

This is the 1st affidavit of
Michael Scott in this case and was
made on 13/Sep/2021

COMMISSION OF INQUIRY INTO MONEY LAUNDERING IN BRITISH COLUMBIA
The Honourable Mr. Austin F. Cullen, Commissioner

AFFIDAVIT

I, Michael Scott, of the City of Vancouver, British Columbia, Director, Investigations, BC Financial Services Authority (“**BCFSA**”) AFFIRM THAT:

1. I was the former Director, Compliance and Investigations at the Real Estate Council of British Columbia (“**RECBC**”) from July 2019 to July 31, 2021, and as such have personal knowledge of the facts hereinafter deposed to except where stated to be on information and belief, in which case I provide the source of the information and verily believe that information to be true.

RECBC and its Resources

2. RECBC was established by the provincial government in 1958, originally with responsibility for licensing and education of real estate representatives and brokers, later receiving full self-regulatory status and additional authority for disciplining licensee misconduct. From 2005, RECBC was responsible for licensing individuals and brokerages engaged in real estate sales and rental and strata property management. RECBC enforced entry qualifications and continuing education requirements, investigated complaints against real estate professionals and imposed disciplinary sanctions under the *Real Estate Services Act* (“**RESA**”). On August 1, 2021, RECBC was dissolved, and its mandate and operations, along with the Office of the Superintendent of Real Estate (“**OSRE**”) operations and mandate, moved to and were integrated into the BC Financial Services Authority (“**BCFSA**”).

3. Under the RESA prior to August 1, 2021, RECBC and the OSRE shared regulatory oversight of the real estate industry, as co-regulators, with OSRE having some oversight mandate and powers. As one example, pursuant to section 89.1 of the RESA, the OSRE may oversee and direct the operations and activities of the real estate council, including by requiring RECBC to investigate a particular matter or issue a notice of discipline hearing. The OSRE provided high

level, strategic direction to RECBC that matters involving consumer harm or conflicts of interest be given priority. OSRE had knowledge of RECBC's mandate, activities, resources and priorities. In order to establish a process by which RECBC could, at its discretion, refer files to the OSRE for investigation, RECBC and the OSRE entered into a Memorandum of Understanding dated December 19, 2019. Attached as **Exhibit "A"** is a copy of the Memorandum of Understanding between RECBC and the OSRE dated December 19, 2019.

4. In June 2019, the Office of the Registrar of Mortgage Brokers (the "**Registrar**") wrote to RECBC regarding the Registrar's investigation of Jay Kanth Chaudhary and advising that that investigation had obtained evidence that real estate licensees had referred their clients to Chaudhary to arrange mortgage financing for the licensees' clients, and utilized him for their own properties. A copy of the Registrar's letter to me dated June 7, 2019 is Exhibit 661 before this Commission. Mr. Raheel Humayun, Manager of Investigations for the OSRE, was copied on the letter of June 7, 2019. To the best of my knowledge, RECBC did not refer any matters related to Mr. Chaudhary to the OSRE under the MOU, nor did RECBC receive any strategic direction from OSRE regarding the investigation or priority of the matters related to Mr. Chaudhary. It should be noted, however, that the OSRE did not, to the best of my knowledge, as a matter of practice provide specific directions to RECBC on the handling of particular files.

5. RECBC's principal mandate was to protect the public interest by enforcing the licensing and licensee conduct requirements in the RESA. The RESA contains a number of regulatory requirements and processes generally relating to the licencing of real estate brokers and representatives, financial management of licensee's practices, professional discipline, and consumer compensation.

6. The contemporary real estate industry grapples with a variety of complex issues, including contemporary social issues that are increasingly the attention of regulatory agencies in British Columbia. The real estate industry in British Columbia has also changed considerably in the last 25 years in response to market conditions. RECBC has adapted in response to these changes, including through multiple legislative changes to its organization.

7. In furthering its mandate, RECBC balanced a number of priorities. These priorities included matters such as consumer protection, overseeing market conduct, and professional education, among others. However, RECBC was also confronted with a variety of complex and

publicly sensitive social issues such as undisclosed conflicts of interest, fraud, fake offers, and allegations of sexual misconduct by licensees.

8. RECBC regularly received complaints and undertook investigations of alleged significant ethical matters, including fraud and dishonesty, by licensees. At any time, there would typically have been more than 100 such under RECBC's review or investigation. One example is proceedings RECBC brought against a licensee accused of failing to disclose relevant information and receiving wrongful compensation. In particular, RECBC initiated proceedings against Shahin Behroyan whose licence was cancelled, among other things. He was found to have caused a client to pay him a \$75,000 bonus by falsely stating that the agent of prospective buyers of the client's property would not present a full price offer for sale unless the client first agreed to pay a bonus and further failed to disclose relevant facts about his relationship with the buyers.

9. RECBC had limited resources available to carry out its mandates. RECBC did not receive taxpayer funding. Rather, RECBC's operations were funded through licensing assessment fees and a small amount of enforcement sanctions (which are required under the RESA to be directed to an In-Trust Education Fund).

10. RECBC's 2020/2021 financial forecast projected that RECBC would have a total revenue of \$17,417,000 and expenses of \$19,524,000. This does not account for the integration into BCFSA, which has changed the resources available to carry out RECBC's mandate. As of April 1, 2021, RECBC implemented a 30% licence fee increase in part to cover growing investigative expenditures and systems investments.

11. The majority of RECBC's resources have been spent on staff. Compensation and occupancy costs accounted for about 61% of RECBC's projected expenses for 2021/2022.

12. Staff are the most vital resource for efficiently and effectively managing complaint volumes. One of RECBC's largest challenges was attracting qualified and experienced staff. Qualified investigators, particularly with financial crimes or real estate experience, are highly skilled and highly in demand. At times, RECBC had limited qualified investigative resources to pursue the high volumes of complaints or to pursue complex investigative matters. This is simply a reflection of the labour market with staffing shortages not being unique to RECBC.

13. While great efforts have been made to improve the challenges it faced, staff retention and recruitment has been an issue at RECBC in recent years. In early 2018, for example, RECBC's compliance department had approximately ten staff responsible for reviewing and investigating complaints. It went through a period of high turnover, and in addition to hiring new staff, RECBC also shifted to new processes to review and investigate complaints. As of July 31, 2021, RECBC's compliance department had approximately 25 staff and was continuing to hire temporary staff to deal with increased complaint volumes.

14. RECBC compliance group's growing staff numbers was largely in response to the reality that RECBC accumulated an inventory of complaint files for several years, largely due to increasing activity in the real estate industry in British Columbia. This increase was contributed to by RECBC implementing an anonymous tip-line and making outreach efforts to raise public awareness of RECBC's role as a consumer protection regulator. As of July 31, 2021, complaint numbers are at record highs and continuing to grow. The numbers of complaints received annually by RECBC have nearly doubled in the past five years, from 536 in 2015 to 1028 complaints and anonymous tips received in 2020.

15. To July 31, 2021, RECBC was actively improving and adapting to its high complaint volume. However, no solution is perfect and each represented an incremental change that will take time to have an impact. Some of the measures that have been implemented to reduce the inventory of complaint files include:

- (a) recruitment and training of additional investigators to expand the capacity of RECBC's compliance department;
- (b) implementing process improvements to streamline file review and increase the efficiency of investigations;
- (c) creating initiatives to enhance the timeliness of RECBC's response to consumer complaints;
- (d) increasing training for investigation staff;
- (e) restructuring the compliance department into intake and investigations groups with a new management structure;

- (f) improving reporting, and quantitative analysis of complaints handling and output;
- (g) involving the legal group in review of older files to determine merit and recommend direction of further investigation;
- (h) pursuing a revised administrative penalty regime through discussions and collaboration with the OSRE;
- (i) creating penalty guidelines with OSRE to enhance the administrative monetary penalty regime and to enable more efficient disposition of less serious misconduct;
- (j) collaboration with the OSRE pursuant to the above-said MOU with a view to potentially referring a small volume of complaints to its investigative staff;
- (k) collaboration with the OSRE on alternative approaches to early complaint file review and resolution;
- (l) ending the role of an internal Council committee, the Complaints Committee, in reviewing and approving matters moving from investigation to discipline;
- (m) selecting and implementing an electronic complaint and case management system for document and matter management; and
- (n) moving consent order processes to written applications rather than oral hearings, and adopting a virtual hearing process in response to the COVID-19 pandemic.

The Process for Reviewing Complaints

16. In an effort to address the growing volume of incoming complaints and accumulating inventory of complaints, RECBC changed its intake processes for complaints. Beginning in approximately June 2019, RECBC shifted to a two-step complaint evaluation process.

17. At the first stage, complaints were assessed in an “intake” process where the complaints were reviewed on a preliminary basis to determine if there is a sufficient basis to pursue regulatory action. At this stage, complaints were either advanced to the second stage of the evaluation process or they were not. RECBC received many complaints where there was no

underlying issue requiring regulatory action. This stage was intended to reduce the number of resources invested in reviewing complaints that do not warrant regulatory action.

18. At the second stage, complaints were reviewed in greater detail to determine if they would be referred to the investigations group or whether an alternative means of resolution was more appropriate. At this stage, complaints were categorized based on an internal multi-factor analysis conducted by the compliance officer reviewing the matter. Relevant factors included: disciplinary history, appreciable risks of harm to the public, or conduct qualitatively assessed to be significant.

19. Even if complaints were evaluated as warranting investigative action, it can take time before a compliance officer has the capacity to take-on the file. There are occasions where complaints are received and held before they are assigned to an investigator. At any given time, an investigator may carry between 20-30 files each that are being actively pursued and advanced towards resolution.

20. My experience, which is borne out by RECBC's institutional experience, is that it is not effective nor productive to immediately assign complaints to compliance officers when they do not have effective capacity to handle those matters. Overburdened compliance officers are not as productive. They can also lose morale when they are overburdened and are unable to make significant progress on individual files because their attention is divided between so many files. Historically, overburdening of compliance officers has resulted in staff attrition and the loss of skilled and experienced staff who are best able to handle a high capacity of files. Ultimately, overburdening investigators is counterproductive to the goals of efficiency and effectively pursuing investigations of all degrees of severity.

21. In March 2021, the OSRE, at RECBC's request, conducted a review of comparable administrative bodies' complaint handling processes in an effort to find areas where RECBC could improve. Among other things, the OSRE commented that: a lack of skilled and knowledgeable intake staff can be crippling for the larger complaints handling process and could result in large backlogs and delays; an unfortunate reality for almost all regulators is that occasionally they will experience periods when complaint inventory exceeds the organization's capacity to respond in a timely manner; and the success of complaints handling processes largely relies on a highly skilled intake and investigative staff. The review, titled "Complaints Handling Processes in Professional Regulation", is attached as **Exhibit "B"** to this my Affidavit.

The Chaudhary Matters

22. The Chaudhary matter, and the 26 related files I discussed in my February 25, 2021 testimony before the Commission (the "**Chaudhary Matters**"), were reviewed and triaged by RECBC's compliance department. As I stated in my February 25, 2021 testimony, a total of 28 matters were referred but two of the referred matters did not involve licensed persons. The information provided to RECBC was reviewed and files were opened for a number of the matters. Some of those matters were prioritized based on the information and resources available.

23. The Chaudhary Matters are among hundreds of complaints and investigations RECBC was then and was subsequently pursuing. To do more on the Chaudhary Matters would have meant doing less on other files, including files that RECBC considered to be more serious and more urgent. RECBC reviewed the Chaudhary Matters, reviewed its strategic priorities, reviewed its available resources and determined, based on this information, the most effective and efficient way to advance its investigation.

24. The Chaudhary Matters were referred to RECBC during a period in 2019 when RECBC had a considerable inventory of serious matters that were awaiting referral to an investigator due to resource restraints and the fact that RECBC was adjusting to a two-stage complaint assessment process. As a result, the Chaudhary Matters were referred at a time where RECBC was facing significant pressure from its high complaint inventory and limited resources. At the time RECBC was referred the Chaudhary Matters, it had an inventory of approximately 150 matters that had been evaluated through the triage process as serious and worthy of investigation.

25. Some of the individual Chaudhary Matters have been prioritized based on RECBC's triage assessment. Each of these matters were assessed and pursued based on RECBC's priorities and the availability of investigatory resources. Each of these matters were specifically monitored.

26. RECBC had been moving the Chaudhary Matters forward and has committed resources to them. RECBC undertook a pilot project in spring 2020 to test the effectiveness and cost of private investigations. RECBC found that costs were high. However, in light of the number of outstanding investigations that were being handled by the internal team, RECBC decided in June 2021 to retain a third party to assist in the investigation of the Chaudhary Matters. The total

cost of retaining the third party is expected to be approximately \$250,000. RECBC did not have the flexibility or resources to retain third parties when the Chaudhary Matters were first referred.

27. At the time of my February 25, 2021 testimony, I advised that, of the 26 Chaudhary Matters: 16 had open investigation files (11 under active investigation and five pending assignment) and ten were to be subject to file opening and will be pursued. As of July 31, 2021, all Chaudhary Matters have been referred to the third-party investigator.

28. While there are commonalities between each matter, they are separate investigations with each giving rise to separate issues and prosecutorial considerations. Each of the Chaudhary Matters involves different acts, omissions and evidence. Disclosing the details of an active investigation runs the risk of prejudicing that investigation, including by revealing information to the public that may undermine investigative aims. This is particularly true when investigations are ongoing.

29. Prosecutorial discretion is important to effective regulation. RECBC was an expert on its statutory mandate and organizational priorities. It was responsible for the regulation of the real estate industry (along with the OSRE as discussed above) and accumulated a significant institutional knowledge over the previous decades.

30. RECBC was also an expert on how to manage its internal resources to carry out its mandate and priorities. RECBC's management knew RECBC's investigative capacity and how to manage its staffing resources to efficiently carry out its mandate. Each compliance officer has different skills and file loads. RECBC's triage process for complaints took these individual factors into account.

The Future of RECBC

31. In 2016, the RESA was amended to establish changes to RECBC's regulatory structure, including the shift from a partially industry-elected board to an appointed one, and the transfer of rule-making power to the OSRE. At that time, the Provincial Government introduced amendments to the RESA. Among other things, these amendments changed RECBC's Council from an elected board to being government appointed, increased oversight of RECBC by an independent OSRE and made RECBC a crown agency rather than a self-regulatory body.

32. In November 2019, the Ministry of Finance announced its intention to create a single regulator for the financial services sector, including real estate, by integrating RECBC and the OSRE within BCFSA. On August 1, 2021, RECBC and OSRE were integrated into the BCFSA. The integration is expected to produce efficiencies and increase capacity in the investigative realm. RECBC no longer exists following the amalgamation. Attached as **Exhibit "C"** is a copy of the Ministry of Finance's News Release dated November 12, 2019 announcing the amalgamation.

33. RECBC had long been committed to collaborating with the OSRE, BCFSA and the Ministry of Finance to identify potential future mandate direction as it relates to anti-money laundering for real estate professionals to enhance the effectiveness of B.C.'s Anti-Money Laundering Regime. These efforts include:

- (a) promoting the early completion of RECBC's mandatory Anti-Money Laundering Course by all licensed real estate professionals;
- (b) enhancing RECBC's brokerage audits; and
- (c) investigating and prosecuting complaints that may involve potential money-laundering.

34. I make this affidavit for no improper purpose.

AFFIRMED BEFORE ME at Vancouver,
British Columbia on 13 September, 2021



A Commissioner for taking Affidavits for
British Columbia

DAVID AVRAM



Michael Scott

This is **Exhibit "A"** referred to in the Affidavit of Michael Scott made before me at Vancouver, British Columbia this 13th day of September, 2021.



A Commissioner for the taking of Affidavits for British
Columbia

MEMORANDUM OF UNDERSTANDING

BETWEEN

The Office of the Superintendent of Real Estate

AND

The Real Estate Council of British Columbia

1. Parties

1.1 This Memorandum of Understanding (MOU) is made and entered into by and between the Office of the Superintendent of Real Estate (OSRE), and the Real Estate Council of British Columbia (RECBC).

2. Purpose

2.1 The purpose of this MOU is to establish the terms and conditions under which RECBC will share incoming complaint files with OSRE, and the circumstances in which OSRE will undertake to conduct investigations under section 48(1)(b) of the *Real Estate Services Act* (RESA).

3. Term of MOU

3.1 This MOU is effective upon the date it is signed and executed by the duly authorized representatives of the parties to this MOU and shall remain in effect until either party terminates the agreement.

3.2 This MOU may be terminated, without cause, by either party upon sixty (60) days' written notice.

3.3 The termination of this agreement will not interrupt any investigations already being carried out by OSRE or RECBC.

4. Background

4.1 OSRE and RECBC co-regulate the real estate industry in British Columbia and are mandated to protect the public interest and prevent harm to real estate consumers.

4.2 As per RESA section 36(1) and (2), persons may make complaints against licensees by writing to RECBC. Once a complaint has been received, RECBC may conduct an investigation to determine whether professional misconduct or conduct unbecoming a licensee has occurred. RECBC may also investigate a licensee on its own initiative.

4.3 As per RESA section 48(1)(b), the Superintendent of Real Estate may investigate a licensee to determine whether they have (a) contravened RESA, the regulations, or the rules, (b) breached a restriction or condition of their license, or (c) done anything that

constitutes wrongful taking or deceptive dealing, in a way that is seriously detrimental to the public interest.

- 4.4 In order to effectively carry out its authority under section 48(1)(b), OSRE requires the ability to review incoming complaints where the alleged wrongdoing or misconduct may be seriously detrimental to the public interest.

5. Terms

- 5.1 OSRE will only investigate complaints of a serious nature where it appears that a licensee may have acted in a way that is seriously detrimental to the public interest.
- 5.2 RECBC agrees to share with OSRE incoming complaints that may be seriously detrimental to the public interest.
- 5.3 OSRE will review all complaints received from RECBC to confirm if 5.1 applies, and will notify RECBC within thirty (30) days of receipt of the complaint regarding the results of this determination.
- 5.4 If OSRE determines that 5.1 does not apply, OSRE will promptly send the complaint back to RECBC for its consideration.
- 5.5 OSRE will conduct the investigation as expeditiously as possible given the priority and risk level of the complaint and the operational capacity of OSRE's investigative staff.
- 5.6 OSRE will provide RECBC with the investigation report and any other material pertaining to the investigation, in a form consistent with RECBC's practices and standards for the expected appropriate outcome. RECBC shall keep OSRE informed about its practices and standards.
- 5.7 Within fifteen (15) days receipt of the investigation report, RECBC will notify OSRE in writing if it considers that further investigation is required, including the nature of and reasons for the request. During this period, the parties may exchange ideas, information, and advice respecting the investigation's appropriate outcome.
- 5.8 Following the fifteen (15) day period established in 5.7, OSRE will either direct RECBC to issue a notice of hearing or will notify RECBC that OSRE's investigation is complete, and in both cases will also provide RECBC with all other material pertaining to the investigation as provided in 5.6.
- 5.9 OSRE will be solely responsible for communicating directly with all parties during the course of an investigation, including communication of any outcome. RECBC will be responsible for communicating with all parties if a notice of hearing is issued and for directing inquiries respecting ongoing OSRE investigations to OSRE.

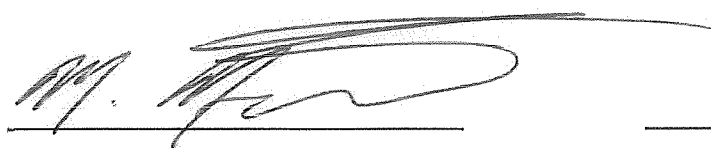
6. Confidentiality

- 6.1 There may be circumstances in which OSRE and RECBC are required to share confidential information for the purposes of an investigation.
- 6.2 OSRE and RECBC recognize the importance of maintaining confidentiality of all information that is obtained for the purposes of an investigation under this MOU.
- 6.3 Any information that is obtained under this MOU shall be treated as confidential, subject to disclosures required by law or as may be necessary or advisable to fulfil a duty or purpose under RESA.
- 6.4 All parties will preserve the confidentiality of information as is required under the *Freedom of Information and Protection of Privacy Act* in relation to any information that is obtained for the purposes of conducting an investigation.
- 6.5 The sharing of confidential information pursuant to this MOU is done in reliance on the foregoing assurances and shall not constitute a waiver of any legally cognizable privilege as to any person other than the parties to this agreement.

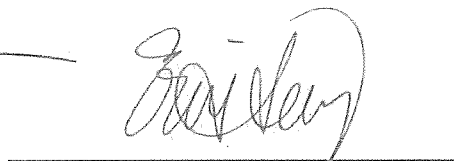
7. Reporting

- 7.1 OSRE shall update RECBC on active investigations pursuant to this MOU, as requested.

SIGNED at Vancouver, British Columbia:



Micheal Noseworthy
Superintendent of Real Estate
Office of the Superintendent of Real Estate

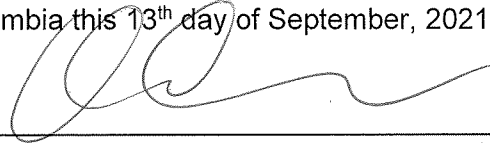


Erin Seeley
Chief Executive Officer
Real Estate Council of British Columbia

Date: DEC 18 2019

Date: December 19, 2019

This is **Exhibit "B"** referred to in the Affidavit of Michael Scott made before me at Vancouver, British Columbia this 13th day of September, 2021.



A Commissioner for the taking of Affidavits for British
Columbia

Complaints Handling Processes in Professional Regulation

March 2021



Office of the
Superintendent
of Real Estate

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Executive Summary

On November 12, 2019, the Minister of Finance announced that the Real Estate Council of British Columbia (RECBC) and the Office of the Superintendent of Real Estate (OSRE) would combine into a single regulator within the BC Financial Services Authority (BCFSA). In preparation for the establishment of BCFSA as an integrated regulator of BC's financial services sector including real estate, current regulatory practices in OSRE and RECBC will need to be updated to align to the changes in legislation, including the complaints intake and investigations functions.

This report explores organizational practices relating to the handling of complaints in a regulatory context. The intent of this work is to inform policy and organizational decision-making to ensure the timely handling of complaints while maintaining appropriate public interest protections and consumer confidence.

The concepts discussed in this report are based on a literature review and a jurisdictional scan of complaints handling processes of eight organizations across British Columbia and Canada, namely:

- British Columbia Securities Commission
- Consumer Protection BC
- Law Society of British Columbia
- Office of the Ombudsperson Province of British Columbia
- Organisme d'autoréglementation du courtage immobilier du Québec
- Real Estate Council of British Columbia
- Real Estate Council of Alberta
- Real Estate Council of Ontario

This report explores a variety of organizational concepts as they relate to complaints handling which are divided into the following key topics:

1. Organizational commitment
2. Intake
3. Investigations
4. Inventory management: strategies in response to complaint backlog

Effective and efficient complaints processes stem from having a number of well-organized and interconnected elements in place under all four topics. Some of the overlapping concepts include maintaining flexibility in approach, in both the short-term and long-term, and in educating consumers on the complaints process. Likely the most important elements relate to hiring and relying on the professional skills of intake and investigative staff and setting them up for success by ensuring they have appropriate resources, supports and caseloads. Additionally, the report identifies a number of strategies and operational processes to support complaints handling including streamlined processes and decision making, risk management, consistency in the approach and treatment of complaints and in utilizing technology in complaints processes.

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Introduction

Complaints are an integral component of an effective regulatory process. Complaints serve as an important check and balance for regulated professionals and provide an opportunity for the regulator to be responsive to public concerns and emerging trends. If managed effectively, complaints have the power to strengthen public confidence in the regulator and the industry they regulate and can provide valuable data to improve the delivery of the entire organization's mandate.

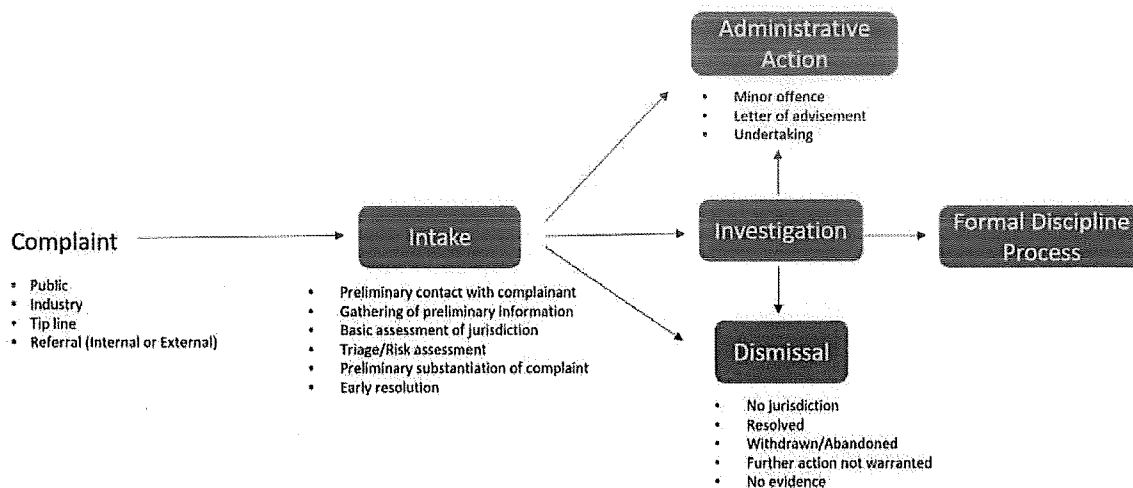
When people complain, they generally want to:¹

- have a process where it is easy to make a complaint
- receive a service that is responsive to their needs
- be heard, understood and respected
- receive an explanation
- receive an apology
- have action taken as soon as possible

Complaints are a call to service and as such, it is in the greater public interest that regulators are transparent, efficient and proportionate in their approach to complaints handling.

The term "complaint" refers to a report or allegation that a person has contravened legislation enforced by a regulator. There are many potential sources of a complaint, such as industry members, referrals from other regulatory bodies or departments within a regulator, and most commonly, from members of the public. Complaints typically have a similar lifecycle across regulatory organizations (Figure 1). Most regulators have a dedicated compliance department tasked with receiving, reviewing, investigating and resolving complaints. However, there are a number of elements that can impact the timely and efficient handling of complaints including: large volumes; complex complaints, mandate and regulatory framework; staffing; and legal obligations to uphold the principles of natural justice and procedural fairness.

Typical Lifecycle of a Complaint



¹ "Complaint Handling Guide: Setting up Effective Complaint Resolution Systems in Public Organizations" by the BC Ombudsperson, December 2020

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This report explores organizational practices relating to the handling of complaints in a regulatory context, particularly where there is a large annual volume of incoming complaints. The practices identified in this document are largely focused on how to structure complaints handling process and operational frameworks. The intent of this work is to inform policy and organizational decision-making to ensure the timely handling of complaints while maintaining appropriate public interest protections and consumer confidence. Task specific details (e.g. how to conduct an investigation) and high-level principles for complaints processes (e.g. requirements of procedural fairness) have intentionally been avoided as they are out of scope and many resources dedicated to these topics already exist.

This report is based on a literature review and a jurisdictional scan of complaints handling processes of eight organizations across British Columbia and Canada. For more information on the organizations interviewed and the general research methodology see Appendix A.

There were many fundamental differences across the consulted organizations, such as legislation, mandate and sectors; however, there were many commonalities and recurring ideas in how these organizations effectively and efficiently handled complaints. This report is organized around the following four topics:

1. Organizational commitment
2. Intake
3. Investigations
4. Inventory management: strategies in response to complaint backlog

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1. Organizational Commitment

In order to achieve efficient, effective and timely complaints handling organizations must be fully committed to the goal throughout the entire organization. Organizational commitment to complaints handling involves:

- A. striving for consistency,
- B. maintaining flexibility,
- C. fostering an organizational culture that values the entire complaints process, and
- D. adopting appropriate resource management strategies.

A. Consistency

Regulators should ensure that each complaint is reviewed on its own merits and that the response taken is tailored to the circumstances of the complaint. As a result, it is difficult to obtain absolute consistency when it comes to complaints handling, as the outcome, investigative process and disciplinary action will vary. Instead regulators should focus on ensuring consistency in areas they can control such as consistency in decision-making and in the quality, care and objectiveness in which complaints are handled as an organization. While no two complaints are the same, regulators must strive to ensure that the way complainants are treated, and the criteria used to make decisions, are constant across all complaints.

In reviewing the literature and the practices of other regulators it was almost universally recognized that having a formalized complaints handling framework with written policies and standard operating procedures helped ensure consistency and objectivity in complaints handling. It provides staff with guidance on the appropriate use of their discretion, ensures that the handling of complaints is done in an equitable, practical and consistent manner, and allows for managerial oversight as a foundation to assess and “demonstrate that their employees adhere to the resolution process or resolve complaints objectively.”² Furthermore, a certain level of consistency is also a requirement of procedural fairness.

In addition to written policies and procedures, some of the methods used by regulators to promote consistency across all units and staff involved with complaints include:

- Using templates for correspondence and internal reports or memorandums
- Having written guidelines or standard operating procedures guiding the way notes are taken and documented
- Creating job aids to assist staff involved at various stages of the complaints handling process to gather relevant information and make decisions for next steps on a timely manner. For example:
 - the Office of the Ombudsperson of BC developed an intake jurisdictional screening job aid for intake officers,
 - the Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ) identified roughly 50 offences under their regulatory framework and provided staff with that list and what kind of evidence should be sought that could prove or disprove each potential offence, and

² “Bank Complaint Handling Procedures: Industry Review” by the Financial Consumer Agency of Canada, February 2020 p. 10

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- several regulators have developed risk assessment frameworks to help identify high priority and urgent matters that require quicker escalation

Regulators who have implemented two or more of the above methods reported several practical benefits including improved ease of transferring files to accommodate staff absences and departures, increased efficiency in file reviews, and assured consistent quality of work across files. Improved ease of transferring files between staff was seen as particularly beneficial. As is discussed later in more detail, staff turnover can have a significant impact on efficiency and often contributes to an increase in complaint inventory. Ensuring that complaint files can be easily transferred can help mitigate the adverse effects of staff turnover.

B. Flexibility

While regulators need to be consistent in their objectivity, decision making and in the way complaints are handled as an organization, regulators must also be responsive to the needs of consumers and industry. Flexibility, adaptability and agility are generally accepted to be important traits for any organization, especially professional regulators. This has been noted by well-respected oversight organizations, both in Canada and abroad. The Professional Standards Authority for Health and Social Care (PSA) in the UK added agility as a sixth principle to right-touch regulation. Various ombudsperson offices recognized the importance of a regulator being “flexible in how complaints may be made”,³ empowering staff to resolve complaints promptly by adopting flexible approaches, and “conducting regular in-depth reviews of their complaints resolution system.”⁴

From a more operational perspective, both literature and most of the organizations interviewed for this report emphasized the importance of continuous process review and improvement. Process reviews should be regular (e.g. annual), systematic and include all elements within the complaints processes. As part of the reviews, feedback should be solicited from staff at all levels as well as complainants.

In addition to being regularly scheduled, targeted or systemic reviews may be necessary when pressing issues or changes within a complaints process arise, such as:

- any legislative changes impacting an organization’s jurisdiction, complaints handling and enforcement tools, or structure,
- advances in the technology available to a regulator,
- unanticipated bottlenecks in the process resulting in increased complaints inventory,
- emerging risks and issues in the regulated industry, including consideration of whether the current complaint handling process is adequately equipped to respond, and
- any recent or anticipated changes to the organization’s structure, resources or other organizational realities.

Organizations must be willing to adapt in response to these regular reviews and make necessary adjustments. Regular reviews can help prevent policies, procedures and documents from becoming outdated and no longer reflecting actual practices.

³ “Complaint Management Framework” by the South Australian Ombudsman, March 2016

⁴ BC Ombudsperson, 2020

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Several interviewed organizations noted the value of involving staff not only in the review of the organizations processes, but also in the development and adjustment of processes, policies and procedures. In reviewing and adjusting policies and procedures, staff offer valuable insight into what aspects of a system are working well and existing weaknesses or bottlenecks. Involving staff in this work can help provide staff with a sense of empowerment and investment. This can also take the form of more informal regular discussions within work units or across work units to promote learning, share strategies for responding to unreasonable complainant expectations or conduct, sharing potential emerging complaint trends, and identifying gaps in regulator's policies, procedures or training. The resource management section below further contemplates practices affecting staff empowerment and investment.

Flexibility in Action - Consumer Protection BC

Certain behaviours that emerged shortly after the declaration of the Covid-19 pandemic in 2020 gave Consumer Protection BC (CPBC) an opportunity to demonstrate the organization's flexibility and adaptability. By recognizing an emerging trend and the value that advances in technology held, CPBC was able to maximize the organization's complaints handling resources to respond to an immense influx of price gouging complaints. For these narrow types of complaints, CPBC increased its use of technology to assist in the intake and initial functions of complaints handling. This reduced the time spent by staff on administrative and data entry processes, allowing staff to spend more time on complaint assessment and response. Not only did this assist with the organization's efficiency, it also increased available data production to inform the development of policy. CPBC and other organizations consulted are exploring ways to leverage technology for a variety of purposes, including intelligent intake, triage and detection.

C. Culture

Fostering an organizational culture that understands and values the entire complaints process requires leadership to demonstrate that the organization's leadership sees complaints handling processes as valuable and are committed to improving systems. It is more than just delegating staff to fulfil a legislative function or mandate and entails ensuring that the importance of complaints and its value to the organization's relationship and reputation with the public is engrained within an organization.

Fostering an organizational culture that recognizes the importance of complaints handling can be furthered by several interconnected mechanisms:

- *Continuous Improvement* – An organization can pursue continuous improvement in complaints handling through multiple approaches.

An organization's commitment to responsiveness and flexibility, including regular and issues-driven process reviews, are an aspect of striving for continuous improvement. Reviews of a complaints handling system can detect strain in areas and prevent a yucv system from becoming inadequately resourced. At least one regulator confided that their ability to efficiently and effectively respond to complaints was impacted by their inattention to gradual changes over several years to the increased

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number and complexity of complaints being received; resourcing decisions had not kept pace with other complaints handling realities.

In conducting an industry review of the complaint handling procedures of Canada's six largest banks, the Financial Consumer Agency of Canada (FCAC) concluded that current procedures for evaluating resources were inadequate. The FCAC observed that most banks relied on statistics to understand the average time it took to resolve complaints, which did not assess or "measure whether banks have adequate resources to meet FCAC's expectations for timeliness" across the various stages of a complaints process.⁵ The FCAC also observed that "some banks are not looking at trends in complexity of complaints" to support resource assessment.⁶ In addition to statistics and complaint complexity, resources assessments should consider staff training and authority, technological resources and operational support. The work of FCAC suggests that striving for continuous improvement should not be looked at through a narrow lens of monitoring one metric or occasionally fine-tuning procedures here or there. Continuous improvement requires organizational dedication.

In the last five to ten years, most of the organizations consulted have undertaken an extensive review of complaints handling processes that included an evaluation of the number of resources dedicated to complaints, the process flows and the identification of inefficiencies. The section of this report on Inventory Management notes additional information about the reviews done by the Real Estate Council of Alberta (RECA), the Office of the Ombudsperson of BC, the Real Estate Council of Ontario (RECO), the OACIQ and the BC Securities Commission (BCSC).

- *Key Performance Indicators (KPIs)* – Realistic and attainable KPIs can be a useful tool to help ensure that complaint files are moving forward at a consistent pace and to motivate staff to work quickly and efficiently. However, having unrealistic KPIs can create additional stress for staff and lead to lower job satisfaction.

Many of the organizations consulted utilized some form of KPIs, specifically in areas that were measurable, predictable and attainable such as the number of days intake had to make initial contact with a complainant. However, some organizations were cautious in regards to putting too much stock in KPIs. One regulator confided that their KPIs had been set by executives who were disconnected with the operational realities of the investigative process. The KPIs were very idealistic and the timelines were only attainable in the most basic of complaints and as such, the KPIs were generally disregarded other than when it came time for annual reporting.

Other times, KPIs can become a hinderance to the complaints process when staff become more focused on achieving KPIs rather than the quality of their work. This is especially true if KPIs are linked to performance objectives and can affect pay. For example, a KPI that requires keeping complainants updated periodically can result in staff spending a disproportionate amount of time updating and corresponding with complainants rather than progressing files.

⁵ Financial Consumer Agency of Canada, 2020

⁶ Financial Consumer Agency of Canada, 2020

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- *Public Reporting* – Every organization interviewed does some level of public reporting on complaints.

Literature frequently noted that reporting about complaints publicly helps to demonstrate the organization's cultural commitment to accountability and transparency in complaints handling. One regulator noted that publicly reporting metrics on complaints such as the average number of days to close and investigate a complaints and complaint outcomes helped build confidence in the industry and encouraged professionals to report misconduct as they could see their concerns would be addressed in a timely and effective manner. Metrics that regulators should regularly report on include:

- Average number of days to investigate and close complaints
 - Statistics on the outcome of complaints (i.e. percentage of files that result in an administrative action or enforcement action)
 - Discipline decisions
 - Any recent improvements made to complaints handling processes
- *Regularly Communicating with Complainants* – Adequately communicating with complainants is a delicate balance of resourcing and preserving the integrity of the investigation.

Most organizations consulted communicate with complainants when there is a reason to contact them (e.g. file assigned to investigations with contact, matter proceeding to legal department for review, enforcement action being contemplated, file closure, etc.). A few organizations ensure that complainants are not left wondering if their complaint has been forgotten about by establishing timeframes in which contact must be made with the complainant (e.g. every month). A smaller number of organizations adopt a minimalist communication approach, only engaging with complainants when additional information is desired or after the matter has concluded. This minimalist approach, while requiring fewer resources on initial blush, can lead to substantial resource expenditure if a complainant starts contacting various organization executives, ministers, and oversight bodies, such as an ombudsperson office.

“Regulators are challenged to provide as much information as possible to complainants while ensuring that the information that is provided does not compromise an investigation or unjustifiably damage the reputation of a professional and that they are in compliance with privacy laws. Given the significant potential impact of a complaint, regulators are responsible for ensuring that any person who is the subject of a complaint is treated in a manner that is consistent with the laws of procedural fairness while at the same time providing as much information as reasonably possible to complainants about the status of their complaint.”

OSRE, An Oversight Framework for the Regulation of Real Estate Licensees Council of British Columbia

When a regulator plans to cease an investigation without enforcement action, the regulator should ideally inform a complainant of the reasons for that decision and provide the complainant with an opportunity to provide supplementary information or to ask questions, prior to making a final decision to close the matter. Such a step requires minimal amendments to existing processes and can increase complainant trust and satisfaction in the process. It may also reduce the number of complainants who wish to escalate matters either within a regulator or to a ministry, external oversight body or court for judicial review. Some regulators, such as RECO, are exploring the use of

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technology to develop an online portal where complainants (and regulated professionals) can view the status of a complaint.

- *Increased Use of Complaints Data* – An effective complaints handling process combined with effective reporting and monitoring provides an early warning signal to regulators on market deficiencies, bad practices or emerging risks.⁷

Complaints can highlight weaknesses in the regulatory structure and gaps in consumer protection. Repeated complaints about the same issue are usually a sign of a systemic or recurrent problem that requires further investigation and possible action by the regulator, such as issuing an industry alert, improving education or restricting a certain practice.⁸ In order to do this effectively, regulators must have tracking and reporting systems in place which inform the work of other departments such as policy and education. Some of the regulators interviewed for this report were able to utilize their case management software to analyze and produce reports on complaints data such as the most common type of infraction. In the long-term, a regulator can use regular reporting and tracking systems to reduce the number of complaints received by strengthening controls, improving practices or giving consumers clear information.⁹

D. Resource Management

Appropriate resource management includes ensuring there is an adequate number of staff proportionate to the volume of complaints and setting realistic expectations regarding caseloads and timelines. In organizations where there is a high complaint volume, it may be tempting to reduce backlogs by assigning more files to intake officers and investigators. However, in speaking with different regulators, it appears there is a tipping point at which the addition of more files to staff caseloads becomes counterproductive as staff becomes overwhelmed and unable to efficiently advance files.

Some of the organizations consulted have experienced an increase in investigative efficiency moving from unlimited caseloads to imposing caseload limits. There does not appear to be an ideal caseload number and the number of files staff can efficiently and effectively manage depends on a number of factors such as the complexity of the file and the proficiency and expertise of staff. Some regulators interviewed assigned only 2-3 files to their investigative staff while others fell into a range of 25-50 cases per investigator. In establishing caseload limits, regulators often have an approximate range rather than a firm amount; the range accommodates for complexity, urgency, risk of harm, and investigator expertise. In addition, organizations should be cautious not to design a system around one or two long-term staff as this can lead to major challenges if there is an extended absence or a staff member leaves their role.

In order to support staff in meeting timelines and managing case loads, many regulators spoke about finding operational efficiencies in a number of areas:

⁷ "G20 High-Level Principles on Financial Consumer Protection", by the Organization for Economic Co-operation and Development, October 2011, Pg 7

⁸ "Better Practice Guide to Complaint Handling", by the Commonwealth Ombudsman, April 2019

⁹ Financial Consumer Agency of Canada, 2020

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- *Limit administrative tasks* – The positions of intake and investigations require highly skilled staff. Some regulators reported improved efficiencies by adding additional administrative staff to intake and investigative units. They reported improved timeliness of complaints handling by alleviating many administrative tasks required to be performed by investigators and intake officers. Reducing the administrative tasks (e.g. data entry and filing) required of all staff involved in the complaints handling process allows them to focus more time on tasks that use their specialized knowledge and skillset.
- *Minimize redundancy in gathering information* – Some regulators reported frequent duplication between the work conducted at intake and by investigations. The reasons provided included a lack of trust by investigators of the work conducted by intake, incomplete information collected by intake or inconsistencies in how information is captured by each unit. Improvements can be made by having standard operating procedures that define the specific information to be gathered at the initial intake and assessment phase, consistent notetaking and file management and well-crafted case management software. These steps can promote a one-ask approach in engaging with complainants and avoid duplication in work by the organization.
- *Streamline file reviews* – A handful of the organizations consulted identified bottlenecks, inefficiencies and/or a drain on staffing resources at points where a decision needed to be made on a complaint file. This inefficiency largely had to do with the number of people required to review and approve a closure or recommendation (in some cases, it was 4 or more levels of the organization) or where all decisions needed to be approved by one decision maker, resulting in a bottleneck. Despite commitments by senior management to review matters within a certain timeframe, case volume and other job duties meant that matters that were ostensibly ready for closure or enforcement action, experienced periods of inactive delay while awaiting review. File closing memoranda and reports must be thorough and proportionate; so too must the process to review and make decisions based on these reports. A one-touch approach by an organization to decision-making may not always be reasonable or possible, a minimal touch approach may be achievable. Some of the organizations consulted which have undergone reorganization of complaints handling systems in the last three years requested greater autonomy for staff to increase efficiency and reduce the time spent on closing matters. One regulator has even provided authority for their investigators to close their colleague's files. This requires organizational confidence in their skilled professional staff, and a determination of the appropriate level of staff authority, delegation and empowerment.
- *Adequate support, technology and training* – Organizations also need to ensure staff have adequate levels of support, equipment and technology, training and authority to complete their work to the best of their abilities. While most regulators believe their complaints handling processes would benefit from additional staff, a few noted that it is not all about staffing resources. Most organizations consulted noted that comprehensive and easy to use case management software was essential to an efficient complaint handling system and noted that investments in technology can reduce intensive staffing needs.¹⁰

¹⁰ For a list of features such systems should incorporate, see page 13 of Commonwealth Ombudsman, 2019.

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2. Intake

Intake refers to the initial stages of receiving a complaint. Generally, intake consists of gathering, inputting and assessing preliminary information from a complainant and making a determination as to the next steps. On a cursory level, intake is sometimes viewed as a largely administrative process; however, intake's role should not be underestimated as it plays a critical role in effective and efficient complaint handling. Intake is the gatekeeper of an organization's complaints process and is key in ensuring that the efforts and time of investigators, legal counsel and other staff are spent wisely and that complaint inventory is kept at manageable levels. Intake is where the majority of complaints are closed and/or resolved. It is an organization's first point of contact with a complaint and it is where key information and evidence is collected that will inform the investigation and what action is ultimately taken on the file.

Based on the research, there does not appear to be a one-size fits all solution to the way complaint intake is handled or organized and intake models vary based on their specific needs and resources. "Some agencies have one or more workers focused solely on intake. Others rotate intake duties among investigators (or a subset of investigators). Some agencies strictly use intake to decide if there is a basis for investigation. Others go further by attempting to resolve the allegations before initiating formal complaints."¹¹ All of the organizations consulted for this report had a dedicated intake unit, with an average of 6-10 staff. Some organizations discussed previous organizational models where intake and investigations were mixed or where intake duties were rotated among investigators. However, they found that under such models the workload and volumes were too high for one manager and team to handle and there were negative outcomes on job satisfaction and staff retention.

Other predominant themes that emerged in the area of intake include:

- A. Skilled and knowledgeable intake staff
- B. Triage
- C. Documents collected by intake
- D. Managing expectations
- E. Timely progress of files
- F. Early resolution
- G. Better and more targeted complaints

A. Skilled and knowledgeable intake staff

The success of an effective intake procedure hinges on the ability of its staff to accurately yet quickly assess new complaints. The breadth of the work that intake officers are responsible for is varied and can be extremely challenging. Intake officers are often the first contact the public has with the regulator and can set the tone for the rest of the relationship. As such, intake staff need strong communication skills and must know how to achieve the right balance between being empathetic and responsive to the concerns of complainants and setting expectations by being clear and firm in outlining their organization's complaints process. They must also have a strong understanding of the industry they are regulating and the governing legislation in order to adequately understand the nature of the complaint,

¹¹ "The Labor Standards Enforcement Toolbox, Tool 1: Complaints, Intake and Triage", by Jenn Round, August 2018

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to ask the right question and to collect the right information. They must be analytical in order to accurately determine jurisdiction, assess risks and determine an appropriate course of action on complaint files. They need to work quickly and confidently.

A lack of skilled and knowledgeable intake staff can be crippling for the larger complaints handling process and could result in large backlogs and delays. “By investing resources at the intake stage, the

“Skilled, knowledgeable officers are the most valuable resource in any complaint handling system...Your organisation also needs a range of specialist skills and personal qualities in its complaint handling officers. They include empathy, patience, resilience, problem solving, communication, investigation skills, the ability to remain impartial, knowledge of your agency’s people and work, and the ability to work with vulnerable communities. Complaint handling can be difficult and stressful at times and these officers need support to maintain a healthy, positive attitude.”

BC Ombudsperson, 2020

agency will ultimately be more effective as it will have the information it needs to properly prioritize and triage complaints, which are key aspects of strategic enforcement.”¹² However, despite their importance, many organizations express difficulty with the retention of intake staff. Some potential reasons include that intake is largely seen, classified and compensated as a quasi-administrative role (i.e. data entry or receptionist work) which doesn’t account for the complexity of the work or the fact that many intake officers are delegated decision makers. Additionally, due to the nature of intake’s work, the files are transitory and staff job satisfaction may be affected when they do not have an opportunity to dive deeper or see a complaint through to completion. Solutions employed by some of the interviewed regulators were to rotate intake staff between various areas of responsibility of intake (i.e. answering calls/emails, data entry, file review, early resolution; etc.) or allowing intake officers to hold and complete some simple complaint files (though a regulator noted that this may adversely impact workload and timelines).

At times, intake may also have to deal with complainants that are abusive, that struggle with mental health or that exhibit other challenging behaviour, which can affect job satisfaction. The Law Society of BC has a number of initiatives to ensure intake staff are supported such as having a zero tolerance policy for abuse of their staff, a database of complainants with contact restrictions for individuals who display inappropriate behaviour, not providing personal identities of intake or investigative staff and providing extensive training on how to deal with challenging complainant behaviour.¹³

Some regulators have also developed job aides to assist intake in their work and remove some of the complexity. Aides include decision trees, a set of standard questions, and a list of classified offences and the corresponding basic evidence that needs to be collected. Regulators may also provide intake staff with ongoing professional training and development opportunities related to all aspects of their role, including the regulator’s jurisdiction and procedures, administrative law, listening and writing letters explaining a decision.

¹² “The Labor Standards Enforcement Toolbox, Tool 2: Investigations”, by Jenn Round, August 2018

¹³ For more suggestions on how an organization can support dealing with unreasonable complainant conduct see BC Ombudsperson, 2020, page 25.

FOR INTERNAL ONEFSR USE ONLY**B. Triage**

“Not all complaints require the same level of investigation or priority. It helps to ‘triage’ complaints at an early stage to determine their priority, and how and who should respond.”¹⁴ Many of the organizations consulted have intake functions undertake some form of triage or risk assessment to sort complaints into different urgency and treatment categories (though some reported that triage was completed by investigations). In some instances, complaint triage was done through a formal process that assessed the severity of an allegation and the aggravating factors based on predetermined criteria (e.g. the nature of the offence). The file would then be categorized (e.g. coded with a colour – red, yellow or green – or a number on a scale from 1-3) which would indicate the urgency and affect the manner in which the file progressed through the complaints handling process. Having a triage process allowed regulators to escalate complaints and allocate resources to complaints that were most serious and had a greater risk of public harm. “Most agencies receive more complaints than they have the resources to process. Every complaint is consequential to the complainant, but the urgency and magnitude of each complainant’s allegations can differ significantly. Triaging intake allows enforcement agencies to prioritize resources toward the most egregious, impactful, and/or high-risk complaints in a way that is transparent and consistent. Resources previously spent on low- or non-priority complaints can be used on proactive enforcement targeting... where violations are most prevalent.”¹⁵

C. Documents collected by intake

There was no agreement among regulators as to whether one of intake’s functions included collecting basic documentary evidence to substantiate a claim before it was referred to investigations. However, some organizations noted success in requiring intake to perform this function. For example, the OACIQ has a list of offences and the corresponding evidence required in order to open an investigation. Organizations note that this approach ensures that investigations are not opened unnecessarily as it allows intake to close files where a complainant is unresponsive, has lost interest in the matter or where there is no evidence to substantiate a complaint. This saves time and effort for investigative staff as they are able to focus on investigating rather than continuously contacting a complainant to collect basic documents. It also helps to ensure that regulators request complainants provide such information shortly after making the complaint rather than several months later, when a matter may be assigned to an investigator. However, one organization noted that complainants may become frustrated and disillusioned if they are required to submit, potentially extensive documentation and then have their complaint closed at an early stage with no action; this may be a worthwhile risk in order to only have files that are “investigation ready” move forward, gaining downstream process efficiencies. Some organizations also attempt to mitigate potential complainant frustration and disappointment by establishing clear expectations on initial contact with a complainant.

D. Managing expectations

The need to manage complainant expectations is not solely the responsibility of intake and should influence communication with a complainant throughout the entire complaints process. However, because intake is often the first point of contact with a complainant it is especially important for intake staff to ensure that they clearly communicate their organization’s role and complaints process, the

¹⁴ BC Ombudsperson, 2020

¹⁵ “The Labor Standards Enforcement Toolbox, Tool 1: Complaints, Intake and Triage”, by Jenn Round, August 2018

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outcome a complainant can expect as well as being upfront regarding timelines. Dissatisfaction with complaint handling often stems from differing expectations about how a complaint will be addressed or the outcome.¹⁶ Further, understanding a complainant's desired outcome can also help inform an intake officer as to appropriate next steps for the complaint (e.g. early resolution or referral to a different organization). A desired outcome can be collected on a preliminary intake form.

“Organizations should ask the complainant what outcome they are seeking, because this information provides insight into the person’s expectations. Sometimes it is possible to meet a person’s expectations and secure their desired outcome. At other times, the outcome a person seeks is not possible, or is inappropriate... It is common for people to be unaware of an organization’s role, procedures or practices for resolving complaints. As a result, we believe that organizations should take special care to ensure that a person making a complaint understands:

- *the organization’s role and the functions of the organization,*
- *the complaints process and procedures that the organization intends to follow in relation to their complaint, how their complaint will be dealt with, including who is handling their complaint and their responsibilities in relation to their complaint,*
- *the issues the organization is considering, the level of involvement they can expect to have with their complaint, how long it will take to investigate and/or resolve their concerns, what will happen next in the complaints process, what the possible outcomes of their complaint or investigative process could be.”*

BC Ombudsperson, 2020

Organizations should be mindful of the language they use throughout the complaints processes as it may provide false hope or imply a certain outcome (e.g. some complainants might think that a file being referred to investigations means that it will result in formal discipline).

E. Timely progress of files

Nearly all regulators OSRE spoke to echoed the sentiment that once a complaint is received by intake an action (i.e. closed, referred to investigations or resolved) must be taken quickly. Some organizations had performance indicators that reflected this expectation where an action was expected to be taken by intake within 1 – 3 weeks of receiving the complaint. Overly complex processes or requirements in a regulator’s intake process for multiple levels to review a decision can have a severe, negative impact on the timely progression of matters. As noted earlier, job aides such as decision trees and formalized criteria for when a complaint should be closed or referred to investigations can assist intake staff to work quickly and efficiently. In addition, fostering understanding from senior management and investigations staff around if or when intake staff make a wrong decision encourages confidence and timeliness in decision making. “In our experience, complaints get harder to manage the longer they stay open. Complainants can become frustrated with delays. Their expectations of a significant outcome

¹⁶ BC Ombudsperson, 2020

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sometimes increase, or they can start to raise new issues. The Victorian Ombudsman expects agencies to respond to straightforward complaints within 28 days.”¹⁷

F. Early resolution

Nearly all of the consulted organizations had their intake unit undertake some form of early resolution, where it was possible. In some instances, this was a formalized process with a team of staff dedicated to early resolution and at other times it was done more informally. Many organizations spoke highly of the early resolution process as a way to effectively and efficiently address complainants that are seeking a straightforward resolution such as an apology or a refund.

“When staff are empowered and encouraged to resolve complaints at the point they are received, they are more likely to obtain resolution and prevent escalation of the complaint to higher levels in the organization, saving significant staff time and resources... The most effective way to resolve Tier 1 complaints quickly, where the complaint appears valid, is to offer an apology for the ... problem identified in the complaint and explain the action being taken ... to address it. This response may be adequate ...”

BC Ombudsperson, 2020

As a form of early resolution, the OACIQ places a requirement on the managing broker to address straightforward issues identified in a complaint. RECA has a Voluntary Broker Resolution process designed to satisfy minor consumer complaints through discussion between the consumer, the industry professional, and their broker. The ability to undertake early resolution as a way to address a complaint hinges on knowing what a complainant’s desired outcome is and should be part of the initial conversation an intake officer has with a complainant. One regulator is even looking at including a question regarding early resolution on their complaint intake form. It is also important to note that not all complaints are appropriate for early resolution and there may be a role for the regulator to undertake enforcement action even if a complainant is satisfied through early resolution (e.g. ethical breaches).

G. Better and more targeted complaints

A common challenge that intake units face is the large volume of complaints and inquiries they receive. However, many of the complaints received are closed almost immediately for a number of reasons such as that they are clearly outside the organization’s jurisdiction, or there is no supporting documentation to substantiate a claim. While closing these complaint files may be relatively straightforward, this can require a significant amount of staff time and diverts resources from other complaints. While regulators must be responsive to complaints, some regulators are finding creative ways to reduce the number of immaterial complaints that reach intake. For example, in 2019 CPBC “launched a new online complaint form and process. It was designed to provide more information to consumers and more quickly refer complaints to other agencies, when appropriate. These changes, in combination with a full complement of staff and focus on efficiency, reduced wait times on written and email complaints from around 10 days in 2018 to 3.1 days in 2019”.¹⁸ The efforts of this type of proactive work is not necessarily to reduce but to hopefully improve the quality of complaints.

¹⁷ BC Ombudsperson, 2020

¹⁸ “Annual Report”, Consumer Protection BC, 2019

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Some other examples of proactive complaints handling include:

- Having a short series of screening questions regarding the nature of the complaint before a complainant can access the intake form
- Providing extensive but easy to understand web-based information regarding the complaint process and jurisdiction
- Using intelligent complaint forms that limit the data entry required by intake
- Having a requirement to upload documents with the complaint form in order for the complaint to be submitted
- Not taking complaints through the phone as this practice is very resource intensive (instead allowing complainants to leave a voicemail, or preferably, submit complaints through an intelligent online complaint form)

As discussed earlier, regulators can also aim to reduce complaints by regularly reviewing complaints data to target problematic practices as they are emerging on a proactive basis. Also, many regulators note that consumer education initiatives may reduce immaterial complaint volumes and lead to better quality (e.g. well founded, within jurisdiction, clearly articulated) complaints. Additional benefits of educating consumers include:

- Complainants are better able to articulate their complaint (identify what the breach was)
- Consumers have access to information about the regulatory framework, obligations of real estate professional, expectations and jurisdiction of the regulator (i.e. what is the role of the regulator in responding to conduct concerns, what resolutions are possible and whether another entity can achieve desired outcome)
- Preventing conduct concerns in the first place, as consumers can detect and address concerning conduct early in an interaction with a regulated person and respond accordingly (i.e. cease services; negotiate to cancel a service agreement)

CPBC is again an example of an entity that provides a lot of consumers information on their website about various services under their jurisdiction for consumers to become educated, including some targeted actions consumers can take to resolve matters themselves. For example, CPBC provides information on what a consumer can do when they need to cancel a contract for goods and services that will be supplied in the future.

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3. Investigation

Once intake determines that a complaint is within an organization's mandate and that further review is required the complaint file is typically assigned to an investigations unit. Most organization also have the legislative authority to investigate on their own initiative (e.g. based on information obtained through media reports, other regulators, and inspection programs). As noted by the Office of the Commonwealth Ombudsman, "the purpose of an investigation is twofold: to resolve the complaint by reaching a fair and independent view on the issues raised by a complainant; and to provide an appropriate remedy." Investigations should follow the principles of procedural fairness and regulators should strive for all investigations to be thorough and unbiased. Fulsome and impartial investigations are vital to the credibility and success of a complaint handling system and for the larger functioning of the regulatory structure. There is much to be said about how to properly conduct an investigation; however, that is outside of the scope of this report and this section focuses on higher level organizational principles relating to the investigative process and efficient complaints handling.

Given the nature of investigative work, investigations can be lengthy, especially where the issues are complex or there are challenges in obtaining evidence. Investigations units typically handle a much smaller volume of complaints as compared to intake, however, the length of time that files spend with investigations is much longer. It is difficult to predict how long an investigation might take as each file is unique and depends on many external factors. Most regulators interviewed have guiding KPIs for their investigators and while some investigations are completed within the timelines set out in the KPIs, there are many that can take much longer. Investigations must be fulsome and unbiased and as such, it is imprudent to rush an investigation; however, an investigation should not paralyze the complaints process and there must be a balance between thoroughness and timeliness. A few strategies to achieve this include:

- A. Proportionality
- B. Deadlines for gathering evidence
- C. Investigation plans
- D. Manageable caseloads
- E. Investigative teams
- F. Human resources

A. Proportionality

This concept refers to balancing the amount of investigative resources that are allocated to a file with the file's anticipated outcome. Specifically, not spending months investigating a complaint that is likely to lead to a minor intervention by the regulator such as a warning letter. While this may not always be possible or evident, especially at the outset, encouraging investigative staff to be cognizant of proportionality when planning their work helps ensure resources are being allocated wisely and allows for less serious pressing matters to be closed sooner. This also includes encouraging investigators to make decisions or recommendations as early as feasible. Once there is sufficient evidence to make a well-informed and fair decision, there may be no need to continue investigating a matter. This requires investigators to have realistic expectations and an understanding of the limits of the investigation as well as the fundamental importance or seriousness of certain allegations. Where there is solid evidence to pursue certain charges or misconduct, it may be prudent to make a recommendation for enforcement

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action on that charge without turning over every small stone and pebble investigating minor allegations. “It is not always possible to resolve each disputed matter. The evidence available to the investigator might be scant, inconclusive or evenly balanced, and this should be explained to the complainant. Thought should also be given to resolving the complaint differently...”¹⁹ A regulator should exercise caution when available evidence is evenly balanced in potentially non-minor matters, particularly where a credibility assessment would help tip the scales; credibility assessments may be best performed by a statutory decision-maker after a formal hearing process.

B. Deadlines for gathering evidence

A common issue identified by the regulators interviewed was that many investigations become stalled due to uncommunicative or apathetic complainants. Although a regulator still has a duty to investigate a matter regardless if the complainant has lost interest or has become too busy, it may become more difficult to gather evidence and to conduct a thorough investigation. In response to this challenge, many regulators provide deadlines when communicating with complainants and if the timelines are not met and key documents are not provided, the investigation may be closed. This requires an element of discretion and flexibility in order to ensure that the principles of administrative fairness are still being adhered to. For example, before deciding to close such a file, investigators should consider the seriousness of the allegations and whether evidence could be gathered from another source. Providing reasonable timelines to complainants ensures that an investigation moves forward and that investigators are not spending unwarranted resources waiting for complainants to provide sufficient documents. As one regulator noted, “[i]t’s perfectly fine to dismiss a complaint because of lack of evidence but it’s not fine to close it due to lack of investigation.” As discussed earlier in the intake section, in some regulatory models intake officers collect the basic evidence to substantiate a file and a matter is not referred to investigations until these documents are received, further limiting an investigator’s time spent on administrative tasks.

C. Investigation plans

A best practice identified by many of the interviewed regulators was the use of investigation plans to guide the work of their investigators. “If investigation is required, it is good practice to prepare a written investigation plan. An investigation plan will typically outline the sequence of investigative activities and highlight any risks that may need to be managed during the investigation (e.g. preserving evidence).”²⁰ Investigation plans are an excellent tool to ensure that the investigation focuses on the important issues and does not wander off course. It also allows an investigator to identify tasks and deliverables, set timelines and to be held accountable. It also allows for complaint files to be easily passed from one investigator to the next. In developing investigation plans, investigators should be focused on what they are trying to prove or disprove and what corresponding evidence is required. Investigation plans should be reviewed throughout the course of the investigation and adjustments should be made as circumstances change and new information becomes available.

¹⁹ Commonwealth Ombudsman, 2019

²⁰ BC Ombudsperson, 2020

FOR INTERNAL ONEFSR USE ONLY**D. Manageable caseloads**

As discussed at length in the Organizational Commitment section, having realistic and manageable caseloads for staff is a key element of effective and efficient investigations. This has ramifications for staff morale and requires leadership to understand the impact of excessive caseloads on efficiency.

E. Investigative teams

Regulatory investigations are often a solo exercise. However, many of the consulted regulators either paired investigators or made use of investigative teams from time to time. There were a variety of reasons and instances as to why this approach was taken including training (where a senior investigator mentored a new investigator), matter complexity and scope and investigations that required varied subject matter expertise or diverse skill sets. One regulator had investigators swap files when an investigation was stalled in an attempt to bring a fresh perspective and move a file forward.

Additionally, many regulators spoke about the importance of having a dedicated legal resource available to the investigative unit (and potentially the intake unit as well). The organizations consulted used a range of approaches. Some regulators had legal counsel embedded in the investigations department or designated one or two prosecutorial legal counsel as contacts for the investigation department, other organizations provided more limited or indirect access. Some regulators have opted for pairing a lawyer directly with an investigator while others have moved away from this approach reporting that it resulted in bottlenecks if the lawyer wasn't available to attend witness interviews and delayed counsel from engaging in the actual litigation of matters. Regulators that have one or two in-house legal counsel embedded in investigations or whose role included aiding the investigation department reported many benefits, including:

- Timely receipt of legal advice to help ensure that investigations are defensible and sufficient evidence is collected.
- Effective resolution of issues that arise, such as claims of privilege.
- Assistance with clarifying and interpreting legislative provisions which in turn avoids delays in waiting for formal legal opinions or having investigators partake in lengthy legislative research, especially when legislation is unclear or limited.
- Assistance to focus investigations on key matters supported by evidence and to avoid going down 'rabbit holes'.
- Reduced likelihood of bias or conflict of interest arguments by ensuring embedded legal counsel are not involved in the prosecution of complaints that move forward in the process.

F. Human resources

Another prevalent theme throughout research for this project is the importance of hiring, training and retaining skilled and knowledgeable staff. Most regulators stated that it can take two to three years to fully train an investigator. In terms of recruitment, nearly every regulator expressed that candidates often offered either industry knowledge or investigative experience, but never both. Instead of seeking industry or investigative experience, a few organizations consulted preferred to hire for fit/style/personality (e.g. someone who was willing and capable to learn quickly, calm under pressure); the right candidate would be worth training in the industry and investigations. As a result, in addition to

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standard training on an organizations legislation and processes, tailored training was required for nearly every new investigator. Some notable human resource practices include:

- BCSC utilizes a thorough interview process to ensure they recruit investigative candidates that will be successful in the role. The interview process includes a mock case where candidates have to conduct an investigative interview in front of panel members. This process is reportedly very stressful but provides a good indication of whether or not candidates will be a good fit for the role and BCSC reports very low turnover of their staff.
- OACIQ provides a specialized type of training program for their investigative and inspections staff which is run by an ex-police officer known for his investigative techniques. The training program is focused on how to structure questions and how to conduct an investigation and utilizes role play and actors.

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4. Inventory Management: Strategies to Address Complaint Backlogs

It is an unfortunate reality for almost all regulators that occasionally they will experience periods when complaint inventory exceeds the organization's capacity to respond in a timely manner. As one conscientious regulator put it, the presence of a backlog "keeps us up at night."

The negative impacts of these delays affect consumers, the industry and the organization. Delays in responding and resolving public complaints can lead to complainant fatigue and frustration as well as damage consumer confidence in both the regulated entities and the regulator. Where complaints are made by industry members or where the industry is aware of allegations, delays in a regulator's response will often lead to a negative perception within the industry of the regulator and the industry may become less likely to report suspected misconduct in the future as the regulator is seen as non-responsive or too slow and insufficient. Once the regulator gains this reputation within the industry, it can be difficult to overturn even if a backlog has been addressed and complaints handling is running efficiently. One regulator who has made strides in improving their complaints handling process related that despite the changes, industry still maintains the view that there is no point to make a complaint because it will take too long to address. They are attempting to fix the incorrect perception through monthly reporting, various publications on their website and direct communication with industry.

Aside from the impact on industry and consumers, inventory management challenges are detrimental to the organization itself in a number of ways, including having a negative impact on staff morale because they have both their current caseloads plus the additional task of addressing the backlog, increased use of resources to provide status updates and explain reasons for the delay and greater challenges in successful prosecutions on files that eventually proceed to formal discipline. Dealing with a backlog can also become a morale issue, especially with investigators. Taking on a three-year-old complaint is much more difficult and stressful as often times the complainant is angry because of the delay and may not be co-operative and evidence may have been lost or forgotten.

The causes and contributing factors to a complaints backlog can be singular or multiple. Some of the causes and factors identified by the organizations consulted include:

- A sharp rise in complaint volume or a slow steady undetected rise in complaint volume,
- Organizational restructuring,
- Market trends and potentially related media attention,
- Tactics of some defence counsel (fighting every step makes things longer),
- Inefficiencies in the way complaints are handled, such as elaborate or unnecessary administrative processes,
- Loss of experienced staff and/or frequent staff turnover (file reassignment can lead to a duplication in work, particularly where files are not documented consistently across the organization), and
- More recently, a variety of challenges stemming from the Covid-19 pandemic.

Identifying the likely cause or causes of a backlog is an important step in the development of long-term targeted approaches to respond.

Several organizations have experienced significant challenges with inventory management in the last ten years and managed to address the lingering, stalled and stale files while simultaneously amending

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processes to improve efficiency and prevent a recurrence. Generally, this required a two-pronged approach to inventory management:

1. Short-term, temporary measures to address existing file inventory. For example, while the preference remains to build sufficient in-house capacity, several regulators have engaged external contractors to temporarily bolster the capacity of investigations and/or prosecutions to decrease the size of the inventory.
2. Long-term, permanent and targeted changes to prevent a recurrence and the rebuilding of file inventory. Long-term changes involve implementing a combination of approaches described above in organizational commitment, intake and investigation.

RECA's Backlog Success Story – When faced with a backlog several years ago, RECA implemented two short-term measures and two longer-term measures, implementing approaches that demonstrate organizational commitment. Short-term measures involved (a) engaging contractors (two investigators on a 2-year contract to work through files, and after a year two legal counsel on a 2-year contract to assist with prosecuting the output from the extra investigative capacity), and (b) having four members of RECA leadership form a team to review every aged inventory file to identify creative approaches, consider whether there was an opportunity for an expedited outcome and provide advice to investigations staff on next steps. After identifying some of the likely causes of the backlog, long-term measures used by RECA included hiring more permanent staff and adopting a voluntary early resolution program for complaints to be resolved outside of RECA. Although the voluntary early resolution program took a few years to catch on, RECA's statistics demonstrate the benefits of the program.

Recent re-examinations by the Office of Ombudsperson of BC, RECO, OACIQ and BCSC of their respective complaints handling processes, including organizational structure, have shown success. For example, OACIQ has roughly doubled the number of completed investigations from the year before it implemented changes. Some key changes of their process improvements included increased consistency of approach through training and standardized internal procedures, and reduced independence and greater integration of the legal team with the organization's overall compliance goals.

Predominant themes for the success experienced by the Office of Ombudsperson of BC, RECO, OACIQ and BCSC include:

- Staff involvement in identifying existing problem areas or bottlenecks and determining what efficiencies or changes would fit best (not only can staff be subject matter experts, their involvement leading change increases buy-in and can assist with retention and morale)
- The organizations were and remain open to flexibility
- The pursuit of improvements to the efficiency of the entire process
- Increased consistency across individuals in the same role and file management through standardization
- Recognition by leadership that the impact of new processes and structure requires patience and monitoring.

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One organization's advice was to be prepared to have push back from above to assign more cases. It can be hard for an organization's leadership to accept that having smaller case loads, with excess files awaiting assignment, would lead to files being closed more efficiently. However, higher workload means staff become less efficient and their work lacks focus.

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Conclusion

There is no one element that a regulator can implement to ensure good complaints handling. Rather, effective and efficient complaints processes stem from having a number of well-organized and interconnected elements in place such as organizational commitment to the proper handling of complaints, strong intake and investigation functions and an ability to analyze, review and adapt processes. While there is no “one-size fits all” approach to complaints handling, this report has identified a number of factors to consider when addressing complaints in a regulatory setting:

Organizational Commitment

- Complaints are a call to service and the timely and fair handling of complaints plays a fundamental role in the service that a regulator provides to the public. This perspective should be held by the most senior leadership in the organization and should be reflected in their organizational decision making such as budgeting and resource allocation.
- Complaints can provide a wealth of information about a regulated industry, such as emerging trends and potential gaps in public protection. Regulators can benefit from regular analysis and reporting on complaints data that goes beyond basic metrics by ensuring that reporting loops into decision making within various areas of the organization. Monitoring complaints can greatly assist regulators in being proactive in their programs and processes including education or the need for legislative changes.
- Organizations must be consistent in the way decisions are made on complaints and in the quality, care and objectiveness in which complaints are handled as an organization. Organizations can improve consistency and efficiency by implementing formalized complaints handling frameworks that include standardized processes and documentation and established criteria for decision making.
- Complaints handling processes can avoid stagnation by striving to be flexible and responsive to the needs of consumers and industry. In order to do so, organizations should conduct regular process reviews to identify areas of improvement and also by being adaptable to external or internal challenges in the complaints handling process such as bottlenecks or staff turnover. This also includes regularly involving staff in continuous process improvement.
- The success of complaints handling processes largely relies on a highly skilled intake and investigative staff. These positions are complex, demanding, and stressful and the training and retention of staff is a common challenge for regulators. Properly supporting intake and investigative staff in managing workload demands can improve the effectiveness of organizations' complaints handling in both the short- and long-term. This can be achieved in a number of ways including limiting the administrative tasks required of skilled staff and by minimizing process redundancies and inefficiencies (i.e. streamlining file reviews and approvals).

FOR INTERNAL ONEFSR USE ONLY*Intake*

- Intake plays a vital role as the gatekeeper of an organization's complaints process and is arguably the most important function in ensuring that complaint inventory is kept at manageable levels and that the efforts and time of other complaints staff are spent wisely. As such, it is imperative that regulators take extra diligence in reviewing intake's processes to ensure that this critical initial review and assessment of complaints files is expedient, thorough and accurate. Potential areas of focus could include:
 - Ensuring files that are referred to investigations are substantiated with basic evidence
 - Giving intake officers the authority to deal with/close straightforward, low-level matters through letter of advisements or early resolution initiatives
 - Providing intake officers with standardized job aides and criteria for decision-making
 - Establishing triage or risk assessment tools for intake
 - Utilizing technology, consumer education and tailored intake forms to reduce the number of complaints that are closed due to jurisdiction or lack of evidence

Investigations

- Fulsome and impartial investigations are vital to the success of a complaint handling system and for the larger functioning of the regulatory structure. However, the need for fair and thorough investigations must be balanced by the need for efficiency and expediency and regulators should aim for proportionality in the outcome and resources dedicated to an investigation.
- Investigation plans are a best practice for investigators as they are an excellent tool to ensure that investigations focus on the important issues and do not wander off course. They also allow an investigator to identify tasks and deliverables, set timelines and to be held accountable.
- Regulators should consider embedding a dedicated legal resource within their investigations team. Encouraging investigators to consult with legal resources early on in the investigative process has been shown to have a positive impact on complaints handling processes for a number of reasons, including the timely receipt of legal advice helps ensure that investigations are defensible and helps investigators focus investigations on key matters.

Effective complaints handling is a true team effort within an organization. Based on the research undertaken for this report, the single most important factor for organizational success is ensuring that senior leadership properly support and respect the professional skills of intake and investigative staff and set them up for success. Consideration and implementation of the approaches and elements described in this report can better position an organization to weather the inevitable and variable challenges facing regulatory complaints handling processes. Few if any organizations are able to adopt all of elements identified in this report, all of the time, particularly as resources are finite. The unique circumstances and limitations placed on an organization will require careful consideration of which elements to implement and ensure that those elements strike an appropriate balance. Finding that balance is easier said than done, which may be why maintaining flexibility and striving for continual improvement are critical.

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Appendix A: Research Methodology

Staff at OSRE conducted a literature review of best practices and recommendations for complaints handling at the organization level. While there are several resources and reports that identify best practices with respect to the minutia of complaints handling processes as well as high level standards and principles (e.g. PSA reports), there was limited literature directly relevant to this report. As such, the research relied on organizations, such as various Ombudsperson offices and the FCAC, that had different mandates but where parallels could still be drawn on complaints handling processes.

OSRE also consulted with eight organizations across BC and Canada that deal with high volumes of complaints, with a focus on professional and real estate regulators. The organizations OSRE spoke to include:

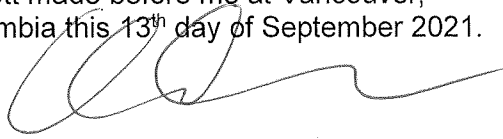
- British Columbia Securities Commission
- Consumer Protection BC
- Law Society of British Columbia
- Office of the Ombudsperson Province of British Columbia
- Organisme d'autoréglementation du courtage immobilier du Québec (OACIQ)
- Real Estate Council of British Columbia
- Real Estate Council of Alberta
- Real Estate Council of Ontario

These discussions focused on:

- how each organization structured their intake and investigation units,
- what kinds of formal and informal supports were available to staff in these units,
- what were some of the dominant influences on their current structure,
- what aspects of an organization's complaints handling is working well,
- what areas of past or current complaints handling have contributed to challenges, and
- what, if any, strategies organizations have employed or are employing to manage complaint inventory and prevent or reduce a backlog.

OSRE is grateful to these organizations for their valuable time and candour in sharing information about their complaints handling processes, including their successes and challenges.

This is **Exhibit "C"** referred to in the Affidavit of Michael Scott made before me at Vancouver, British Columbia this 13th day of September 2021.



A Commissioner for the taking of Affidavits for British
Columbia

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NEWS RELEASE

For Immediate Release
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Ministry of Finance

Single real estate regulator protects people, combats money laundering

VICTORIA – British Columbians can buy and sell their homes with renewed confidence and protection as the BC Financial Services Authority (BCFSA) takes its first steps toward becoming the single regulator for real estate.

“Buying a home is one of the most significant purchases people make in their lifetime, and by working together, the BC Financial Services Authority, Office of the Superintendent of Real Estate and the Real Estate Council of BC can combine their expertise to better protect consumers,” said Carole James, Minister of Finance. “Through legislation, we are giving people the assurance they deserve, while continuing to create world-leading protections against money laundering and other criminal activity in our real estate sector.”

Creating a single regulator was one of the central recommendations from Dan Perrin’s Real Estate Regulatory Structure Review in September 2018 and was echoed in the Expert Panel on Money Laundering Report in May 2019.

As the single regulator, the BCFSA will take responsibility over real estate licensing, conduct, investigations and discipline.

“Bringing real estate regulation within the new BC Financial Services Authority is an important step towards modern, effective and efficient regulation,” said Stanley Hamilton, chair of BCFSA. “This announcement builds on the important work already in progress at the BCFSA and positions consumers to be able to benefit from an unprecedented depth of expertise and experience.”

The BCFSA, which officially became a new Crown agency on Nov. 1, 2019, is currently responsible for regulating mortgage brokers, private pension plans and financial institutions. By including real estate regulation within the responsibility of the BCFSA, the Ministry of Finance is simplifying and integrating regulation of the B.C. financial services sector, resulting in increased consumer confidence and opportunities to streamline investigations and enforcement.

Since 2016, the Office of the Superintendent of Real Estate (OSRE) and the Real Estate Council of British Columbia (RECBC) have both played a vital role in overseeing the real estate industry. Moving forward, both agencies will be integrated within the BCFSA, building off the work that has already been done.

“We welcome the changes announced today to ensure that the regulatory framework provides effective consumer protection and to increase public confidence in the broader financial services sector,” said Micheal Noseworthy, superintendent of OSRE.

Elain Duvall, chair of RECBC, said, “Today’s announcement is good news for both real estate consumers and the sector as we combine expertise in one regulator. As we work towards the establishment of a single

regulator, public protection will continue to be the Real Estate Council of British Columbia's primary focus."

The Ministry of Finance is targeting fall 2020 to bring forward new legislation, while establishing an integrated real estate and financial services sector regulator is anticipated in spring 2021.

Learn More:

To read the Real Estate Regulatory Structure Review (Perrin report), visit:

https://news.gov.bc.ca/files/Real_Estate_Regulatory_Structure_Review_Report_2018.pdf

To read the Expert Panel on Money Laundering in BC Real Estate report, visit:

https://news.gov.bc.ca/files/Combatting_Money_Laundering_Report.pdf

To learn more about the British Columbia Financial Services Authority, visit:

<https://www.bcfsa.ca/pdf/news/News20191101.pdf>

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