



POLICY – Complaint not to proceed (Rule 15.19)

The Discipline Committee may, upon considering the complaint, subject member comments and any investigative report, dismiss a complaint for the grounds enumerated in Rule 15.19.

If the behaviour that is the subject of the complaint is not within the jurisdiction of the College in that it is not a matter regulated by the *Act* or *Rules*, the Discipline Committee may dismiss the complaint.

If it is plain and obvious that the allegations, which would constitute misconduct if proven, are not supported by the evidence, the Discipline Committee may dismiss the complaint as unfounded. Dismissal on this ground should not be based on a weighing of the evidence, but should assume the alleged facts to be proven.

If the complaint does not allege behaviour that would constitute misconduct, or contains allegations that appear to the Committee to be designed for the primary purpose to cause anxiety, trouble and expense to the subject member, the Discipline Committee may dismiss the complaint as frivolous or vexatious.

If the complaint alleges behaviour that, while constituting misconduct, is of too trivial or technical a nature to justify any further action being taken, the Discipline Committee may dismiss the complaint for being trivial.

If the complaint alleges behaviour that would constitute misconduct, the Discipline Committee may nevertheless dismiss the complaint because discipline would not be in the public interest. The overriding objective of the College is the protection of the public interest with regards to regulating the credentialing and conduct of members of the College. Discipline proceedings against a member for misconduct are not necessarily always in the public interest.

The following is a non-exhaustive list of factors that mitigate in favour of further discipline proceedings for misconduct being in the public interest:

- the alleged misconduct is serious in nature
- a finding of misconduct is likely to result in a significant penalty for the member
- the complaint alleges significant harm to the complainant
- it is reasonable to expect that the misconduct could be repeated

The following is a non-exhaustive list of factors that mitigate against further discipline proceedings for misconduct being in the public interest:

- the misconduct was the result of a unique set of circumstances, or a genuine misunderstanding between the member and the complainant, that is unlikely to occur again

- a significant period of time has elapsed since the alleged misconduct
- the length and expense of discipline proceedings is not justified in relation to the harm alleged by the complainant
- the behaviour described in the complaint would be more appropriately addressed by making recommendations to the subject member as contemplated in Rule 15.19.4.