

Investigations Committee: Decision Making Thresholds Policy

2022-11-24

NAME OF POLICY	Decision Making Thresholds Policy		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS and/or PURPOSE	CPATA Act ss. 37 – 50; Regulations 12 - 15		
RESPONSIBILITY	Manager of Professional Responsibility		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Investigations Committee	2022-11-24	-	-

1. Purpose

The purpose of this policy is to provide guidance and clarity for the Investigations Committee about its authority under the Act and Regulations for consideration and disposition of complaints.

In the event of a conflict between this Policy and the Act, the Act prevails.

2. Consideration of Complaints

- 2.1 The Investigations Committee (“the Committee”) is responsible for considering complaints referred by the Registrar and conducting investigations where the Committee has reasonable grounds to believe that the licensee has committed professional misconduct or was incompetent. (s. 37)
- 2.2 If, after the Committee has concluded its investigation, it is not satisfied that there is sufficient evidence that the licensee has committed professional misconduct or was incompetent, the Committee must dismiss the complaint, under s. 49(1). The Committee must notify the complainant and the licensee and provide reasons for its decision to dismiss under s. 40(1) and 2.1 above.
- 2.3 If, after the Committee has concluded its investigation, it determines that it does not have reasonable grounds to believe that the licensee has committed professional misconduct or was incompetent, but believes that the licensee’s alleged conduct

came close to that threshold the Committee may, as part of the dismissal of the complaint:

- 2.3.1 provide advice or guidance to the licensee about best practices to avoid similar conduct concerns in future;
 - 2.3.2 issue a warning to the licensee, which may be considered by the Committee in the event of future complaints of a similar nature; and/or
 - 2.3.3 confirm the licensee's consent to fulfil certain requirements or conditions in respect of their practice.
- 2.4 The Committee must notify the complainant and the licensee and provide reasons for its decision to dismiss with advice, a warning or consensual requirements, under s. 40(1) and 2.3 above.

3. Interim Orders

If a licensee is under investigation, the Committee has authority to impose conditions on the license, impose restrictions on their entitlement to represent persons, or to suspend a license, where it is necessary for protection of the public. The authority and process for doing so is set out in the Act (s. 37.1(1)), By-laws(TBD) and the Policy on Interim Orders (TBD).

4. Conclusion of Investigation

At the conclusion of an investigation, where the Committee is satisfied that there is sufficient evidence that a licensee has committed professional misconduct or was incompetent, the Committee must apply to the Discipline Committee for a decision as to whether the licensee committed professional misconduct or was incompetent. (s. 49)

5. Factors to Consider respecting Dismissals or Applications to Discipline Committee

- 5.1 The Code of Professional Conduct sets the standards of professional conduct and competence that must be met by licensees. A licensee who fails to meet these standards commits professional misconduct or is incompetent.
- 5.2 It is the role of the Committee to determine in each case whether there is sufficient evidence that a licensee's conduct constitutes a failure to meet the standards

under the Code, in circumstances which amount to professional misconduct or incompetence. (ss. 32 and 40)

5.3 When evaluating whether a licensee has met the standards set by the Code of Professional Conduct, or alternatively whether there is sufficient evidence that a licensee has committed professional misconduct or was incompetent, thereby requiring an application to the Discipline Committee, the Committee may consider a number of factors, including:

- 5.3.1 the seriousness of the allegations;
- 5.3.2 whether the behaviour reflects an isolated event or a pattern of conduct;
- 5.3.3 the licensee's motivation;
- 5.3.4 the licensee's prior relevant complaints history;
- 5.3.5 what, if any, other repercussions the licensee has faced as a result of the conduct and whether those may have impacted the licensee in ways relevant to the College's mandate;
- 5.3.6 the licensee's response to the allegations, if any; and
- 5.3.7 the public interest.

6. Withdrawal of Application

- 6.1 If, after applying to the Discipline Committee under s. 49(1), the Committee receives new information or evidence that results in the Committee no longer being satisfied there is sufficient evidence the licensee has committed professional misconduct or was incompetent, the Committee may withdraw its application to the Discipline Committee at any time prior to conclusion of the hearing of the application. (s. 50)
- 6.2 When withdrawing an application under s. 50, the Committee will provide written reasons for its decision to the licensee and complainant.