



**Alberta
Insurance
Council**

What to Expect from the AIC's Investigation Process

Have you ever been the subject of an Alberta Insurance Council (AIC) investigation? Have you ever contacted the AIC with concerns about a licensed agent, broker, agency, independent adjuster or adjusting firm? This article is intended to provide you with important information about the AIC and its mandate to **protect Alberta insurance consumers** in a fair, transparent and objective manner.

What is the AIC?

The Insurance Adjusters' Council, General Insurance Council and the Life Insurance Council are the regulatory bodies responsible for licensing and regulation of insurance agents, brokers and independent adjusters in the province of Alberta. The Alberta Insurance Council provides investigative and administrative services to the other Councils, in addition to being the financial arm of the Councils. The Councils are formed under the Insurance Act and they derive their authority under a delegation from Alberta's President of Treasury Board and Minister of Finance.

Complaints at the AIC

The AIC has jurisdiction to investigate complaints against insurance agents, brokers and agencies, and against independent claims adjusters and adjusting firms who operate in Alberta. The Compliance Department of the AIC investigates complaints submitted by consumers, agents, adjusters, insurance companies, the police and other regulatory bodies. However, the AIC can also initiate investigations in the absence of an external complaint, for example resulting from audit activities or independent product distribution reviews.

Investigators at the AIC

The role of the investigator is to collect information to determine whether there has been a violation of the Insurance Act or Regulations made under the Insurance Act. All Compliance staff respond to numerous inquiries daily. They provide information on general and specific questions regarding licensing, legislative and regulatory compliance, and complaints. In addition to answering inquiries, **they investigate all potential breaches of the Insurance Act or Regulations.**

Complaints Data

Most of the inquiries that the Compliance team addresses **do not** result in disciplinary action. In 2016, 300 complaint files were opened. Those 300 files represent only a small part of the numerous inquiries handled by the Compliance staff every day.

Complaint Statistics for All Councils - 2016*

Total Number of Complaints Opened in 2016 – All Councils	300
Total Number Carried Forward from 2015 to 2016	73
Total Number of CLOSED Complaints REACTIVATED in 2016	2
Total Number of Complaints Dealt with in 2016	241
Total Number Outstanding at December 31, 2016	134

Considering there were over 53,000 active insurance certificates in 2016, the AIC is confident in the overall professionalism of licensed insurance agents, brokers and adjusters. Its focused efforts and activities on licensing qualifications, and disciplinary processes are ensuring that the consumer is kept front of mind.

Investigation Files: To Open or Not to Open

When someone contacts the AIC to register a complaint, the investigator will generally conduct an initial discussion with the complainant to determine if the complaint may fall under the AIC's jurisdiction. The investigators will request further information and documentation to determine if there **may have been** a breach of the Insurance Act or Regulations or to assist them in addressing the inquiry. If the matter is outside our jurisdiction or clearly does not suggest that a section of the Act or regulations are involved, the investigator will not open an investigation file. If appropriate, the investigator may refer the complainant to another regulatory or enforcement body. Once it has been confirmed that an investigation file may be warranted, the complaint must be submitted in writing. Based on this initial source of information an investigation file is opened or, conversely, the complainant is informed that the issue of concern is not within the AIC's authority, there does not seem to be a breach of the Insurance Act or Regulations, and of potential alternative channels that might be pursued. Of course, if new evidence is brought to light, the complainant can have the situation reviewed in the context of the new information, in which the initial investigator will review both the new and previously disclosed information.

Investigation File is Opened

When an investigation file is opened, the investigator will advise the complainant that the file has been opened and will then collect all relevant information from numerous parties, through written correspondence (letters or emails), in person interviews and phone calls. The investigation process can take **a significant amount of time to conclude**. The file is opened based on a preliminary and cursory review of a complaint and any supplementary information that the complainant provided. Depending on the complexity of the allegations, the number of parties involved, their level of cooperation, the legal issues at play and the evidence to be reviewed there is no way to predict how long it will take to complete an investigation file.

Investigators have been appointed as Examiners under the Act and this gives them the authority to compel individuals and entities to provide information upon request. Additionally, if you are or were ever licensed, and you receive a request from an AIC investigator, **you must respond**. **Failing to respond constitutes an offence** under the Act regardless of the outcome of the initial investigation file.

Once all relevant evidence is gathered, AIC staff determine whether there is **sufficient evidence to move forward with disciplinary action or whether the complaint should be closed**, sent to another regulatory body, or the police for further action. Sometimes, AIC staff consult with one another during the investigation depending on its complexity and nature. Ultimately, **if there is insufficient evidence to support a charge**, the investigation file will be closed, and the complainant and licensee are advised accordingly.

If there is **sufficient evidence** to suggest a breach of the Act or Regulations occurred, the investigator will proceed in one of two ways. First, the investigator may prepare a written **Report to Council** that includes all evidence that is relevant to the allegations. The investigator will provide this to the licensee to give them the opportunity to comment, respond, remark or merely acknowledge receipt as they choose. Only once the licensee has been given this opportunity is the Report to Council brought forward to the industry specific Council for deliberation. Sometimes, the investigator can also work with a willing licensee when there is a clear admission of guilt, to negotiate an outcome through an **Agreed Statement of Facts**, which also would be brought forward to the applicable Council for adjudication. Either way, **the Council has the final decision-making authority** on a Report to Council or whether to accept an Agreed Statement of Facts.

It's important to keep in mind that **while an investigation file is active, no status updates** are provided to complainants, designated representatives, licensees, media, curious minds, or Council members. This ensures the fairness and objectivity of the investigation and prosecutorial process, while also respecting the privacy of the investigated parties. Investigated parties are **presumed innocent** until a **Council has rendered a decision** that is based upon the evidence that is presented. Discussing specific ongoing investigations with Council members may result in those members having to recuse themselves from the



disciplinary discussion should the matter proceed to a hearing. Add to that, the complexity of a file that could also be under review by more than one regulatory or policing authority. When parallel investigations are underway by other authorities, the AIC and other regulatory bodies work, whenever possible, in collaboration. Also of note is that if an agent under investigation is not licensed and there is no immediate or continuing danger to the public, the AIC may choose to step back and allow a criminal investigation to take priority to not impede the criminal investigation. Patience and honesty are the best tools available to all parties to any investigation.

Investigation File is Closed

The Councils deliberate over Reports to Council and Agreed Statements of Facts. They review the documentation, discuss various facets of a given file and decide whether the evidence supports the charges and what penalty, if any, should be applied. **Council decisions** are finalized through written decisions and are signed by a member of that Council. Once signed, the AIC mails the decision to the licensee notifying them of their obligations and rights, including the right to Appeal, if applicable. All Council decisions are posted to the AIC website, where you can subscribe to an RSS feed or receive an email notification each time a new decision document is posted to the website.

Ultimately, only the Councils make disciplinary decisions. Investigators do not decide the outcome of any files and have no stake in the outcome. They are simply there to gather information and evidence and are not motivated to have a file conclude in one fashion or another. Like every AIC employee, investigators are guided by the AIC's consumer protection mandate and doing right by Albertans. That end can only be served by being thorough, unbiased and fair in their investigations.

For more information on the Alberta Insurance Council and its role in the insurance industry and how we protect Alberta insurance consumers, please visit our website at www.abcouncil.ab.ca or follow us on **Twitter @AbCouncil** for regular updates.

**2017 data unavailable at time of writing.*