



## ACSW - How to File a Complaint 2022 Phronesis Counselling & Social Services

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**This information has been directly taken from the Alberta College of Social Workers website that you can find here: [https://www.acsw.ab.ca/site/Complaints\\_New?nav=sidebar](https://www.acsw.ab.ca/site/Complaints_New?nav=sidebar)**

### Complaints

Anyone receiving the services of a Registered Social Worker is entitled to be treated in a fair and ethical manner. All Registered Social Workers are expected to practice competently and professionally. The vast majority of social workers are ethical and skilled practitioners who meet these obligations. Occasionally situations arise that result in a complaint against a social worker. The purpose of this section is to provide members of the public with information on what constitutes a complaint, how to file a complaint, and what happens when a complaint is received.

#### What is a Complaint?

A complaint is a written statement from a person who believes that a Registered Social Worker or a former registered social worker (within the past two years) has practiced unprofessionally. A complaint may be submitted on the form provided on the ACSW web site or in a letter from the complainant. Normally the College will not act upon a verbal or anonymous complaint.

#### Who can file a complaint?

Anyone who believes that they or someone they know has been harmed by a social worker may file a complaint. Registered social workers have an obligation to notify the College when they believe or have reason to believe that a colleague has engaged in unprofessional conduct. If the person filing the complaint is not the person who was directly affected by the violation, clients should be named only if they have given their consent. When a Registered Social Worker is terminated, suspended, or resigns in place of termination, the employer must notify the ACSW of the termination or suspension (see s.57 of the *Health Professions Act*). The ACSW then treats this notification as a complaint.

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## **What are the goals of the complaint process?**

The purpose of professional regulation is to protect the public and to maintain the integrity of the profession. The first goal is to gather evidence in a fair and impartial manner to determine whether the allegations are supported by facts. If a complaint is determined to be frivolous or vexatious, or if there is insufficient evidence of unprofessional conduct, the complaint will be dismissed and the social worker will remain a registered member in good standing. When the evidence demonstrates that a social worker has made a mistake or acted in a manner that caused harm to a client or the standing of the profession generally, the College will take the action necessary to ensure that the violation is not repeated.

## **What happens when a complaint is filed?**

The complaint process is a legal process governed by the *Health Professions Act* and the *Social Workers Profession Regulation*.

When a written complaint is received by the ACSW, the complaints director must decide within 30 days what action to take and must notify the complainant of the decision. The complaints director may take any of the following actions:

- a. encourage the complainant and the social worker to resolve the complaint
- b. with consent of the complainant and the investigated person, attempt to resolve the complaint
- c. refer the matter to an alternate complaint resolution process
- d. request an expert report on the subject matter of the complaint
- e. conduct or appoint an investigator to conduct an investigation
- f. if satisfied the complaint is trivial or vexatious, or that there is insufficient evidence or no evidence of unprofessional conduct, dismiss the complaint
- g. refer the social worker for an assessment of incapacity

In most cases the registered social worker is notified of the complaint and given details on the subject matter of the complaint. A copy of the original complaint may be given to the social worker and the social worker may be asked to respond in writing.

## **Does the ACSW regulate all social workers?**

The Alberta College of Social Workers can only deal with complaints about social workers who are registered in Alberta. You can call the ACSW if you are not sure whether an individual is a registered social worker.

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### **Filing a formal complaint is not the only option**

The first thing you should do if you have a concern, whether or not you choose to file a complaint, is talk to the social worker to see if you can resolve the issue yourself. If a conversation doesn't make a difference for your concern, talk to the social worker's supervisor and follow any conflict resolution policies available within the agency. If the matter is still unresolved, an impartial mediator or an advocate may be able to intervene on your behalf. There are several organizations in Alberta that provide these services on a voluntary basis. Your municipal community services agency may be able to provide you with information on the services in your area. If none of these processes are available to you, or if you have tried them without success, you may still choose to file a complaint with the ACSW.

### **What is Alternative Complaint Resolution (ACR)?**

The legislation authorizes the complaints director to refer a matter to ACR if both the complainant and the social worker are in agreement. The process may include mediation, traditional Aboriginal approaches to justice, or other methods that are normally less adversarial than a formal hearing. There are a number of factors that would be considered before entering an ACR process, including fairness, power differentials, and the cultural background of the parties.

Alternative complaint resolution is conducted by an impartial person and the ACSW is represented by a social worker with no connection to the other parties. Some processes may also involve other individuals who may or may not be connected to the matters respecting the complaint.

The person managing the process is responsible for assisting the parties to reach a mutually satisfactory outcome. If it appears that the matter is not likely to result in a settlement it is referred back to the complaints director. If a settlement is reached, it is presented to a Complaint Review Committee, which may ratify the settlement, refuse to ratify the settlement, or obtain consent from the parties to modify and then ratify the settlement. If a ratified settlement addresses all the matters of the complaint there are no further proceedings with respect to those matters.

### **What happens when a complaint is investigated?**

When the complaints director appoints an investigator to conduct an investigation, the investigator may ask any person to answer any questions and to produce any documents relevant to the case and may copy and keep copies of any documents provided. In a typical investigation, the person who filed the complaint and the social worker who was complained about (the respondent) provide most of the information relevant to the case. Other people

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may be interviewed including witnesses to specific actions, employers, family members, or anyone else who has knowledge about the issues under investigation.

Once the investigation is complete, the investigator prepares a report detailing the findings of the investigation and presents it to the complaints director. The complaints director decides, on the basis of the information in the report, whether to dismiss the complaint, request additional information, or refer the matter to the hearings director for a hearing.

### **Is the complainant required to participate in the investigation process?**

While the person who makes a complaint about a registered social worker is not legally obligated to participate in the investigation process, an investigation is not likely to proceed without witnesses.

### **Who investigates complaints about social workers?**

Complaints are normally investigated by registered social workers who have received special training for the task. Investigators are recruited for their skill in a particular field or for their generally recognized expertise and they are held accountable to the same Code of Ethics, Standards of Practice and legislative requirements as any other practicing social worker. If a case deals with an area of practice that is highly specialized, an outside expert may be involved.

### **What happens when a complaint is dismissed?**

When a complaint is received, before or after it is investigated, the complaints director may make a decision to dismiss the complaint on the basis that it is frivolous or vexatious, or that there is insufficient or no evidence of unprofessional conduct. When a complaint is dismissed, the complaints director must give reasons. The complainant may apply, in writing with reasons, to the Hearings Director for a review of the dismissal of a complaint within 30 days of being notified of the dismissal. A complaint review committee reviews the decision and investigator's report (if there is one), and may refer the matter to the hearings director for a hearing, direct the complaints director to appoint an investigator or conduct further investigation, or confirm that the complaint is dismissed.

### **Does the complainant participate if there is a hearing?**

This depends on the nature of the complaint and the social worker's response to the complaint. A complainant may be subpoenaed to attend and present evidence to the hearing tribunal. In some cases the social worker will enter a Consent Order prior to the

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hearing which involves agreeing to a statement of facts and recommended sanctions in advance. When this happens, witnesses are not usually called to give evidence.

### **What is the process for making a formal complaint?**

A complainant may complete a Complaint Information Form (see link below) or may put the information in a letter. In either case, the complaint must be in writing and signed by the complainant. Complaints can be: mailed, emailed, or faxed.

The following information must be included in the complaint letter or form:

1. Complainant's full name, address, and daytime telephone number.
2. The full name of the registered social worker being complained, including any known contact information about the social worker.
3. The details of the relationship with the registered social worker: clients include how long they've been a client, other complainants explain their connection to the social worker.
4. The details of the circumstances which led to the complaint, including dates, the names of any witnesses, and any other information relevant to the complaint.
5. Specific details regarding the act (or failure to act) that forms the basis of the unprofessional conduct. Supporting documentation should be copied and included.

In general, complaints should include the basic information of "who, what, when, where, why and how."

[Complaint Information Form](#)

### **A. Receiving a complaint**

The discipline process is a legal process. The *Health Professions Act (HPA)* and the *Social Work Profession Regulation* define the actions that can or must be followed in each case. The process begins when a complaint, or information that is treated as a complaint, is received about a registered social worker.

Within 30 days of receiving a complaint or treating information as a complaint, the complaints director must notify the complainant of what actions will be taken with respect to the complaint. Under Section 55 of the HPA the complaints director may take the following actions :

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1. encourage the complainant and the investigated person to communicate with each other and resolve the complaint
2. with the consent of the complainant and the investigated person, attempt to resolve the complaint
3. make a referral to an alternative complaint resolution process under Division 2
4. May request an expert to assess and provide a written report on the subject-matter of the complaint
5. May conduct, or appoint an investigator to conduct an investigation
6. If satisfied that the complaint is trivial or vexatious, dismiss the complaint
7. If satisfied that there is insufficient or no evidence of unprofessional conduct, dismiss the complaint, and
8. May make a direction under section 118

If the complaint is dismissed, the Complaints Director must notify the complainant within 30 days of their right to apply for a review by a complaint review committee. A request for review must be made in writing within 30 days of receiving notice of the dismissal.

If the complaints director determines that there is sufficient evidence that the social worker may have acted unprofessionally, the social worker will be contacted by telephone. In most cases, initial contact is made by telephone to let the social worker know a complaint has been received. If appropriate, an attempt may be made to resolve the matter informally as per Section 55(2)(a) or 55(2)(a.1) of the *Health Professions Act* or to make a referral to alternate complaint resolution.

In cases where the complaints director requests an expert assessment or appoints an investigator, the registered social worker is notified of the complaint and given details on the matters to be addressed. In most cases, a copy of the original complaint is given to the social worker. The social worker may be asked to respond to the complaint in writing.

## **B. Investigating a complaint**

The people who investigate complaints about social work practice are normally registered social workers who have received training specific to this role. Their job is not to prove innocence or guilt. It is their responsibility to gather factual evidence with regard to the complaint. Investigators normally begin by interviewing the complainant to gather further details about the allegations so as to ensure that the investigation will be complete. The social worker will also be interviewed, and both primary parties will be asked to identify other people who could provide additional useful information. The investigator will also ask for copies of documents that pertain to the complaint and may ask for samples of other work by the social worker for comparison. The *Health Professions Act* authorizes the investigator to copy and

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keep documents, to view originals and if necessary take them away. The length of an investigation will vary based on availability of people and information, complexity of the complaint, and legal or employment matters that may be involved.

### **C. Making a decision about a complaint**

Once the investigation is complete, the complaints director makes a decision whether there is sufficient evidence to support the complaint or if the matter should be dismissed. If the complaint is dismissed, the complainant has the right to an appeal within 30 days. If there is evidence to support the complaint, the matter is referred to the Hearings Director for a hearing. Hearing tribunals include a minimum of two social workers and one public member.

A hearing is a formal process set out in the legislation. Witnesses may be called by the ACSW or the registered social worker, documents are placed in evidence, the proceedings are recorded, and a decision is issued upon completion. The decision may be appealed to Council.

### **D. Actions**

In the majority of cases that result in a sanction against a social worker, the requirement is for something educational. Social workers have been directed to take courses, to work under supervision, to deal with an impairment that impacts their ability to work, to take some action to demonstrate their learning, and to share their learning with others through presentation or publication. As the cost of discipline proceedings is quite high, social workers are often ordered to pay a portion of the costs. In rare cases, a social workers practice permit may be suspended or cancelled.

Each time a complaint is referred to a Hearings Tribunal, a decision is made with regard to publication. According to ACSW bylaws, if a member's registration is suspended or cancelled for disciplinary reasons the decision is published with the social worker's name. In all other cases, the hearing tribunal decides whether the decision will be published, and if so whether it will include names. The publication of decisions is intended in part to help social workers understand the discipline process and reasons for decisions. Please note that all decisions by a Hearing Tribunal are considered public documents and may be requested by name.

All reference to Standards of Practice and Code of Ethics found within discipline decisions refer to the Standards and Code that were in effect at the time the unprofessional conduct occurred. Copies of the relevant documents may be obtained from the ACSW. The complaint number for each file indicates the year in which the complaint was received.

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**These Discipline decisions are published pursuant to the Orders of the Hearing Tribunal authorized under the *Health Professions Act* Section 82 (1)**

The Alberta College of Social Workers, by publishing these decisions, intends to:

- Explain to Social Workers and Members of the public what does or does not constitute unprofessional conduct.
- Provide an explanation of the Discipline process and necessary sanctions to the public as well as Social Workers who may be going through the discipline process, or are seeking a better understanding of professional conduct, discipline and the role of the College.
- Implement the decisions of Hearing Tribunals and the Discipline Committee.

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