

OAA Complaints Process

1. INTRODUCTION

As the regulator of the practice of architecture in Ontario, the OAA handles complaints regarding the conduct or actions of a member of the OAA. The *Architects Act, R.S.O. 1990, c. A.26* (the *Act*) prescribes the complaints process to ensure that the public interest in Ontario is served and protected.

A complaint may be made if there is concern that a member of the OAA (Architect, Licensed Technologist OAA, a holder of a Certificate of Practice, or holder of a Temporary Licence) has contravened the *Act* or has engaged in professional misconduct as set out in the Regulations (R.R.O. 1990, Reg. 27, s. 42).

The OAA's Complaints Committee (the Committee) exists to investigate and consider complaints regarding the conduct of an architect, Licensed Technologist OAA and/or a holder of a Certificate of Practice. The Committee's role is to determine whether a matter should proceed to the disciplinary stage.

The Committee does not make a finding of whether a member is guilty of professional misconduct or incompetence. Rather, the Complaints Committee performs a screening function by gathering relevant information. More information about the complaints process and possible outcomes of the process can be found below.

2. BEFORE FILING A COMPLAINT

If you have questions or concerns about an architect's professional conduct, we would encourage you to contact the Office of the Registrar at the OAA. In many instances, OAA staff can help address whether submitting a formal complaint is the most appropriate forum to address your concerns.

If you have questions or concerns about an OAA member's conduct, normally the first step is to talk to the member. If you are unable to resolve the issue, and believe there is a professional conduct or competency concern, please check the online directory to ensure the architect, Licensed Technologist OAA, or architectural practice is registered with the OAA. If the party in question does not appear in the directory, please contact the Office of the Registrar to let us know that someone is misrepresenting themselves as an architect or Licensed Technologist OAA.

If the person is not a member or the entity does not have a Certificate of Practice, the OAA cannot investigate the matter. However, through the Office of the Registrar, other actions may be taken to ensure that no person or entity misrepresents their qualifications or ability to offer professional services to the public.

Contact the Coordinator, Act Enforcement, Ms. Jakanah Sambavalingam 416-449-6898 Ext. 208 or jakanahs@oaa.on.ca with your questions.

3. FILING A COMPLAINT

Filing a formal complaint with the OAA is a serious matter. The complaints process should not be used for matters that are frivolous or vexatious, or to address other civil or commercial disputes that should be dealt with through legal avenues. The OAA does not have the mandate or authority to govern its memberships' contractual and business dealings.

The complaints process can be initiated via the OAA website's online form, by emailing complaints@oaa.on.ca, or a written submission mailed to the OAA. Please address written submissions to Ms. Christie Mills, OAA Registrar, under private & confidential cover, and include the following:

1. The name of the architect or Licensed Technologist OAA and/or the name of the Certificate of Practice.
2. The name and address of the project (where applicable);
3. A clear and concise statement of the specific complaint(s);
4. A copy of any Client/Architect Agreement or, if the agreement was oral, a statement of the Complainant's understanding of the agreement to provide professional services;
5. Copies of drawings, documents or other relevant material including meeting notes, invoices and other correspondence which substantiate the complaint(s).

If you are using the online form, be sure to scan, upload and attach all relevant documents and send them via email to: jakanahs@oaa.on.ca. Please make sure you clearly reference the complaint in the subject line (either by architect name or project).

4. PRELIMINARY REVIEW

The OAA reviews every complaint inquiry we receive, although we may not take action on all of them. The complaints process first point of contact is the Coordinator, Act Enforcement (Coordinator). The Coordinator will acknowledge the receipt of information and, together with the Registrar and Deputy Registrar, perform an initial assessment to identify if the matter raises issues that are within the OAA's jurisdiction.

The OAA's Office of the Registrar may close a complaint after a preliminary review if:

- the evidence provided does not fall within the OAA's regulatory mandate or raise a regulatory concern;
- a further investigation by the OAA's Complaints Committee would not help to resolve or address the complaint or the complainant's concern;
- the information and documentation contained in the complaint does not provide a reasonable evidentiary basis to support the allegations;
- the allegations are the subject of concurrent criminal, civil or other regulatory proceedings (however a complaint may be re-opened once the other proceedings have ended).

If a matter is closed before proceeding to the Complaints Committee, the complainant will receive a letter from the Office of the Registrar explaining that the matter is closed and the OAA's reasons for closing it.

5. EXCHANGE OF INFORMATION

If the complaint is not closed after a preliminary review, you will receive a letter from the OAA acknowledging receipt of the complaint. Next steps are:

1. The OAA forwards your letter of complaint and supporting documentation to the architect or Licensed Technologist OAA to respond in writing within 14 days with regard to the issue(s).
2. The architect or Licensed Technologist OAA sends a letter of response. The member's letter of response is shared with the Complainant.
3. The Complainant has 14 days to reply to the OAA on matters pertaining only to the concerns of the original complaint.
4. All material related to the complaint is forwarded to the Complaints Committee for review and integrated into the Committee's scheduled meetings.

After this exchange of information is complete, no further documentation shall be accepted by either party, unless it has been approved or requested by the Complaints Committee.

6. COMMITTEE REVIEW STAGE

Once the exchange of information is complete, the matter will be referred to the Committee. The Committee makes every reasonable effort to examine all records and other documents relating to the complaint and decides if the nature of concerns raised in the complaint and the evidence in support of those concerns warrant a referral to the Discipline Committee.

The Committee process does not involve a formal hearing with a lawyer.

Who is on the Committee?

The Committee is comprised of volunteer architects, including at least one elected architect from OAA Council, and one person who is not an architect but a Lieutenant-Governor-in-Council appointee (LGIC). LGICs are appointed by the Province of Ontario.

Committee members are required to declare conflicts of interest. Committee members do not participate in the investigation of a complaint where a real or perceived bias could exist.

After consideration of the material by the Complaints Committee, the following actions may be taken:

1. Additional clarification may be requested from any party to the complaint.
2. Arrangements may be made to inspect drawings as appropriate.
3. Arrangements may be made for interviews with the Complainant and/or the OAA member. Interviews are only held when the Committee determines that it is necessary.

7. POSSIBLE OUTCOMES

The Committee may:

- A. Dismiss a complaint;
- B. Refer a matter to the Discipline Committee; or
- C. Require other action as allowed in the legislation

A copy of the Committee's decision goes to the Complainant and the member and/or the Holder of a Certificate of Practice.

A. Dismiss a Complaint

This means that the matter is dismissed. You will receive a letter confirming that the matter has been dismissed.

B. Referral to the Discipline Committee

If the Committee finds that the nature of concerns raised in the complaint are serious enough and there is sufficient information to support the concerns, the matter will be referred to the Discipline Committee.

The Discipline Committee conducts a formal hearing where the OAA and the OAA member (if they choose) are represented by legal counsel. The Complainant is not a party to the hearing but may be asked by the OAA legal counsel to be a witness.

C. Other Action

The Committee may determine that an architect or Licensed Technologist OAA need additional training and recommend or order that they take a course or prepare a paper or other similar action as allowed by the legislation.

8. DISSATISFIED WITH THE TREATMENT OF THE COMPLAINT

When a Complainant is not satisfied with the process, they may apply to the OAA Complaints Review Councillor (CRC) who will review the process but not re-assess the outcome. The CRC does not inquire into the merits of a complaint, nor are they required to hold a hearing in relation to the review of the treatment of the complaint.

9. WITHDRAWAL OF A COMPLAINT

Where the Complainant and the OAA member agree independently of the Complaints Committee to withdraw the complaint, the Complaints Committee may decide to continue its investigation when it is in the public interest to do so.

10. CONFIDENTIALITY AND PRIVACY

Please note that, in fairness to the person or entity you are complaining about, the OAA will share with that person or entity some or all of the information and documents you send us.

Complaints are otherwise confidential. Confidentiality continues to be required even after the complaint has been addressed (without discipline proceedings). If a matter is referred to Discipline and there is a finding of professional misconduct or incompetence against an OAA member and/or Practice the Decisions and Reasons of the Discipline Committee are published.

Excerpts from the *Architects Act*, R.S.O. 1990, c. A. 26

Powers and duties of Complaints Committee

30. (1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the Association regarding the conduct or actions of any member of the Association or holder of a certificate of practice or a temporary licence, but no action shall be taken by the Committee under subsection (2) unless,

- (a) a written complaint has been filed with the Registrar and the member or holder whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member or holder may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint. R.S.O. 1990, c. A.26, s. 30 (1).

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause (a); or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws. R.S.O. 1990, c. A.26, s. 30 (2).

Decision and reasons

(3) The Committee shall give its decision in writing to the Registrar for the purposes of subsection (4) and, where the decision is made under clause (2)(b), its reasons therefor. R.S.O. 1990, c. A.26, s. 30 (3).

Notice

(4) The Registrar shall mail to the complainant and to the person complained against a copy of the written decision made by the Complaints Committee and its reasons therefor, if any, together with notice advising the complainant of the complainant's right to apply to the Complaints Review Councillor under section 32. R.S.O. 1990, c. A.26, s. 30 (4); 2006, c. 19, Sched. B, s. 1.

Hearing

(5) The Committee is not required to hold a hearing or to afford to any person an opportunity for a hearing or an opportunity to make oral submissions before making a decision or giving a direction under this section. R.S.O. 1990, c. A.26, s. 30 (5).

Complaints Review Councillor

31.(1) There shall be a Complaints Review Councillor who shall be appointed by and from among the members of the Council appointed by the Lieutenant Governor in Council. R.S.O. 1990, c. A.26, s. 31 (1).

Idem

(2) The Complaints Review Councillor is not eligible to be a member of the Complaints Committee or the Fees Mediation Committee. R.S.O. 1990, c. A.26, s. 31 (2).