



Frequently Asked Questions about the complaints process (Registrants)

1. I've been informed that the College has received a complaint about my practice, should I contact the complainant?

Once the College receives a complaint, it is advisable that you do not contact the "complainant" during the process if you have already discharged the client. You will be provided with the opportunity to respond to the concerns surrounding the complaint and your response will be shared with the complainant. This opportunity will allow you to convey your understanding / interpretation of events that led to the complaint.

2. If I am still working with the client, do I have to continue?

The College appreciates that it may be difficult to continue to work with the client during this process. If you are considering discontinuing your working relationship with the client, it is advisable that you follow an appropriate process for discontinuation of service.

3. During the complaints process, can I contact the College?

You may feel free to call the Manager, Investigations & Resolutions at any time during the process for a status update or if you have general questions regarding the process. Please be advised that s/he cannot provide you with any opinions as to your alleged behaviours or actions. Furthermore, s/he cannot speak to any possible outcomes that the panel is considering.

4. Should I obtain the advice of legal counsel?

Some Registrants may choose to obtain the advice of legal counsel. The stage at which they choose to do this may differ and this is a personal decision independent of the College. The College does not require that a Registrant obtain legal counsel in order to participate in the process. If this is an option you are considering, you may wish to consult the legal support services offered by CAOT or OSOT.

5. Does my malpractice insurance cover me during the complaints process?

Possibly yes. The College would suggest that you contact your insurance carrier to discuss this matter further.

6. How is the process confidential?

The College is governed by a strict duty of confidentiality of its own. It may only disclose information to the extent that it is necessary to carry out its regulatory functions. For example, it may be necessary for the College to alert a potential witness to the fact that a complaint has been made when asking the witness for a statement. The Inquiries, Complaints and Reports Committee (ICRC) will know the names of the parties involved and the details about the complaint. If the Committee uses the services of an investigator, expert or lawyer to assist them during the process, these parties will also be made aware of the complaint.

There are three staff members at the College who are involved with the Complaints process, they are the Manager, Investigations & Resolutions, the I & R Associate and the Registrar. In cases where a panel member has declared a conflict of interest, they will not be eligible to sit on the panel reviewing the case.

In cases where the decision of the complaints committee is appealed, the Health Professions Appeal and Review Board (HPARB) would also be made aware of the complaint.

The Committee is very conscientious about the privacy of individuals during the "investigation process" and does not gather more information than is necessary.

All decisions made by the panel remain confidential and are not available to the general public unless the matter is referred to the Discipline Committee for a hearing. In cases where a matter is referred to another Committee of the College, the committee members and the individuals who assist them in carrying out their role will also be informed on the complaint.

The College cannot prevent either of you from sharing information with others but would suggest that the integrity of the process is in part, dependent on each party's willingness to maintain confidentiality.

7. As an occupational therapist responding to a complaint, do I need to obtain the client's consent to share information with the College?

If a client makes the complaint, the very making of the complaint allows the occupational therapist to release the client's information to the College. An occupational therapist is entitled to defend himself or herself against a complaint by a client or an authorized representative of a client. This includes providing the College with a copy of your chart for the client. Your duty of confidentiality, as set out in the College regulations, expressly permits disclosure where a client or a client's authorized representative consents to the disclosure. While consent is usually obtained in writing, in this context a written complaint to the College is quite sufficient.

Where a third party makes the complaint, the complaint itself is not sufficient to authorize the disclosure of confidential client information. In those cases, the College will try to obtain the client's consent.

8. What is an "Investigation"?

An investigation refers to the information gathered at the direction of the ICRC to assist them in making a decision. This may include:

- having a staff person asking you for information,
- a letter being sent to you requesting information,
- the appointment of an investigator to meet with individuals who may be able to assist the panel in understanding what happened and/or
- asking an expert to comment on the case file. Experts are usually members of the profession.

9. As a participant in the Complaints process, will the other party become aware of my home number and address?

Even if it is included in your correspondence to the College, the College will ensure that this information is not released to the party who filed the complaint.

10. What are the typical timelines involved in this process?

Once a complaint comes to the College, the Manager, Investigations & Resolutions may have to clarify the concerns with the complainant. Once this has been completed, you will be notified of the complaint. From the date that you are notified in writing of the complaint, you have 30 days to respond. Once the College receives your response, it will be sent to the complainant and they will be given 15 days to submit additional information should they choose to do so. The College must consider "mailing time" and any requests for an extension that it receives.

11. What happens if, during the course of the investigation, I am unable to meet a timeline?

Please contact the Manager, Investigations and Resolutions and they may be able to extend the timeline for you.

12. When timelines are set are they referring to business days or calendar days?

Calendar days.

13. How long will the process take?

In the legislation, it is suggested that the Panel must make their decision within 150 days. In most situations, the Panel is not able to reach a decision in 150 days. Usually, the delay is a result of a detailed investigation process. In this circumstance, you will be informed that there will be a delay.

The College appreciates that this time can be stressful for those parties involved but it is necessary that the panel has all relevant information before they make a decision in order to be fair to both parties.

14. How often does the Inquiries, Complaints and Reports Committee (ICRC) meet?

The committee usually meets once a month. You may wish to contact the Manager of Investigations & Resolutions to find out if your case will be discussed at the next meeting.

15. Can the ICRC revoke my certificate of registration?

No. The ICRC is a screening committee and cannot revoke an occupational therapist's certificate of registration. Revocations can only occur after there has been a finding made by a Panel of a hearings committee.

A revocation of a member's certificate of registration could only be considered at that point in the process.

16. How do I know about the decision?

Once the panel reviewing your case has made their decision you will receive a copy of their decision with reasons. The Manager, Investigations and Resolutions will be able to tell you when the panel has made their decision but will not be in a position to discuss the decision with you.

17. Can the College force me to apologize or pay the complainant any monetary damages?

The Panel of the ICRC reviewing the case can make several decisions but they cannot force an apology or award monetary damages. Monetary matters can be addressed through civil litigation in the courts.

18. What can I do if I am not happy with the decision?

If you believe that the decision of the panel reviewing your case was unreasonable or that they did not conduct an adequate investigation, you may file an appeal with the Health Professions Appeal and Review Board (HPARB). The Board is comprised of individuals who are members who are not health professionals or College employees (past or present). The Board will invite both you and the complainant to present information as to why you think the decision was (un)reasonable or that the investigation was (in)adequate. You do not have to attend the review. The Board issues a written decision after the review and may: confirm the ICRC's decision, make recommendations to the Committee or require the Committee to take further action. The appeals are heard at the Board's offices in Toronto.

19. Are any parts of the Complaints Process, including the decision, made public?

The Complaints process is confidential and at no time are the names of the parties involved, the details of the case or the decision (excluding a referral to discipline) made "public". The information does, however, remain on file at the College.

If the panel believes that serious misconduct has taken place and refers the case to the Discipline Committee for a hearing you will be advised of the referral and provided with a summary of the allegations. You will also receive additional information related to the hearings process.