



COMPLAINT INVESTIGATIONS

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Definitions

The following definitions apply for the purposes of this Policy:

“Appointed Board” means the appointed members of the Forest Practices Board and includes the Chair, the Vice-Chair and Board Members.

“Appointed Board members” means individual members of the Appointed Board.

“Board staff” means staff employed by the Forest Practices Board.

“Board” means the Forest Practices Board organization as a whole, and includes Appointed Board members and Board staff.

“Board or Board’s mandate” means the purpose and duties of the Forest Practices Board as specified in the following legislation:

- *Forest and Range Practices Act*
- *Wildfire Act*
- Forest Practices Board Regulation

“Chair” means Chair of the Forest Practices Board.

“Party” means government, or the holder of a licence under the *Forest Act* or the *Range Act*.

1. Purpose

This policy describes how the Board will implement its mandate under section 122(c) of the *Forest and Range Practices Act* (FRPA) and section 68(c) of the *Wildfire Act* to deal with complaints from the public about compliance with, and the appropriateness of, the Government of British Columbia's enforcement of FRPA and the *Wildfire Act*.

2. Objectives

- a) Ensure that Board complaint investigation policies and procedures are current and consistent with legislation, regulations and the Board's strategic plan, mission and values;
- b) Ensure complaint investigations follow established and consistent processes;
- c) Ensure complaint investigations are conducted in a fair and equitable manner; and
- d) Increase transparency in the conduct of the Board's activities.

3. Legislation and Regulations

FRPA and the *Wildfire Act* define the Board's statutory roles and responsibilities, requiring it to:

- deal with complaints from the public, relating to either compliance with FRPA and the *Wildfire Act*, or to enforcement of that legislation; and
- report conclusions (with reasons attached) of investigations.

These roles and responsibilities extend to all activities described in Parts 2 to 5 and Part 6 of FRPA and Parts 1 to 3 of the *Wildfire Act*. The key parts of the legislation are described below.

Forest and Range Practices Act

- 123** (1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.
- (2) Despite subsection (1), the board may refuse to investigate a complaint, or may stop investigating a complaint, if, in the opinion of the chair, any of the following applies:
- (a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;
 - (b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not taken advantage of the remedy, there is no reasonable justification for the failure to do so;
 - (c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
 - (d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;
 - (e) in the circumstances, investigation would not benefit the complainant.

- (3) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides
 - (a) to not investigate or further investigate a complaint, or
 - (b) that the complaint has not been substantiated.

Wildfire Act

68 (1) In accordance with the regulations,

- (b) the board must deal with complaints from the public respecting prescribed matters that relate to this Act.

Forest Practices Board Regulation

Notice of complaint

- 6 (1) A person who wishes to make a complaint to the board must deliver a written notice of complaint to the board.
- (2) A notice of complaint must contain
 - (a) the name and address of the complainant, and the name of the person, if any, making the request on the complainant's behalf,
 - (b) the address for service of the complainant,
 - (c) the grounds for the complaint, and
 - (d) a statement describing the relief requested.

Deficient notice of complaint

7 If a notice of complaint does not comply with section 6, the board

- (a) must deliver to the complainant written notice of the deficiencies, inviting the complainant, within the period specified in the notice, to submit further material remedying the deficiencies, and
- (b) need not proceed with the complaint until an amended notice of complaint, with the deficiencies corrected, is delivered to the board.

Procedures following receipt of notice of complaint

- 8 (1) The board must acknowledge in writing any notice of complaint, or any amended notice of complaint with the deficiencies corrected.
- (2) Within 30 days after receipt of the notice of complaint or of the amended notice of complaint, the board must initiate an investigation of the complaint unless, in the opinion of the chair, any of the criteria referred to in section 123 (2) of the Act applies.
- (3) The board may, at any time, consult with a party or a person referred to in section 5 (2)
 - (a) to attempt to settle the complaint, or

- (b) for any other purpose related to a complaint or investigation.

4. Application

This policy applies to Appointed Board Members, Board Staff, and contractors retained by the Board for the purposes of conducting complaint investigations.

5. Policy

5.1 Investigation Principles

- a) When investigating a complaint, the Board acts in the public interest, and not on behalf of any single person or group. The Board is not an advocate for the complainant or a defender of government or licensees. It examines issues related to a complaint as a neutral third party.
- b) The Board emphasizes solutions over blame and encourages continuous improvements to reduce the likelihood of problems recurring in future.

5.2 Accepting a Complaint

- a) The Board will not normally accept a complaint if the person has not yet contacted the party being complained about to discuss their concerns. In these circumstances, Board staff will provide contact information to the person and encourage them to try to resolve the concerns before proceeding with a formal complaint.
- b) The legislation requires that a notice of complaint be filed with the Board, and that it contain specified information. When a person contacts the Board with a potential complaint, Board staff will assist the person to determine whether the matter falls within the Board's jurisdiction to investigate and, if it does, will help the person to complete a notice of complaint that meets the requirements.
- c) If a person submits a deficient notice of complaint, Board staff will contact them and provide assistance in addressing any deficiencies. Contact may be by letter or email.

5.3 Requests for Anonymity

- a) The Board will not accept a complaint from someone who will not identify themselves. The requirements of section 6 of the FPB Regulation for a notice of complaint must be met. However, if a person has concerns about being identified, they may ask that their name not be disclosed to parties during and after the complaint investigation, and the Chair will consider such requests.
- b) The Chair, on behalf of the Board, may agree to keep a complainant anonymous, but cannot ensure that a party will not guess their identity and that it is possible (although unlikely) that the Board would have to disclose a complainant's identity by order of a court or the Information and Privacy Commissioner.
- c) If anonymity is granted, only the assigned investigator and General Counsel will be privy to the identity of the complainant.

5.4 Refusing to Investigate/Stopping an Investigation

- a) When assessing a complaint made to the Board, staff will consider if any of the reasons in section 123(2) to refuse to investigate are applicable. If any appear to apply, staff will advise the Board Chair, who will decide whether to refuse to investigate.
- b) During the course of an investigation, if it becomes apparent that any of the reasons in section 123(2) to stop investigating apply, staff will advise the Board Chair, who will decide whether to stop the investigation.

5.5 Settlement of Complaints

- a) When assessing a new complaint, and throughout the investigation process, staff will encourage and support the complainant and the parties to resolve some or all of the issues being investigated.
- b) Specific issues may be dropped from the investigation if they are resolved, and the investigation may be stopped entirely if all issues are resolved to the satisfaction of the complainant. However, the Board Chair may decide there is a public interest in reporting the results of the investigation, even though it has been stopped, as a means of encouraging improvements to forest and range practices generally.

5.6 Investigation Scope

Unlike an audit or special investigation, a complaint investigation does not require the Board to “determine compliance with” or “appropriateness of enforcement”. The Act says the Board “must deal with” complaints.

- a) When dealing with a complaint, the Chair will confirm the focus of the investigation to best address the issues raised in the complaint.
- b) In some cases, the investigation may focus on compliance and/or appropriateness of government enforcement. In other cases, the Board may choose to examine soundness of decisions and/or processes, achievement of results or effectiveness of policy, practices or procedures, as part of the investigation.

The Board’s authority to look beyond compliance was confirmed in *Northwood Inc. v. Forest Practices Board*.¹

5.7 Reporting Conclusions with Reasons

- a) The legislation requires the Board to report its conclusions, with reasons, to the complainant and the parties to the complaint. The Board will also make its reports available to the public, as a means of encouraging continuous improvement in forest and range practices.
- b) The Board will determine the format of the report. It may be in the form of a letter, a summary document, or a full report, depending on the circumstances and the public

¹ B.C.S.C., A991647, Vancouver Registry, November 30, 1999, aff’d 2001 B.C.C.A. 141.25

interest in the information. Board reports will be prepared in accordance with the legislated requirements and the Board's Policy on Reports.

5.8 Roles and Responsibilities

Chair

- Decides whether to grant requests for anonymity by complainants.
- Decides whether to refuse to investigate or stop investigating a complaint under section 123(2) of FRPA.
- Confirms the scope of the investigation.
- Decides whether to report the results of an investigation that has been stopped under section 123 (2) of FRPA.
- Confirms the format of the investigation report.

Executive Director

- Approves the complaint investigation reference manual.
- May establish other administrative procedures for implementation of this policy.

General Counsel

- Advises the Chair on requests for anonymity.

Director of Investigations

- Determines if a notice of complaint is deficient.
- Advises the Chair on whether reasons exist to refuse to investigate, or stop an investigation, under section 123(2) of FRPA.
- Assigns qualified staff to investigate complaints and provides leadership, direction, guidance, advice and support to investigators.
- Ensures investigations are carried out consistent with the legislation and regulations, this policy, the complaint investigation reference manual, and other applicable policies.
- Recommends the scope of investigations to the Chair.
- Applies quality assurance to investigations.
- Recommends the format of the report to the Chair.
- Identifies the need for updates to the complaint investigation reference manual and/or the complaint investigation policy.

Investigations Staff

- Carries out complaint investigation work in accordance with this policy and the procedures in the complaint investigation reference manual and other applicable policies and procedures.

6. Procedures

See the Board's Complaint Investigation Reference Manual, 2019 for complaint investigation procedures.

7. References

- Board Policy and Procedures Policy
- Representations Policy
- Recommendations Policy
- Reports Policy
- Legal opinion on investigating discretionary decisions

8. Document Control Information

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Approved by:



Kevin Kriese, Chair
Forest Practices Board