

Frequently Asked Questions: Complaint Dismissal Appeal Process

This sheet provides information to complainants about appealing the dismissal of their complaint.

It is important to understand that there are only certain reasons why an appeal of a complaint dismissal will be allowed. The fact that you disagree with the dismissal of your complaint will not be grounds to allow the appeal. Please review the Complaint Dismissal Appeal Form.

Please read this information carefully before deciding if you should appeal the dismissal of your complaint.

1. Who can appeal a complaint dismissal?

A complaint dismissal can only be appealed by the person who filed the initial complaint or by a lawyer representing that person.

2. Do I need to hire a lawyer if I want to file an appeal of the dismissal of my complaint?

No. The Law Society has created a user-friendly form to simplify appeals so that complainants do not need to hire a lawyer in order to appeal. Complainants are free to hire a lawyer to assist them if they wish, but it is not required.

3. What is the purpose of a Complaint Dismissal Appeal?

It is important to understand the role of complainants in the regulation of the lawyer's conduct. Complainants are not parties to the regulation process like they can be in a civil court action. They cannot direct how the Law Society will deal with the lawyer's conduct. That is the job of the Law Society. Disagreeing with the decision of the Executive Director/Delegate of Executive Director to dismiss a complaint is not a ground to appeal.

However, complainants can be valuable witnesses and can bring important information forward that will allow the Law Society to deal with a lawyer's conduct. The purpose of a Complaint Dismissal Appeal is to determine if the decision to dismiss your complaint was reasonable in all of the circumstances and in light of all of the information available at the time of the review. An appeal generally looks at whether the review was adequate and whether the direction to dismiss your complaint was reasonable based on the information available. It is not a fresh review of your complaint. The grounds for an appeal can include: inadequate review; failure to consider important facts; failure to properly apply the *Code of Conduct* or *The Rules of the Law Society of Alberta*; and/or new evidence that was not available before the complaint was dismissed.

4. How do I appeal a complaint dismissal?

To file an appeal of the direction to dismiss your complaint, you need to fill out the Complaint Dismissal Appeal Form and return it by email to the Law Society within 30 days. **The Complaint Dismissal Appeal Form must be used. Letters, email messages or other communications will not be accepted as a substitute for the Complaint Dismissal Appeal Form.**

5. Should I send other information and documents with my Complaint Dismissal Appeal Form?

Information and/or documentation you have previously submitted to the Law Society will not be accepted. There is no need to provide additional copies as the Appeal Panel will be provided with everything you have previously submitted to the Law Society. **Please note that no further submissions will be accepted after you have completed and submitted your Complaint Dismissal Appeal Form.**

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If your appeal is based on new evidence that was not available before your complaint was dismissed, you can provide copies of the new evidence. If you provide new evidence, you must meet the following requirements of the fresh evidence test:

1. The evidence must not have been reasonably available prior to the dismissal of your complaint;
2. The evidence must be relevant;
3. The evidence must be credible; and
4. The evidence could reasonably be expected to have affected the result.

6. Is there a deadline for filing an appeal?

The Complaint Dismissal Appeal Form must be returned to the Law Society within **30 days** of the date you are deemed to have received the letter dismissing your complaint.

7. Is it possible to get an extension to file an appeal?

The Chair of the Appeal Committee has the discretion to extend the time for delivery of the Complaint Dismissal Appeal Form, but extensions will be granted only in extraordinary circumstances. In order for the deadline to be extended, you will need to prove that something beyond your control prevented you from returning the Complaint Dismissal Appeal Form by the deadline. Requests for an extension of the deadline should be made **before** the time limit expires. A request for an extension should be in writing and sent to the Appeals Assistant, Tribunal Office, at Tribunal.Office@lawsociety.ab.ca.

8. Will my Complaint Dismissal Appeal Form and the information I provide be given to the lawyer my complaint is about?

The lawyer your complaint is about will be advised that you have appealed. They will be provided with a copy of your Complaint Dismissal Appeal Form and will be given an opportunity to make written submissions in response.

If the lawyer chooses to make submissions, the submissions will be made using the Complaint Dismissal Appeal Reply Form.

You will **not** have an opportunity to respond to the Complaint Dismissal Appeal Reply Form.

9. Are there any other resources available to help me understand more about complaint dismissal appeals?

Yes. The Law Society website (www.lawsociety.ab.ca) has links to the *Legal Profession Act*, *The Rules of the Law Society of Alberta* and the Law Society of Alberta's *Code of Conduct*. The website also has copies of the information sheets and guidelines the Law Society publishes.