended decision is also provided.

This Hearing is the opportunity for the complainant to address the insurance council and prove his or her case. The insurance council does not make a presentation or introduce additional evidence.

Hearings are held in camera and are conducted under sworn or affirmed testimony. A court reporter will be present, and the proceedings will be recorded. Outside legal counsel will be present on behalf of ICM. The complainant may be represented by legal counsel and have witnesses or other supporters attend the Hearing.

The insurance council Chairperson will open the Hearing by providing a description of how the Hearing will be conducted. The Hearing will be conducted on an informal basis, and the rules of evidence do not apply. The intended decision will be entered into the record.

The complainant presents their case including introduction of witnesses who provide sworn or affirmed testimony, and any additional evidence or documents outlining why the insurance council should not proceed with its intended decision. Any witnesses who are giving evidence or testimony may not be present until they have completed their testimony.

The insurance council members and legal counsel may ask questions of the complainant and their witnesses. ICM staff members do not typically participate in the Hearing other than as observers.

When all relevant matters have been discussed, the insurance council’s Chairperson will adjourn the Hearing and dismiss the person subject to discipline. The insurance council deliberates on the evidence and testimony and will make a final decision. The insurance council will determine whether to enforce, revise or reverse its intended disciplinary decision. Additional costs arising from the Hearing may be assessed to the complainant.

The complainant will be advised in writing and provided with the insurance council’s final decision which outlines the issues, facts and evidence, legislation, analysis and disciplinary action if applicable.

Where the decision is for disciplinary action, the complainant can accept the decision and fulfill the requirements set forth. Upon acceptance of the decision, the file will be closed, the disciplinary action will be published, and the complainant will be advised of the disciplinary decision.

Appeal Process

Alternatively, the complaintee may request an appeal before the Insurance Agents' and Adjusters' Licensing Appeal Board ("Appeal Board"). This is a body consisting of members appointed by the Lieutenant Governor in Council and is entirely separate from the ICM.

Requests for an Appeal Hearing must be sent in writing directly to the Appeal Board. All evidence which is to be presented by either the ICM or the complaintee must be provided to the Appeal Board at least two weeks in advance of the Hearing, along with the names of the witnesses that are to appear.

An Appeal is a "*trial de novo*" or a new hearing. Sworn or affirmed testimony is presented to the Appeal Board by both parties.

The ICM will be represented by outside legal counsel, and the appellant may also have legal representation.

In this Appeal process, opening statements are provided by both parties. The ICM representative then presents its case to the Appeal Board members including the alleged violations and the evidence to support that conclusion. ICM representatives answer questions from the Appeal Board members and from the complaintee or their legal counsel.

The complaintee has an opportunity to present their position including documentary evidence and witnesses and may be questioned by the Appeal Board members or ICM's lawyer.

Closing statements will be requested by the Appeal Board from both parties.

Upon completion of the Hearing, the Appeal Board reviews the evidence and deliberates. The Appeal Board can uphold the decision, overturn the decision, or make an alternate order.

The complaintee and the ICM will be informed in writing of the result by the Appeal Board and must fulfill any requirements ordered. Failure to do so will result in the cancellation of the licence and/or additional disciplinary action. The final disciplinary action is subject to public disclosure, including publication. The complainant will also be advised of the Appeal Board's decision.