

Trivial, Vexatious or Obviously Unsustainable Complaints

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| Policy Section: Administration of the Act | Policy Number: AA-23 | Approved By: CEO/Registrar |
| Regular Policy Review Frequency: Every three years | Date Approved: March 7, 2013 | Date Reviewed/Revised: June 10, 2019 |

Purpose:

To state the procedure for the triage of trivial, vexatious or obviously unsustainable complaints.

Policy:

1. In order for a complaint in writing against a member or former member registered under the act to be considered a “complaint” within the meaning of Part 8 of The Regulated Health Professions Act (RHPA), the matter cannot be, on its face, trivial, vexatious or obviously unsustainable in that there is no evidence of conduct about which a finding could be made under section 124(2) of The RHPA.
2. For greater clarity and guidance, this policy incorporates the following definitions:
 - a. A trivial complaint is one which raises issues that are unimportant, petty, or insignificant;
 - b. A vexatious complaint is one commenced for an improper purpose, such as to harass, embarrass or annoy. A complaint will also be vexatious if it is duplicative of a pending complaint, or if it seeks to re-raise an issue that has already been determined;
 - c. A complaint will be obviously unsustainable if it is plain and obvious or beyond doubt that it cannot succeed even if all of the facts alleged are taken to be true. A complaint should not be dismissed on this ground on the basis that it is novel or easily defensible; rather, it should be clearly defective or deficient in a fundamental way.

Process:

1. In the event a complaint in writing is made against a member or former member registered under the act, and the matter is determined by the Chief Executive Officer (CEO)/Registrar to be, on its face, trivial or vexatious or obviously unsustainable in that there is no evidence of conduct about which a finding could be made under section 124(2) of The RHPA, the CEO/Registrar may dismiss it.
2. In the event a complaint in writing is dismissed by the CEO/Registrar as being, on its face, trivial or vexatious or obviously unsustainable in that there is no evidence of conduct about which a finding could be made under section 124(2) of The RHPA, the complainant and the member or former member must be notified of the dismissal. The CEO/Registrar must notify the complainant of his or her right to have the dismissal reviewed by the Complaints Investigation Committee.



- a. The complainant has 30 days after being notified of the dismissal to apply to the CEO/Registrar for a review by the Complaints Investigation Committee.
- b. In reviewing a dismissal made by the CEO/Registrar, the Complaints Investigation Committee will consider whether the decision was reasonable in light of the information in the possession of the CEO/Registrar at the time of the decision. Where the Complaints Investigation Committee concludes that the CEO/Registrar reached a reasonable decision, the Complaints Investigation Committee will not substitute its own discretion for that of the CEO/Registrar. The Complaints Investigation Committee will exercise its own discretion where it identifies a clear error on the part of the CEO/Registrar.
- c. The Complaints Investigation Committee will provide written notice of its decision to both parties.