

## **Discipline Committee**

### **Terms of Reference**

Updated: May 2019

### **Mandate**

The Discipline Committee reviews and assesses complaints regarding alleged misconduct by and incompetence of lawyers, former lawyers, visiting lawyers, articulated students and practitioners of foreign law and determining the appropriate disposition of complaints. The Committee also approves or rejects proposed consent resolutions of citations and determines various applications made under the Rules or referred by the President. The Committee does not make policy and all policy issues are referred to the Executive Committee.

### **Composition**

1. Under Rule 1-47, the President may appoint any person as a member of the Discipline Committee and may terminate the appointment.
2. The Chair and Vice-Chair of the Committee must be Benchers.
3. The Committee generally consists of four or more lawyer Benchers, one or more Appointed Benchers, and one or more non-Bencher lawyers.

### **Meeting Practices**

1. The Committee operates in a manner that is consistent with the Benchers' governance policies.
2. The Committee usually meets nine times per year on the day before each Bencher meeting.
3. The Conduct Assessment and Disposition Guidelines guide the Committee in the evaluation and disposition of complaints.
4. If there is a need to act before a meeting of the Committee can be arranged, the Executive Director may refer a complaint to the chair for consideration (Rules 4-3(2) and 4-5 (1)).
5. Quorum consists of at least half of the members of the Committee (Rule 1-16(1)).

## **Accountability**

The Committee is generally accountable to the Benchers. However, the deliberations of the Committee are confidential. In accordance with Rule 4-8, Committee members are not permitted to discuss agenda items with or disclose the agenda materials to anyone other than members of the Committee and staff attendees to Committee meetings.

## **Duties and Responsibilities**

The Committee must consider any complaint referred to it under the Rules and may instruct the Executive Director to make or authorize further investigation that the Committee considers desirable (Rule 4-3(1)).

In accordance with Rule 4-4(1), the Committee must:

1. Decide to take no further action;
2. Send a letter to the lawyer concerning the lawyer's conduct;
3. Require the lawyer to attend a conduct meeting with one or more Benchers or lawyers to discuss the lawyer's conduct;
4. Require the lawyer to appear at a conduct review with a subcommittee; or
5. Authorize the issuance of a citation, which results in a disciplinary hearing before a hearing panel.

The Committee may also:

1. Refer any matter or any lawyer to the Practice Standards Committee (Rule 4-4 (2));
2. Consent to the delivery to a law enforcement agency of information (except for information subject to solicitor and client privilege or confidentiality) that the Committee reasonably believes may be evidence of an offence (Rules 3-3(5) and 4-8 (5));
3. Grant or deny a request by a lawyer that an investigation into their conduct be held in abeyance (Abeyance Policy);
4. Make recommendations to the Credentials Committee to inquire into a lawyer's suitability to act as a principal (Rule 2-57(4));
5. Refer a matter to the Benchers for summary action where a member has been convicted of an indictable offence (Rule 4-52);

6. Authorize an interim action during an investigation where, on reasonable grounds, extraordinary action is necessary to protect the public (LPA, section 26.01 and Rule 3-10);
7. Suspend or impose practice conditions after a direction to issue a citation is authorized if continued practice is dangerous to the public or clients (LPA, section 39 and Rule 4-23);
8. Authorize the rescission of a citation under Rule 4-17(3);
9. Approve or reject a conditional admission and proposed disciplinary action (Rules 4-29 and 4-30);
10. Suspend or impose conditions and limitation on the practice of a lawyer that the Committee considers does not meet the standard of financial responsibility (LPA, section 32 and Rule 3-52(4));
11. Delay the deadline on which suspension will take effect if a lawyer fails to produce records on complaint investigation (Rule 3-6 (2)), or on a compliance audit (Rule 3-86 (2)), or if a lawyer fails to file a trust report (Rule 3-81 (3));
12. Initiate a review of a facts and determination decision or a disciplinary action decision (LPA, section 47 and Rule 5-19 (4)); or
13. Extend time to pay a fine or fulfill a condition imposed in a disciplinary hearing (Rule 5-12).