

ABCFP Bylaws



Bylaw 12 - Complaints, Investigations and Discipline

Bylaw 13 - Public Disclosure

Bylaw 14 - Indictable Offences

**What's Changing Under
The PGA?**



Bylaw 12 - Complaints, Investigations and Discipline

Highlights:

1. General Principles
2. Duty to Report (from Bylaw 9)
3. Authority of the Investigation Committee
4. New Options: Complaint Resolution
5. Hearings and Decisions





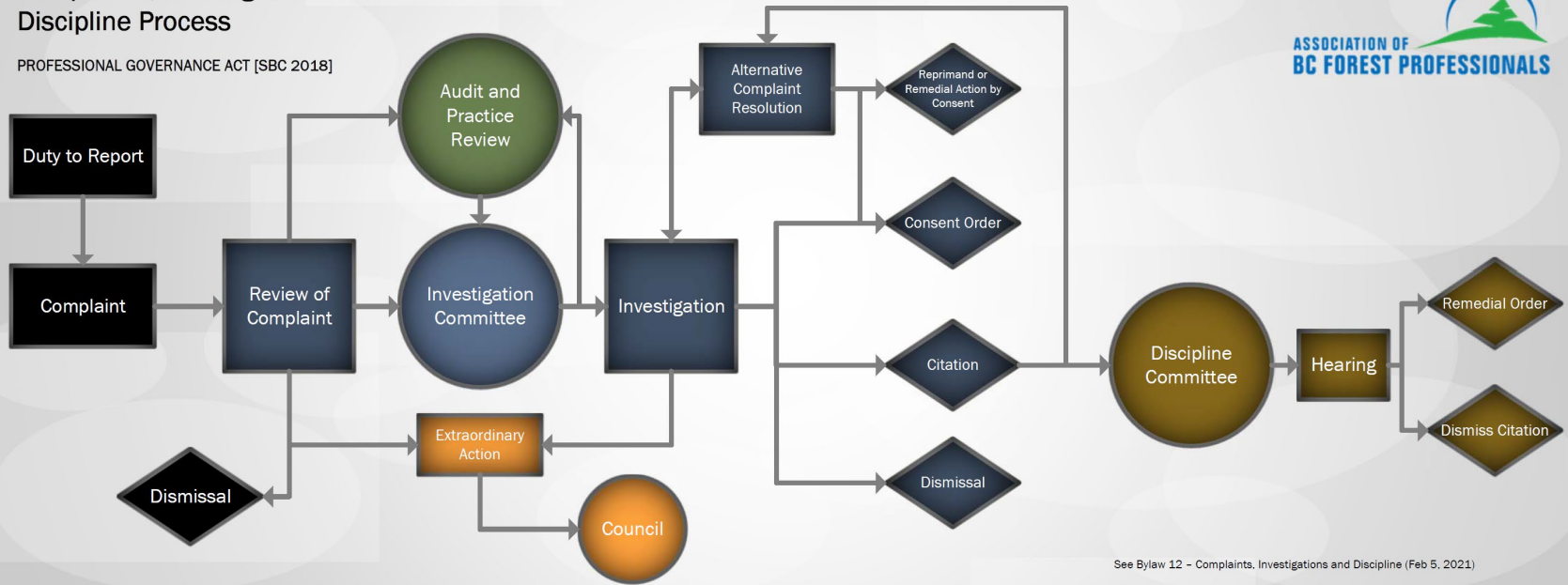
PGA

Practices
legislation

People often confuse the accountability of professionals from the accountability of firms or tenure holders.

Complaints, Investigations and Discipline Process

PROFESSIONAL GOVERNANCE ACT [SBC 2018]



Complaints, Investigations and Discipline

Any person may make a written complaint against a current or former ABCFP registrant, alleging conduct or practice that, if admitted or proven, would constitute:

- incompetent performance of duties within forestry regulated practice;
- professional misconduct;
- “conduct unbecoming a registrant”; or
- a breach of the PGA or ABCFP bylaws



Complaints, Investigations and Discipline

Incompetence (PGA, s. 1)

Includes:

- lack of competence or fitness to engage in regulated practice of professional forestry
- incapacity or impairment that prevents a registrant from engaging in regulated practice of professional forestry with reasonable skill, competence, and safety to the public



Complaints, Investigations and Discipline

“Conduct unbecoming a registrant” (PGA, s. 1)

Conduct of a registrant that:

- brings ABCFP or its registrants into disrepute,
- undermines the standards, methods or principles that are the foundation of professional forestry,



Complaints, Investigations and Discipline

Cont..

- or undermines the principle of holding paramount the safety, health and welfare of the public, including the protection of the environment and the promotion of health and safety in the workplace in the manner that reflects the stewardship of professional forestry by ABCFP



Complaints, Investigations and Discipline

Registrar may decline to accept complaint on specified grounds:

1. trivial, frivolous, vexatious, made in bad faith, or an abuse of process
2. does not name a current or former registrant
3. does not allege incompetent practice, professional misconduct, “conduct unbecoming a registrant”, or a breach of the PGA or bylaws



Complaints, Investigations and Discipline

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4. insufficient information or particulars to allow an investigation to proceed
5. subject matter more appropriately addressed by a different regulatory or administrative organization, agency, board or tribunal or by the courts



Complaints, Investigations and Discipline

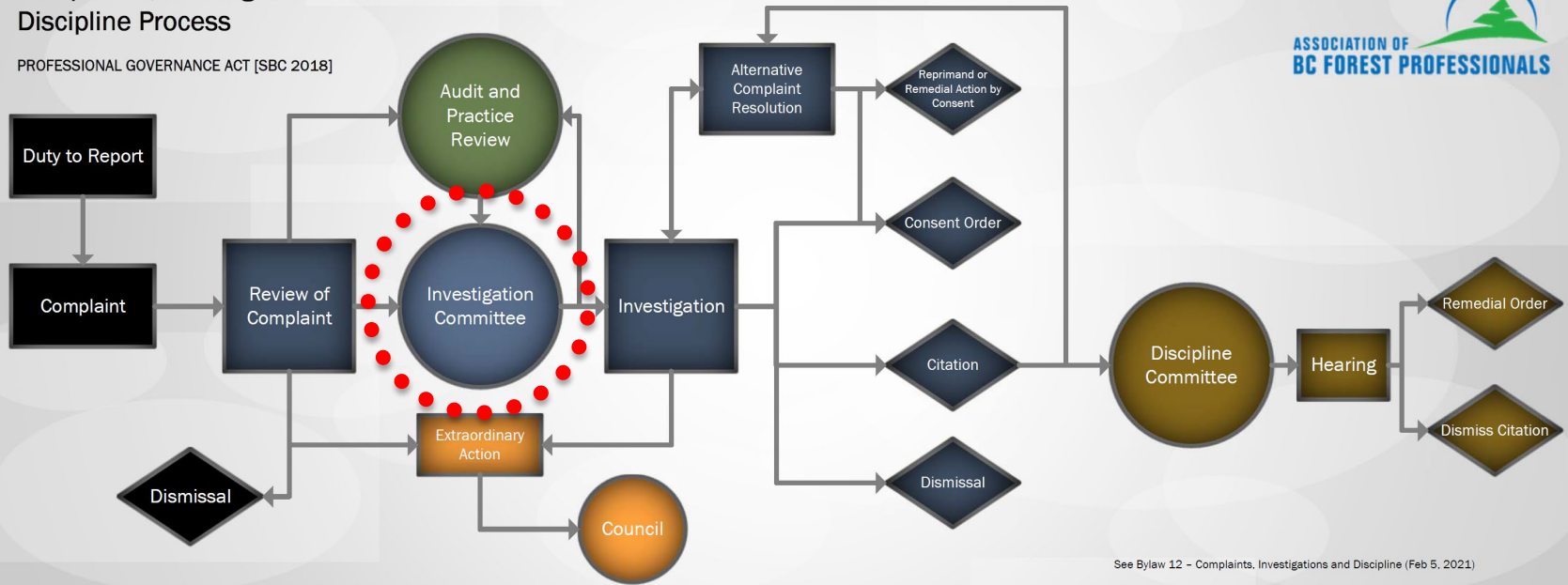
Duty to Report (See Bylaw 9, Standard 9):

- PGA S.58 - Duty to report for registrants: treated as a complaint
- Registrar completes an initial review
- Failure to report is treated as an offence under S.106: up to \$200k fine or up to 2 years in jail



Complaints, Investigations and Discipline Process

PROFESSIONAL GOVERNANCE ACT [SBC 2018]



Complaints, Investigations and Discipline

Authority of the Investigation Committee:

- Combines duties of two previous committees
- Has general, delegated authority over investigations
- Appoints inspectors
- Authority over resolution mechanisms, outside of discipline hearings



Complaints, Investigations and Discipline

Cont..

- Can initiate investigations on its own motion
- Can directly issue citations for a discipline hearing
- Assumes final decision-making authority over certain matters previously resting with Registrar
- Respondent has duty to cooperate fully



Complaints, Investigations and Discipline

Cont..

- Can refer case to the Audit and Practice Review Committee for practice review
- Can direct Registrar or lead inspector to attempt to resolve a matter through alternative complaint resolution (ACR)
- Can refer to council to consider extraordinary action



Complaints, Investigations and Discipline

New Options for Complaint Resolution (ACR):

- Complainant's consent no longer required
- Alternative Complaint Resolution can involve negotiating agreement to:
 - Reprimand or remedial action by consent
 - Consent order
 - Other measures to resolve in public interest



Complaints, Investigations and Discipline

Hearings and decisions

- Anticipate most matters will be resolved through some variation of ACR
- Citations are issued as intent to proceed to a hearing
- Discipline committee panel conducts hearing
- Hearings conducted orally and publicly unless the panel decides otherwise



Complaints, Investigations and Discipline

Hearings and decisions

- New provisions for assigning costs against the respondent
- An adverse determination can include:
 - Reprimand
 - Fine up to \$100k (\$2k trainee)
 - Assignment of costs
 - Impose conditions
 - Suspend or cancel registration
 - Undertake other remedial programs or appear before committee



Complaints, Investigations and Discipline

Hearings and decisions

- Discipline committee can make an order, without a hearing, against a registrant who is found in breach of compliance with another regulatory body in BC or another jurisdiction



Complaints, Investigations and Discipline

QUESTIONS?



Bylaw 13 – Public Disclosure

Highlights:

1. Public register requirements
2. Disclosure of complaints and investigations
3. Public notification of discipline decisions
4. Disclosure and privacy
5. Maintenance of notices



Public Disclosure

Public register requirements

The register must include the following information for everyone granted registration:

- Date registration granted
- Municipality of residence
- Business address and business phone
- Employer, if applicable
- Declared practice areas



Public Disclosure

Public register requirements

Registrants must also provide:

- Current email for receiving communications
- Immediate notification of any change in name or other information

Note: the registrar may withhold information where there are reasonable safety concerns about disclosure



Public Disclosure

Public register requirements

The registrar must also include the following:

- Any limits or conditions imposed on the registrant's practice
- Notation of cancellation or suspension of registration
- Any special conditions specified by the credentials committee or discipline committee



Public Disclosure

Disclosure of complaints and investigations

The registrar may disclose the following with respect to a complaint or review of an indictable offence conviction, with consent of the respondent:

- Information about the matter to another regulator body or jurisdiction that regulates professional forestry
- Or if the complaint or conviction is known to the public: to any person or the public



Public Disclosure

Public notification of discipline decisions

The ABCFP must publish notice of:

- Extraordinary actions
- Reprimand or remedial action by consent (RRAC)
- Consent order
- Citations
- Notice of hearing
- Hearing decisions



Public Disclosure

Cont..

- If the hearing panel dismisses a citation, the registrar must withhold the respondents name or other identifiable information from the notice of that decision unless:
 - the respondent consents to publication of that information
 - The hearing panel otherwise directs



Public Disclosure

Cont..

Other reasons for withholding the name of a respondent in a complaint or decision:

- There are no limitations or conditions imposed
- The respondent has a physical or mental ailment, emotional disturbance, or addiction to alcohol or drugs
- The public interest in disclosure of that information is outweighed by the privacy interests of the complainant or other person



Public Disclosure

Maintenance of notices

- Public notices must be maintained on the ABCFP website for the lifetime of the individual, despite cancellation
- Must update notices for expired limitations, conditions, suspensions and if the individual ceases to be registered or becomes a non-practicing registrant or a retired registrant



Bylaw 14 – Indictable Offences

Under the Criminal Code of Canada, there are three types of offences:

1. summary conviction offences,
2. indictable offences,
3. offences where the Crown may elect to proceed by summary conviction or by indictment; often referred to as “hybrid offences”



Bylaw 14 – Indictable Offences

- Council has authority to suspend, cancel registration or impose conditions on a registrant who has been convicted of an indictable offence
- Council may reject the application of an applicant for enrolment, admission or reinstatement



Bylaw 14 – Indictable Offences

- Court records or RCMP files will clarify the nature of the conviction
- The ABCFP will ask for documentation to confirm
- Council is not conducting a re-trial of a criminal matter
- Council must determine if the nature of the offence or status of the individual has any bearing on the public interest in the practice



Public Disclosure / Indictable Offences

QUESTIONS?



Thanks for attending!

Bylaw 12, Complaints, Investigations and Discipline

Bylaw 13, Public Disclosure

Bylaw 14, Indictable Offences

