



INDEPENDENT MORTGAGE BROKERS ASSOCIATION OF ONTARIO OPERATING AS THE CANADIAN MORTGAGE BROKERS ASSOCIATION – ONTARIO (hereinafter CMBA Ontario)

CODE OF CONDUCT COMPLAINT PROCESS REGULATION

AUTHORITY AND DEFINITIONS

1. This Regulation is made pursuant to Section 6 of By-Law Number 1 of CMBA Ontario.
2. In this Regulation, capitalized words (unless otherwise defined herein) have the same meaning as they do in By-Law Number 1.

FILING A COMPLAINT:

3. Any Person (hereinafter the “Complainant”), believing that a Member has breached CMBA Ontario’s Code of Professional Conduct (hereinafter “Code of Conduct”), may file a complaint with the Executive Director of CMBA Ontario. The complaint shall be in writing and personally signed by an identifiable individual.
4. The Complainant shall provide contact information enabling CMBA Ontario to verify the identity of the Person and provide a means by which CMBA Ontario may correspond with the Complainant.
5. The Complaint shall set out in as much detail as possible, the grounds for the complaint and the section or sections of the Code of Conduct that the Member is alleged to have breached.
6. The Complainant shall provide any documents, information or items relating to the complaint, subject to any privacy restrictions or other applicable constraints.

RECEIPT AND REVIEW OF THE COMPLAINT

7. The Executive Director shall have twenty (20) days from the receipt of a complaint to review the complaint. If the Executive Director is of the view that additional information is required for the complaint to be considered, the Executive Director shall, in writing, ask the Complainant for further information or clarification.
8. The Complainant shall have twenty (20) days from the date of receipt of the Executive Director’s request for addition information or clarification to respond in writing. Should the Complainant not respond in writing within this period, the Executive Director shall review the complaint based upon the information received.

NOTIFICATION OF THE MEMBER AND MEMBER'S RESPONSE

9. Within twenty (20) days of the expiry of the time periods set out in Paragraphs 7 or 8 as may be applicable, the Executive Director shall determine whether there are sufficient grounds for the complaint to proceed.
10. If the Executive Director is of the view that the complaint is frivolous or vexatious the Executive Director shall at his or her sole discretion, dismiss the complaint and notify the Complainant of the decision.
11. The Complainant may request a review of the decision of the Executive Director made pursuant to Section 10, within fifteen (15) days from the deemed date of receipt of the Executive Director's decision and such a review shall be conducted by the Head of the Complaint Review Group pursuant to Section 17. The Head of the Review Group shall have ten (10) days from the deemed date of receipt of such a request as provided for in Section 23 of By-law Number 1 of CMBA Ontario, to determine whether the decision of the Executive Director is manifestly unreasonable. If he or she determines that the decision is manifestly unreasonable, the Head of the Review Group shall order the complaint to proceed. The decision of the Head of the Review Group in this regard shall be made in writing and shall be strictly limited to advising the Complainant that the complaint shall be passed to Complaint Review Group for consideration. No further information shall be provided. The decision of the Head of the Review Group is final.
12. If the Executive Director believes that there are sufficient grounds for the complaint to proceed, the Executive Director shall notify the Member of the complaint and provide the Member with a copy of the complaint and any related documents submitted by the Complainant. The notice shall be sent to the Member pursuant to Section 23 of By-Law Number 1 of CMBA Ontario.
13. The Member shall have twenty (20) days from the deemed date of receipt of such notice as provided in Section 23 of By-Law Number 1 of CMBA Ontario, to respond to the complaint in writing.
14. The Executive Director shall review the Member's response, if any. If the Executive Director believes that additional information will clarify the Member's response, the Executive Director shall notify the Member of this within twenty (20) days of receipt of the Member's response.
15. The Member shall respond to the request of the Executive Director made under Paragraph 14, within twenty (20) days of the request being made. Should the Member not respond within this period, the Member's previous response shall be deemed complete.
16. The Executive Director shall within twenty (20) days of the end of period set out in Paragraph 15, form a review panel (the "Complaint Review Panel") to consider the complaint.

COMPLAINT REVIEW PANEL AND COMPLAINT REVIEW GROUP

17. A Complaint Review Group (the “Review Group”) shall be comprised of a pool of Members who have volunteered to hear and determine complaints. The Review Group members shall choose one of the group to act as the Head of the Review Group.
18. The Head of the Review Group shall choose three (3) members from the Review Group to hear and determine a complaint and such three members shall form the Complaint Review Panel. One of the three (3) members of a Complaint Review Panel as chosen by the panel members, shall act as Chair of the Complaint Review Panel and shall be responsible for issuing the written decision of the Complaint Review Panel.
19. If the Head of the Complaint Group has dealt with a matter under Section 11, the Head of the Review Group shall not be a member of the Complaint Review Panel considering the same complaint and the Complaint Review Panel shall not be advised that the complaint was dealt with under Section 11.
20. All complaints considered by the Complaint Review Panel shall be done by way of a written submissions and no oral evidence will be taken.
21. Prior to acting as Complaint Review Panel members, each Complaint Review Panel member shall declare that he or she does not have an actual conflict of interest with either the Complainant or the Member. Notwithstanding this, no conflict of interest shall exist if one or more members of the Complaint Review Panel are franchisees of the same mortgage brokerage franchisor as the Member who is the subject of the complaint. For greater clarity, it is understood that with consolidation in the mortgage brokerage industry, Members may be associated with the same mortgage brokerage franchisor, but franchisees operate independently of each other despite being under contract with the same mortgage brokerage franchisor. Consequently, such a situation does not in and of itself, create a conflict of interest.
22. The Complaint Review Panel shall meet within thirty (30) days of being chosen by the Head of the Review Group. The Complaint Review Panel may meet in person or by teleconference.
23. The Complaint Review Panel upon convening may at its sole discretion, request either the Complainant or the Member to provide additional information or answer further questions regarding the alleged breach of the Code of Conduct. Such a request shall be answered in writing by the Complainant within twenty (20) days of such request being made.
24. Having satisfied itself that there is sufficient information to proceed and any applicable time period under Paragraph 22 has elapsed, the Complaint Review Panel shall review and consider the complaint.

AUTHORIZED DECISIONS/PENALTIES

25. If the Complaint Review Panel is of the view that the breach of the Code of Conduct was trivial, or was committed through inadvertence, or because of an error in judgment

made in good faith, the Complaint Review Panel shall find that the breach is not blameworthy, and no penalty shall be imposed.

26. If the Complaint Review Panel finds that there has been a breach of the Code of Conduct, the Complaint Review Panel shall state its reasons in writing for such a finding and impose a penalty as permitted by this Regulation.
27. Penalties for a breach of the Code of Conduct may include a written warning to the Member, a formal reprimand, or a suspension of membership for a period of not more than one (1) year,
28. The Complaint Review Panel does not have the authority to impose a fine on a Member. If the penalty imposed is suspension from membership, the Complaint Review Panel at its sole discretion may impose preconditions before readmission to membership. The Complaint Review Panel may require the former Member to successfully complete and provide proof thereof, of attending a course or courses to address issues associated with the finding of a breach of the Code of Conduct.

NO APPEAL

29. The decision of the Complaint Review Panel shall be in writing and is final and there is no appeal from a decision of the Complaint Review Panel.

COSTS AND LIABILITY

30. CMBA Ontario shall not be responsible for any costs, lost income, commissions, or payments of any kind, incurred by the Complainant or the Member, however they may be incurred, relating directly or indirectly to the complaint process set forth in this Regulation.
31. By participating in this Code of Conduct Complaint Process, each of the Complainant and the Member releases and discharges CMBA Ontario, its directors, staff, officers, volunteers, Complaint Review Panel members and those associated in any way whatsoever with the Code of Conduct Complaint Process set forth in this Regulation and the handling of the complaint, from all manner of actions, causes of action, debts, accounts, claims and demands for or by reason of any damage, loss or injury to person, property or reputation, which has been or may be sustained as a consequence of the filing of a complaint and all matters relating to addressing such complaint pursuant to this Regulation.

Adopted November 28, 2018.