

NOVA SCOTIA BOARD OF EXAMINERS IN PSYCHOLOGY

INFORMATION FOR PSYCHOLOGISTS ABOUT RESPONDING TO COMPLAINTS

1. Under the Psychologists Act 2000, the NSBEP has a mandate of public protection and must investigate every complaint within its jurisdiction. Once a letter of complaint is received at the NSBEP, the Registrar reviews the complaint, considers issues of jurisdiction and, in some cases, will ask the Complainant for clarification of the concerns. The Complainant is asked to provide written consent to proceed with the investigation, and to release the complaint material to the Psychologist.

The letter notifying of a complaint lodged against the Psychologist will arrive on the NSBEP letterhead, accompanied by a copy of the complaint materials provided by the Complainant and a document that explains the NSBEP procedures for investigating complaints.

The Psychologist may have overheard a rumour about an outstanding complaint or fear that a complaint may be lodged and wonders if he/she should provide a response prior to receipt of a written complaint. Only when a Psychologist receives notification of a complaint by means of the Registrar's letter, can the Psychologist assume that a complaint has been lodged.

Because the Registrar must remain neutral and is thus unable to discuss the substance of or merits of a possible complaint, if a Psychologist thinks a complaint may be forthcoming, he/she should seek consult elsewhere.

The NSBEP is obliged to keep confidential all matters related to complaint investigations and may not release information related to a complaint until a Complainant has consented to such release and then only to the individuals specified. Nevertheless, in some cases, Complainants have informed other individuals of the complaint or the possibility of lodging a complaint. Because the NSBEP regulates only the profession, it has no jurisdiction to prohibit a Complainant from providing other parties with information related to the lodging of a complaint. If the Complainant discusses the matter with the Registrar, the Registrar will explain why it is generally in the best interests of the investigative process to maintain confidentiality during the investigation.

2. In most cases, the letter notifying the Psychologist of the complaint will ask the Psychologist to respond to the concerns raised by the Complainant and will ask for some additional information. It is the role of the Registrar as well as the Committee Chair to request information that will assist the

Investigation Committee in arriving at a decision. The additional information is usually in the form of particular questions related to the concerns raised by the Complainant but which the Complainant, who is generally a layperson, would not be in a position to ask, because the Complainant may not have sufficient information about the practice or standards of the profession. **The Code of Ethics** requires a Psychologist to cooperate fully with duly constituted committees which are concerned with ethics and ethical conduct. Therefore a Psychologist is expected to respond promptly and fully to a letter of complaint and to any additional matters raised by the Investigation Committee. If a Psychologist does not respond promptly and fully, the Investigation Committee may draw conclusions about the complaint in the absence of complete information. Failure to cooperate with the Investigation Committee may result in the initiation of a further complaint.

It is generally considered to be in the Psychologist's best interests to provide a thorough response to the complaint from the outset. Psychologists may always contact the Registrar or Assistant to the Registrar with procedural questions arising from receipt of a letter of complaint, although the Registrar or Assistant to the Register cannot discuss the substance or merits of the complaint.

3. If the Psychologist does not understand the nature of a concern raised by the Complainant in a complaint, it is appropriate for the Psychologist to make note of this in responding to the allegation. The Registrar may attempt to elicit clarification of concerns from Complainants; however, in some cases, it is difficult to obtain a clear, precise description of the concerns from the Complainant. The Investigation Committee will be cognizant of this fact when considering the Psychologist's response.
4. If it is the Psychologist's opinion that one of the concerns raised by the Complainant does not fall within the jurisdiction of the NSBEP, it is appropriate to indicate this opinion and to explain why he/she has reached this conclusion. Although it is the role of the Investigation Committee to determine whether it has jurisdiction over the particular concern, it will be of assistance to the Committee, in evaluating the merits of the complaint to have this information rather than having no information from the Psychologist in response to a concern raised by the Complainant.
5. It may be appropriate for the Psychologist to acknowledge that he/she cannot answer a question, for lack of information, or to acknowledge an error or change in practice, if such a situation has occurred. In many cases, the Investigation Committee will consider the recognition of the error and/or change in the Psychologist's practice in its decision.
6. It may be helpful to provide all relevant additional documentation such as clinical notes and test results that would support the response or address the allegations. It may also be to the Psychologist's benefit to include such supporting documentation to minimize delays and clear up confusion about why a particular action was taken. There is however no obligation to

provide this information unless it has been requested by the Registrar or the Investigation Committee.

7. It is often a stressful and difficult event to be notified of a complaint. The Psychologist may experience some conflicting emotions about the Complainant. It may be helpful to draft an initial response to the Registrar, wait a few days and then review the response, in order to ensure that all relevant information has been included and that the tone of the response is appropriate in the circumstances.
8. The Psychologist should respond to the complaint within thirty days of the receipt of the complaint. Complaints are deemed to be received five business days after the Registrar mails them. Extensions on the time limit to respond may be granted in certain circumstances. Should the Psychologist require an extension, they should do so as soon as the circumstances present themselves, by contacting the Registrar by fax or mail. They should provide specific information about the reasons for the request.
9. Once notified of a formal complaint, it is not appropriate for the Psychologist to contact the Complainant to attempt to discuss the matter, or to discourage the Complainant from proceeding with the complaint unless this is a part of a mediated resolution agreed upon by the Complainant.
10. At the Investigation Committee level, NSBEP procedures are designed to keep confidential, even to members of NSBEP, any information about a complaint. However, If the Investigation Committee subsequently refers the matter to a Formal Hearing and the Psychologist has been served notice of this, it then becomes public information that there is an upcoming hearing related to the matter. Formal Hearings are generally public.
11. It is not necessary for the Psychologist to contact a lawyer upon receipt of a complaint, although some Psychologists find it helpful. He/she may wish to consult with his/her professional association and/or insurance company to review the provisions of his/her insurance coverage and make an informed decision about whether or not to retain independent counsel. Because NSBEP is the regulatory body investigating the complaint, the Registrar cannot normally provide advice to either party. Free legal consultation may be available through the Psychologist's professional liability insurance and through the Association of Psychologists of Nova Scotia (APNS).
12. Complaints that are initiated by third parties (e.g., the spouse of a client; the parent of an adult client; another professional), or that relate to custody/access assessments, present a unique set of circumstances related to issues of confidentiality. While NSBEP investigates third party complaints in much the same manner as first party complaints, there is a difference in the type of information that will be released. Confidential information related to the first party is not released to the third party. In a similar fashion, in the case of a complaint involving a custody/access

report, information regarding the client who is not the complainant is treated as confidential at the level of the investigation Committee.

13. It is the position of the NSBEP that it is appropriate to provide confidential information, including clinical records, to the Investigation Committee. The Registrar will advise the Complainant that the Psychologist may release such information to the Investigation Committee in order to respond to the complaint.
14. When issues of competency have been raised with respect to a Court Ordered psychological report, often the complainant will provide this report for the review of the investigation committee. If the complainant has not provided the report, the Psychologist is required to provide it on the request of the Registrar. As noted in 12 above, information regarding a client who is not the complainant is treated as confidential at the level of the Investigation Committee.
15. Investigation Committees are volunteer committees. The process for reviewing complaints is very thorough. The complexity of the issues under investigation and the response times involved in gathering all the relevant information has a bearing on the length of time. Typically, time to closure is between 6 and 18 months.

It is NSBEP's hope that this helps clarify the process. If there are any questions or concerns, please contact the Registrar or the Assistant to the Registrar.

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