

February 2019

## SUMMARY OF THE HRP A DISCIPLINE PROCESS

The mandate of the Discipline Committee is to hear allegations of professional misconduct or incompetence referred to it from the Complaints Committee, deliberate on those matters and apply the appropriate and just remedy to the Registrant who is the subject of the allegation(s).

The Complaints Committee will refer a matter to the Discipline Committee if their investigation leads them to believe that the allegations in a complaint are, in fact, professional misconduct or incompetence. In terms of incompetence, this refers to a Registrant's delivery of professional services display a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates that the Registrant is unfit to continue as a Registrant or to an extent that the Registrant's practice should be restricted.

Professional Misconduct is defined in the HRP A By-laws as follows:

*“Professional Misconduct” means conduct inconsistent with the Act, this By-law, the Rules of Professional Conduct or the Standards and Guidelines of Practice that poses or may pose a risk of harm or loss to any person.*

A discipline hearing is a formal process governed by the procedural provisions of the Statutory Powers Procedure Act. The parties to the discipline hearing are the Registrant and HRP A. HRP A retains a lawyer to prosecute the case against the Registrant and the Registrant is advised to retain their own lawyer to advise and represent them during the discipline process.

Discipline hearings are generally open to the public and information about upcoming hearings is posted on HRP A's website. The Panel may close the hearings to the public in exceptional circumstances (e.g., if the hearing would seriously invade the privacy of the complainant).

### Referral

When the Complaints Committee makes a decision to refer a matter to the Discipline Committee for a hearing, the Discipline Committee Chair is informed that a referral is being made and is provided with the name of the Registrant who is the subject of the referral.

### Notice of Hearing

Reasonable particulars of all allegations against the Registrant must be given in the Notice of Hearing so that a defence can be prepared by the Registrant. Any particulars in addition to those that are set out in the Notice of Hearing must be provided to the defence on an ongoing basis prior to the commencement of the hearing.

### Disclosure

As the prosecutor, HRP A has an obligation to make disclosure of evidence to the Registrant in a timely fashion. A failure to give adequate particulars or disclosure on a timely basis may result in a need to grant an adjournment and, in rare circumstances, to disallow the evidence. There is no reciprocal requirement for the Registrant regarding disclosure of evidence.

## Pre-Hearing Conference

HRPA will not proceed with a pre-hearing conference without the Registrant who is the subject of the allegations, or the Registrant's counsel or representative. The Pre-Hearing Conference is informal, confidential and without prejudice, and may consider any matter that may assist in the just, most expeditious and least expensive disposition of the proceedings, including one or more of the following:

- Settlement of any or all of the issues in dispute
- Simplifying the issues
- Agreement of facts
- Obtaining admissions that may expedite the hearing

## Hearing Procedure

### **Assembly**

The Panel members must have no knowledge of the case before the hearing commences. All materials and documents pertaining to the hearing are provided to the Panel after the hearing is called to order. The Panel should gather at a specified location away from the hearing room (usually in the Panel deliberation room) before the hearing starts. When all of the Panel members have arrived and the parties are ready to proceed, the Discipline Committee support staff will inform the Panel and usher them into the hearing room. The Panel sits behind a table at the head of the room with the Panel Chair sitting in the middle. Other hearing participants sit in pre-designated seats.

### **Opening**

The Panel Chair calls the hearing of the Panel of the Discipline Committee of the Human Resources Professionals Association to order. The Panel Chair then introduces the people participating in the hearing at its commencement and asks Panel members to disclose any conflict or bias.

### **Plea**

The Panel Chair asks the Registrant whether she or he pleads guilty or not guilty to each of the allegation(s) contained in the Notice of Hearing.

### **Case for the Association**

The Prosecutor summarizes the evidence she or he intends to lead and the conclusions the Panel will be asked to draw from the evidence. This gives the Panel an overview of what is going to follow and presents HRPA's theory of the case.

### **Case for the Registrant**

Once the Prosecutor has presented HRPA's case, the Registrant's legal counsel or representative begins with an opening statement then leads evidence in support of his or her case.

### **Finding regarding each allegation**

Once all evidence has been heard, the Panel Chair will declare a recess to enable the Panel to consider the evidence and decide on the question of the Registrant's guilt or innocence. If it appears that the decision can be reached quickly, the Panel may proceed to make its decision so that it can be reported to the parties without unnecessary delay. If the matter is complicated, or if it will take some time to reach a decision, the Panel will advise the parties that it will consider the evidence and reserve its decision.

**If a finding, penalty**

If the Panel proceeds to make its decision and finds the Registrant guilty, the penalty portion of the hearing proceeds. The Prosecutor and the Registrant's legal counsel or representative may call evidence and make submissions as to an appropriate penalty.

**Written Decision and Reasons**

In all cases, the Panel shall issue a final written decision, which is the official decision. The Decision and Reasons are sent to all parties and/or their representatives. The Panel's Decision is effective 30 days from the date of the written decision unless the Panel provides otherwise in the decision.