

COUNSELLING & INVESTIGATION COMMITTEE

TERMS OF REFERENCE



Mandate

The Counselling and Investigation (C&I) Committee is responsible for investigating complaints and reports to the Discipline Committee if the complaint has been resolved by consent, is dismissed, or if it recommends the Discipline Committee hold a formal hearing.

Membership Structure

The LPN Act provides:

25(1) The counselling and investigation committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members.

(2) No member of council or member of the discipline committee is eligible to be a member of the counselling and investigation committee.

Committee Members

- Four (4) Practicing LPNs, in good standing with the SALPN. One (1) LPN may serve as an alternate in cases of conflict of interest
- A minimum of one (1) member from the public, appointed by the Council
- At least one half of the fixed members of the committee is a quorum
- The Council appoints all members of the Committee based on interest, ability, and availability.
- From the committee membership, the Council appoints a Chairperson.
- The committee is provided with administrative support by SALPN staff:
 - o Complaints Investigator
 - o Complaints & Compliance Coordinator

Terms and Appointments

- Three (3) year terms
- Members may serve for one (1) additional term
- The maximum term is six (6) years

Roles and Responsibilities

Committee Chair

- Oversee the committee's discharge of its duties as assigned by the LPN Act, 2000 and the SALPN Regulatory Bylaws
- Ensure a sufficient number of meetings are scheduled based on caseload
- Set agendas for committee meetings
- Oversee the distribution of information to the committee in a secure and manageable form, sufficiently in advance of the meeting
- Preside over and conduct the committee meetings in an efficient, effective and ethical manner
- Communicate committee concerns with the SALPN Council or appropriate staff

Committee Members, including Chair

- Review and investigate allegations, taking any steps the committee considers necessary and appropriate
- Review the evidence and determine the facts of the investigation
- Provide direction, instruction, or assistance to the committee's legal counsel
- Seek advice of the committee's legal counsel
- Provide a Report to the Discipline Committee with recommendations to;
 - o hear the complaint in a formal hearing and determine the outcome
 - o take no further action due to a resolution achieved by a mutual agreement with the complainant and the LPN subject to a complaint
 - o recommend no further action
- Provide a report to the SALPN Council, the complainant, and the LPN subject to complaint when no further action is recommended or the complaint is resolved by mutual agreement
- Prosecute or direct the prosecution of the formal complaint
- Attend discipline hearings if possible
- Participate as witnesses in formal hearings, as required
- Complete committee orientation
- Develop knowledge and understanding of the SALPN's legislative documents
- Attend/complete education as prescribed by the Council
- Adequately prepare for meetings
- Comply with the LPN Act and the procedure manual of the Committee

Authority

The Counselling & Investigation Committee's authority investigate complaints is set out in the following provisions of the LPN Act:

Counselling and investigation committee

25(1) The counselling and investigation committee is established consisting of at least three persons appointed by the council, the majority of whom are to be practising members.

(2) No member of council or member of the discipline committee is eligible to be a member of the counselling and investigation committee.

Investigation

26(1) Where the counselling and investigation committee is requested by the council to consider a complaint or is in receipt of a written complaint alleging that a member is guilty of professional misconduct or professional incompetence, the committee shall:

- a. review the complaint; and*
- b. investigate the complaint by taking any steps it considers necessary, including summoning before it the member whose conduct is the subject of the complaint or assessing the member's competence.*

(2) On completion of its investigation, the counselling and investigation committee shall make a written report to the discipline committee recommending:

- a. that the discipline committee hear and determine the formal complaint set out in the written report; or*
- b. that no further action be taken with respect to the matter under investigation because:*
 - (i) the matter has been resolved with the consent of the complainant and the member who is the subject of the investigation; or*
 - (ii) in the opinion of the counselling and investigation committee, no further action is warranted on the facts of the case.*

(3) The formal complaint set out in a written report made pursuant to clause (2) (a) may relate to any matter disclosed in the complaint received pursuant to subsection (1) or the investigation conducted pursuant to subsection (1).

(4) A report signed by a majority of the counselling and investigation committee is the decision of that committee.

(5) The counselling and investigation committee shall provide, or cause the executive director to provide, a copy of a written report made pursuant to clause (2)(b) to:

(a) the council;

(b) the person, if any, who made the complaint mentioned in subsection (1); and

(c) the member whose conduct is the subject of the complaint mentioned in subsection (1).

Temporary suspension

27(1) Where the counselling and investigation committee is of the opinion that, on the basis of the allegations or the nature of the case, the member's licence should be suspended or the member should be prohibited from performing any practice or procedure pending the outcome of the investigation or hearing, it may, with the prior approval of the council, apply to a judge of the court for an order:

a. suspending the licence of a member whose conduct is the subject of an investigation pursuant to subsection 26(1) or against whom a formal complaint has been made pursuant to clause 26(2)(a); or

b. temporarily prohibiting a member described in clause (a) from performing any specified practice or procedure.

(2) An order of suspension or prohibition shall not extend past the earliest of the following:

a. 90 days from the date of the order;

b. the date of a report of the counselling and investigation committee made pursuant to clause 26(2)(b);

c. where the discipline committee finds that a member is not guilty of professional misconduct or professional incompetence, the day of its decision;

d. where the discipline committee finds that a member is guilty of professional misconduct or professional incompetence, the day that an order is made pursuant to section 30.

(3) The counselling and investigation committee may apply to the court for an extension of an order of suspension or prohibition made pursuant to subsection (1).

Discipline hearing

29 (2) The counselling and investigation committee shall prosecute or direct the prosecution of the formal complaint, but its members shall not participate in any other manner in the hearing of the formal complaint except as witnesses when required.

Continuity of committee

31 Where an investigation is commenced by the counselling and investigation committee or a hearing is commenced by the discipline committee and the term of office of a member of the committee expires or is terminated before the investigation or hearing is disposed of, the person shall remain a member of the counselling and investigation committee or the discipline committee, as the case may be, for the purposes of completing the investigation or hearing, in the same manner as if the member's term of office had not expired or been terminated.

Duty to report

33 Where the counselling and investigation committee in its investigation pursuant to section 26 or the discipline committee at the conclusion of its hearing pursuant to section 29 believes that the member whose conduct is the subject of the investigation or hearing may be guilty of a criminal offence, the committee may immediately discontinue its investigation or hearing, as the case may be, and shall make a report of its findings to:

- a. the president of the association; and*
- b. the Deputy Minister of Justice.*

SALPN Regulatory Bylaws:

Counselling And Investigation Committee

22(1) The Counselling and Investigation Committee shall:

- (a) advise the member that the complaint has been received and of the nature of the complaint and invite comments from the member in reply;*
- (b) provide the member with a copy of the committee's investigation procedures*
- © notify the complainant that the complaints or allegations will be reviewed*
- (d) attempt to resolve the matter to the satisfaction of the complainant and the member;*
- (e) engage in any counselling of the member that the committee considers necessary or appropriate; and*
- (f) review and investigate the complaint in accordance with the Act.*

(2) Where a member of the committee declares a conflict of interest, he or she shall not thereafter participate in any further consideration of the complaint, and any such withdrawal from the committee does not impair the power of the remaining members of the committee to act.