

THE SOCIETY OF NOTARIES PUBLIC OF BRITISH COLUMBIA
Complaint & Discipline Procedures for the Public



SUBMITTING A COMPLAINT

A PUBLICATION FOR THE PUBLIC

What you should know before submitting a complaint about a Notary

Lawyers are not governed by The Society of Notaries Public of British Columbia. If your complaint is about a lawyer, please contact the Law Society of British Columbia at www.lsbcc.org.

The purpose of this document is to outline the discipline procedures as provided for in Sections 21 through 30 of the [Notaries Act](#). This document will also set out the procedure and policy as established by the Directors of the Society to ensure that disciplinary matters are handled in a uniform and fair manner.

What is The Society of Notaries Public of British Columbia?

The Society is a professional organization established pursuant to the *Notaries Act* of British Columbia and has been assigned a duty to regulate the members of The Society. This includes not only setting a standard for Notaries to adhere to, but also to setting a process for the handling of complaints submitted by members of the public.

Natural Justice & Administrative Law

The Society of Notaries Public of British Columbia (“The Society of Notaries” or “The Society”) is bound by law to respect the principles of “natural justice” in the complaint process. Among other requirements, this means that members accused of unprofessional conduct must be given proper notice of the allegations, a suitable opportunity to respond and the right to have their case heard by a fair and impartial decision-maker at a Disciplinary inquiry.

The Society of Notaries Public Act, Bylaws, Rules & Code of Ethics

In addition to meeting the many requirements for induction and registration in The Society, members are expected to comply with the Act, the Rules, the Bylaws, and the Code of Ethics that govern their relationships with clients, colleagues, employees, and the general public. Members must also avoid behaviour that reflects unfavourably on the profession. The Society’s Code of Ethics reinforces, explains, and interprets the standard of conduct and ethical obligations.

Complaints

Sometimes people have questions or concerns about a notary’s actions or lack of action. A good first step is to talk to the notary. Misunderstandings can arise because of a lack of communication. Often you can resolve these misunderstandings simply by discussing your concerns. If not, you can write or call The Society’s complaints manager.

The Society's Jurisdiction

Before contacting The Society, you should understand what The Society can and cannot do for you through its complaints and discipline process. The Society has no authority to:

- regulate the amount of a notary's fee
- intervene in situations where a Notary is acting in his or her personal capacity and not as a Notary
- give legal advice
- pay compensation
- intervene in a court proceeding
- insist that a notary provide a specific service, continue to act on or withdraw a service
- make a finding that a notary was negligent

If you are concerned about any of these, you may wish to seek advice from a lawyer.

If your concern is that you have been charged an unfair fee for a particular service, you can ask that the account be reviewed by The Society's Taxation Committee. To invoke this process, please contact the complaints manager at The Society of Notaries Public.

What to do if you have a complaint about a Notary:

The Society of Notaries Public gives top priority to its duty to protect the public interest. We have a process to review your concerns. Society staff will keep you informed about the status of your file.

You are first required to contact the Notary and attempt to resolve the matter directly with the Notary. If satisfaction is not forthcoming, you must put your complaint in writing and submit it to the Society in any of the following ways:

- by way of the **complaint form**, submitted electronically over the web
- by downloading the **complaint form**, completing it and faxing it to the Society
- by letter faxed or mailed to the Society

A complaint form is available on our website at www.notaries.bc.ca in the *About the Society* section, or by calling The Society office at 604-681-4516, toll free at 1-800-350-2288.

Supporting documents involved in the transaction will be required as an attachment to your complaint. Lack of supporting documents may result in delay in handling the

complaint. A list of the type of supporting documents will be included with the complaint form.

What happens after a formal complaint has been made?

Once a written complaint has been received, the Executive Director or an appointed staff member will review it. Should additional information be required, you may be contacted for that information. The *Notaries Act* provides that a complaint be made by sworn declaration and you may be asked to provide that before the complaint proceeds any further.

Your complaint will be reviewed and a decision made as to whether there is a basis for investigation (for example, whether The Society has jurisdiction under the *Notaries Act* to review the matter). If there is no basis for investigation, the file will be closed at this stage and you will be informed.

Complaints are sent to the Notary

If an investigation is required, a copy of your complaint will be sent to the Notary involved and the Notary is given an opportunity to respond to the allegations you have made.

When the Notary's response is received, the Society will, if necessary, obtain further information from you, the Notary, or anyone else involved.

Possible Actions:

- If there is no indication of wrongdoing or if it appears there may be a misunderstanding between you and the Notary, you will both be so informed.
- If the Discipline Committee's review determines that the evidence indicates the complaint is unfounded, cannot be proved, or does not otherwise support a finding of discipline (a breach of our Act, our Rules or our Bylaws), no further action will be taken and you will be informed.
- If the Discipline Committee's review determines that the evidence may support the allegations made in the complaint, a charge will be laid and a hearing scheduled. A hearing may exonerate the Notary, or it may lead to a reprimand, a fine, a suspension, or membership termination.

If you are unhappy with our decision to take no further action about your complaint, in certain circumstances you will be able to appeal the decision to the Society's Discipline

Policy Committee. You can also contact the Office of the Ombudsman if you feel our process was unfair.

Sanctions

Penalties for discipline vary with the circumstances of the case. Normally, a minimum sanction is comprised of a reprimand. Other findings or admissions of misconduct may result in a fine of up to \$5,000; a suspension; termination; and costs of the inquiry process. Where the Notary agrees, The Society may require mandatory professional development.

Publication

Where there is a finding of discipline, a summary of the case and the findings will be published and posted on The Society's website and distributed to The Society's membership. Website publication of findings will be deleted after three years.

The Board of Directors does not have the authority at any stage of the discipline process to grant compensation to a complainant – whether or not there has been a finding of discipline. The “remedies” available to the Board are limited by the provincial Notaries Act and do not extend as far as the options available to judges in civil actions brought through BC's judicial system. Only the Courts can grant compensation and if you believe that you are entitled to compensation for damages, costs, or otherwise, you should seek advice from a lawyer.

Confidentiality & Privacy

Throughout the entire complaint process up to a Discipline Inquiry (if one should occur), The Society maintains confidentiality of all professional conduct matters. Only a finding of discipline, through the inquiry process or by consent, is reported. The Society retains its files on all conduct matters for a period of three years, after which the file material is destroyed. The Society does, however, keep a summary record of how each case was resolved. Your complaint and all responses to it may be provided to the Notary and his responses provided to you. All documents, correspondence and other relevant information pertaining to the complaint may be used as evidence at a hearing (if one occurs).

Information obtained during an investigation cannot be used in other proceedings except with consent.

The Society of Notaries Public of British Columbia is subject to the *Freedom of Information and Protection of Privacy Act*. As a result, information gathered by The Society may be disclosed, on request, to other persons whose interests are affected by it. For further information on privacy, please see our general [Privacy Policy](#).