

DATE: January, 2023

SUBJECT: Advisor Complaint Handling Policy

Introduction

To ensure fair and impartial complaint handling for customers seeking remedy for their grievances, regulators expect advisors to have an internal complaint handling policy for the products and services they offer. The process must be free of charge, transparent, and easily accessible to customers. Advisors should base their complaint handling on the [Canadian Council of Insurance Regulators \(CCIR\) and Canadian Insurance Services Regulatory Organizations \(CISRO\) Guidance document *Conduct of Business and Fair Treatment of Customers*](#). It should be documented in simple language and be accessible to all customers.

We are pleased to offer complaint handling templates that are available on the compliance section of the [Advisors website](#).

What is a complaint?

In general, a complaint is the expression of dissatisfaction made to an advisor or entity related to a product, a service, the advisor's conduct, or the complaint handling process itself.

The initial expression of dissatisfaction by a customer does not constitute a complaint if the issue is settled in the normal course of business. However, you are considered to have received a complaint where a customer remains dissatisfied after you have made every effort to settle the issue.

What are the Benefits of implementing a complaint handling process?

A meaningful complaint handling process contributes to the "barometer reading" of the quality of business conduct and ethics carried out by advisors.

Some of the benefits of implementing a complaint handling process include:

- A. The opportunity to demonstrate your professionalism and level of customer care, resulting in the potential for solidifying customer relationships.
- B. Saves time and energy in reaching an agreement satisfying to both parties. Potentially avoiding costly legal fees and long waiting periods for cases to go through judicial procedures.
- C. Achieving continued positive outcomes and reducing any chance of reputational risk.
- D. Aligning with the best business practices promoted in the Insurance and Investments industry.
- E. Helping to manage the risk of miscommunication or misinterpretation of facts between advisors and customers.
- F. Contributing to increasing customers' trust in the Canadian financial services sector.

What do Advisors need to do?

Advisors need to have a documented complaint handling policy and procedure in place to meet industry requirements.

In Quebec, the complaint handling policies and procedures are a mandatory requirement of licensed advisors. The Autorité des marchés financiers (AMF) has outlined specific requirements for what a complaint handling and dispute resolution policy should look like¹.

Using these requirements, advisors licensed in other provinces can build a solid complaint handling policy that provides a consistent approach for complaint handling.

Advisor policies and procedures should include the following elements:

1. The purpose of the policy

The purpose of your complaint handling policy is primarily to implement a free, impartial and fair handling of customer complaints within a reasonable time from its receipt.

More specifically your complaint handling policy should describe its intention such as:

- Monitoring receipts of customer complaints
- Oversight of acknowledgements of receipt sent out to customers
- The creation of a complaint file
- The possibilities to resort to a third party, if necessary, should a customer remain dissatisfied after day-to-day operational steps towards resolution have been applied.

2. Clearly provide the name and contact information of the individual responsible for complaint handling

The individual who is designated as responsible for applying the policy and would act as the respondent with the customer, regulator, or other third parties deemed necessary, needs to be clearly identifiable to clients who are filing a complaint

This person is in charge of sending an acknowledgement of receipt to the customer, training staff and providing them with the necessary information to comply with the complaint handling policy.

In Quebec, independent advisors are the respondents with the Autorité des marchés financiers (AMF). In addition, this advisor is responsible for transferring the file to the AMF at the customer's request and filing with the AMF a biannual report of customer complaints received within a calendar year. The reporting is done through a dedicated portal on the AMF Website, easily accessible to respondents. If attached to a firm, these duties are the responsibility of the firm's designated compliance officer.

3. What constitutes a complaint?

Advisors should provide the definition of a complaint in their complaint policy so there is a clear understanding by all parties. Recall from the definition in the introduction of this document, a specific problem that is corrected through the normal course of business is not considered a complaint, provided the issue is resolved and the customer has not filed a complaint.

There is a complaint when the customer remains dissatisfied after all steps described in your documented complaint handling policy have been taken towards resolution.

4. Receipt of the Complaint

Advisors should provide the complainant with an acknowledgement of receipt that includes a plain language description of the steps of their complaint handling process.

In addition to the name and business contact information of the advisor, the acknowledgement of receipt should include:

- Details of the complaint
- The potential or real risk of significant harm done, and
- What action is requested to resolve the issue satisfactorily

Customers have the right to know about alternative dispute resolution services available to them. It is a good business practice to send a notice with the acknowledgement of receipt; informing the customer on what other recourses are available should they be dissatisfied with the outcome or with the examination process.

The person in charge of handling complaints should inform the customer of impartial organizations that can help in resolving disputes. Such free services as the *OmbudService for Life & Health Insurance* (OLHI) (<https://www.olhi.ca/>) or *Ombudsman for Banking Services and Investments* (<https://www.obsi.ca/en/index.aspx>) are accessible to all customers.

In some provinces, consumers may have access to services that assist them with their complaint. For example, in Quebec, the AMF offers free mediation services to consumers of financial products. Advisors should verify with their respective provincial regulators to determine if they too offer such services.

Staff who receive a complaint, should forward it without delay to the person in charge of applying the complaint handling policy so as to allow the person in charge to acknowledge receipt of the complaint within a reasonable time after receiving it.

Quebec advisors must also include the following regulatory information in their acknowledgement of receipt:

- A copy of their complaint handling process explained in plain language.
- A statement regarding the right of the customer to request the transfer of their complaint file to the AMF if dissatisfied with the outcome or complaint handling process.
- A reminder to the customer that a request to transfer their complaint file to the AMF does not interrupt any civil action they might have initiated against the advisor or entity or financial product.

5. Complaint log and creation of the complaint file

Regulators expect advisors to maintain a log of their customer complaints. This facilitates file management and rapid access for producing documents to the regulator or insurer should it become necessary. For this reason, advisors should create a complaint file log to document each complaint received with the corresponding steps taken during the handling process.

It is good practice to keep the customer informed on the progress of the examination throughout the entire process. Keep a copy of all correspondence with the customer related to the complaint examination, including your final justified response, in the complaint file.

Quebec advisors must keep complaint files separate from their standard client files. Should the customer request a transfer of his complaint file to a third party for further examination, this is the file advisors must send to the AMF. Each file must include:

- A description of the complaint with its three elements (details of the complaint, the potential or real risk of significant harm done and what action is requested to resolve the issue satisfactorily).
- The advisor's analysis of the complaint and the outcome of the examination process.
- Any information related to the complaint, all the documents received from the complainant and correspondence between the advisor and them.
- The advisor's final justified response to the customer.

6. Complaint Examination

Advisors should describe clearly what steps they take in their complaint examination process towards reaching a resolution, including expected deadlines for response and what alternatives are available for dispute resolution, if applicable. During the examination, the advisor may need to request more information from the customer, if some elements or facts are missing, to facilitate the examination process. It is important to ensure you have all the facts and a clear understanding of the issue before providing the customer with a final response.

After examining the complaint, advisors should send the customer their final justified response, keeping a copy for their records. Facts that contributed to the final response should be clearly provided as part of the response.

7. Transfer of the file to a Third Party

Advisors should describe the process for transferring a complaint file to a third party for arbitration should the customer remain dissatisfied with the outcome or complaint handling process.

Regulators expect advisors to include in their acknowledgement of receipt, information in plain language on the steps a customer should take to request a transfer of their complaint file to an impartial party, a regulator or Ombudsman service. For example, in Ontario, the Financial Services Regulatory Authority of Ontario (FSRA) directs customers to file their complaint with their insurance company's Ombuds service first, before filing with the regulator². In British Columbia, the Insurance Council of British Columbia makes it clear in its Licensee's Code of Conduct that they expect advisors to include in their response to a customer complaint, information referring to other more appropriate people, processes and/or organizations³.

In Quebec, advisors must transfer the customer complaint to the AMF at the customer's request.

Advisors should always verify what the regulator's requirements specific to their license jurisdiction(s).

8. Specific to Quebec: Additional filing requirements.

In Quebec, advisors have additional regulatory responsibilities related to reporting complaints. The person in charge of handling complaints within firms with more than three advisors, must enter the data using the new "complaint reporting" section. To access it, you must use AMF E-Services for businesses. There is only one complaint reporting period, March 1st to May 1st, for complaints received between January 1st and December 31st of the previous year.

A firm with only one representative, is only required to file a report with the AMF if they have received a Quebec complaint during the preceding calendar year. However, if they do receive a Quebec complaint, they are required to file a report with the AMF detailing the number and type of complaints received by May 1st for complaints received between January 1 to December 31 of the previous year.

Finally, it is our recommendation that when building your complaint handling policy, you refer to the links below for more detailed information and guidance.

Information resources

¹ <https://lautorite.gc.ca/en/professionals/obligations-and-administrative-procedures/complaint-examination/>

² <https://www.fsrao.ca/consumers/home-life-and-health-insurance/how-resolve-insurance-complaint>

³ <https://www.insurancecouncilofbc.com>

<https://www.insurancecouncilofbc.com/Website/media/Shared/Licensee%20Resources/Resources/Insurance-Council-Code-of-Conduct.pdf>

⁴ https://lautorite.gc.ca/fileadmin/lautorite/professionnels/obligations/Directive-rep-autonome-SRP_ang.pdf

<https://www.abcouncil.ab.ca/problem-with-an-agent/#1540507297485-dd1f0823-d757>

<https://www.abcouncil.ab.ca/wp-content/uploads/superintendent-of-insurance-2019-02-bulletin-amended.pdf>

<https://www.cisro-ocra.com>

<https://www.oapcanada.ca/a-propos/gouvernance/>