

DEALING WITH A COMPLAINT

NOTE: The complaints process should be as open as possible. Both the complainant and the investigated midwife should be regularly informed of the progress of the complaint.

A. Duties of the Registrar

Receive complaints in *writing* from any person concerning the professional conduct or competence of a midwife.

1. Refer any other matter that may affect a member's ability to practise safely and effectively to the Complaints Committee. E.g. information that a midwife knowingly submitted false statements to the college; or information that a midwife is not complying with the conditions imposed on her registration by the college.
2. Refer all complaints to the Complaints Committee except those complaints that are determined by both the Registrar and the Chair of the Complaints Committee to be outside the jurisdiction of the college. E.g. a complaint about the conduct of a labour person would be outside the jurisdiction of the College.
3. Set up a meeting of the Complaints Committee no later than thirty days following the receipt of a complaint.
4. Provide administrative support and any other assistance required by the Complaints Committee.

B. Duties of the Complaints Committee

Details concerning the composition and duties of the Complaints Committee are found in Sections 18 to 31 of the *Act* and Section 11 of the *By-laws* as well as in this manual.

1. Meet to consider the merits of the complaint.
2. Determine whether or not to proceed with the complaint. A complaint may be dismissed because it lacks substance or because it is frivolous or vexatious. E.g. A complaint that a midwife whistles while she works is considered frivolous. Where the complaint is dismissed, the complainant must be informed in writing of this decision.
3. Where the committee decides to proceed, notify the midwife under investigation of the complaint and provide her with a written summary of the complaint. The complainant's name may or may not be disclosed to the investigated midwife. This is a decision which will have to be determined on a case –by-case basis by the Committee depending on the circumstances of the complaint. E.g., a co-worker may be concerned about the conduct of a fellow midwife but may be concerned that disclosing her name would jeopardise her relationship with that midwife.
4. Request the midwife to provide the Complaints Committee with a written response to the complaint within thirty days of being notified of the complaint.

5. Advise the complainant in writing that his/her complaint has been received and that a course of action has begun.
6. Review the written materials provided by both parties and determine if:
 - The complaint should be dismissed;
 - The complaint should be considered further;
 - There should be meetings with either party;
 - An investigator should be appointed to carry out a further investigation; (NOTE: the investigator should have good investigating skills and should have working knowledge of midwifery practice. A midwife from another jurisdiction may serve as a suitable investigator. A realistic time line should be negotiated with the investigator to avoid long, drawn out investigations).
7. Consider the report prepared by the investigator and determine if:
 - Further investigation is required;
 - There should be meetings with either party;
 - The complaint should be referred in whole or in part to the Inquiry Committee;
 - The complaint should be resolved through any of the options set out in Subsection 22(1) of the *Act*; (NOTE: many of the options set out in Subsection 22(1) will require the co-operation of the midwife.) NOTE: The Complaints Committee is not required to hold a hearing before making a decision.)
8. The decision, along with reasons, of the Complaints Committee must be prepared in writing and provided to both the complainant and the investigated midwife no later than thirty days following the decision.
9. The Complaints Committee may issue a public notice that a member has been censured which may or may not include the midwife's name and description of the circumstances that led to the censure.
10. The Complaints Committee may order the investigated midwife to pay all or part of the costs associated with the investigation of the complaint and for any costs incurred with any resulting action.
11. Where appropriate, the Complaints Committee may disclose to a law enforcement authority information respecting the possible criminal activity of a midwife which is obtained as part of an investigation. (See Section 31 of the *Act*.)

C. Duties of Complaints Committee in Cases of Serious Risk

1. In cases of extreme concern, the Complaints committee may hold an emergency meeting and direct the Registrar to cancel the midwife's certificate of registration or to place

conditions on the midwife's certificate of registration. This action can only be taken where the Committee has significant reason to believe that the midwife's conduct poses, or is likely to pose a serious threat to the public. (See section 28 of the *Act*).

2. Where the registrar receives directions as stated above, immediate steps must be taken by the Registrar to inform the midwife of the Committee's decision. The Midwife may appeal to the Manitoba Court of Appeal to put a stop to the Committee's actions.

D. Right of Complainant to Appeal

1. The complainant can appeal to the Council certain decisions made by the Complaints Committee under Section 22 (1) of the *Act*. In particular, the complainant may appeal committee decisions such as refusing to refer the complainant to the Inquiry Committee, accepting a midwife's voluntary withdrawal from the practice of midwifery or entering into an agreement with a midwife to take specific steps to correct a problem. (See section 27 of the *Act*).
2. This appeal must be made in writing and sent to the Registrar no later than thirty days following notification to the complainant of the Committee's decision.

E. Referral to Inquiry Committee

With the exception of a censure, the Complaints Committee may refer a matter under investigation to the Inquiry Committee at any time. (See section 30).