

J.21 – Assessing Investigation Costs and Hearing Costs Policy

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Council is permitted to assess investigation costs against a licensee, former licensee or other person who was the subject of an investigation. Council is permitted to assess hearing costs against a licensee, former licensee or other person who was the subject of a hearing.

1. Apportioning Investigation Costs

Investigation costs are not assessed as a form of punishment. They are assessed on the principle that licensees whose improper activities engage Council’s resources ought to bear some, or all, of these costs.

At its discretion, Council may assess investigation costs proportionally, such as between licensees, if there is more than one licensee who is the subject of an investigation.

2. Calculating Investigation Costs

Council tracks its investigation costs from the beginning of an investigation until the investigation has been concluded by way of:

- an order;
- a letter to the licensee or former licensee about appropriate conduct or procedures requiring correction (“Reminder letter”);
- a letter providing advice regarding best practices (“Best practices letter”);
- a dismissal; or
- any other means as determined to be appropriate by Council.

Investigation costs can include, but are not limited to:

- time spent by Council staff conducting the investigation, assessed in accordance with the Council’s Costs Assessment Schedule;
- expenses incurred by Council during the investigation, such as Review Committee member *meeting fees*; third-party costs (e.g. expert reports, witness costs, interpreter costs, and process servers); legal fees relating to the investigation; and travel expenses relating to the investigation.

3. Apportioning Hearing Costs

Hearing costs are typically assessed in accordance with Council's Costs Assessment schedule, unless the Hearing Committee has determined that exceptional circumstances exist, and Council's actual hearing costs should be assessed to a licensee.

When a hearing has been completed, the Hearing Committee may invite written submissions on whether or not Council should assess hearing costs. If hearing costs will be assessed by Council, an explanation for the assessment will be provided to the licensee or former licensee in writing which will include whether the assessment is being made in accordance with Council's Costs Assessment Schedule or based on Council's actual hearing costs.

4. Administration of Investigation Costs and Hearing Costs

Where Council assesses investigation costs or hearing costs, a breakdown of the costs assessed is made available to the licensee upon request.

Investigation costs and hearing costs are imposed by Council by way of an order. The order will typically specify a period of time within which the licensee or former licensee must pay these costs to Council. Failure to pay the costs within the specified period will result in the suspension of the licensee's insurance licence until such time as the costs are paid in full. In the case where a licensee ceases to hold an insurance licence and has not paid the ordered costs, the licensee will not be permitted to apply for an insurance licence with Council until such time as the costs are paid in full.

Council reserves the right to file with the court a certified copy of its order assessing the costs and, on being filed, the order has the same force and effect as if it were a judgement of the court. Council may, at its discretion, take all proceedings on the order as if it were a judgment of the court.

Council also reserves the right to pursue payment of the outstanding fines, including in court.

Council's investigation costs and hearing costs assessment schedule is reviewed and updated periodically.

Costs Assessment Schedule

Investigation Costs:

| Investigation Costs: |
|---|
| \$125.00/hour |
| <i>This rate reflects a reasonable portion of the actual costs incurred by Council and is based on an independent review that has established the appropriate hourly rate</i> |

Hearing Costs:

| Hearing Time Costs for Each Day of Hearing: | | | |
|--|-----------------|-------------------|-------------------|
| | Under 2.5 hours | 2.5 to 5 hours | Over 5 hours |
| Legal Counsel* Preparation | \$275.00 | \$550.00 | \$825.00 |
| Legal Counsel Attendance | \$550.00 | \$1,100.00 | \$1,650.00 |

** Legal Counsel includes both Council’s legal counsel and the Hearing Committee’s legal counsel*

| Flat Rate Costs: | |
|---|--|
| Preparation of Written Argument | \$550 |
| Correspondence, instructions, conferences, etc. | \$550 |
| Disbursements | As incurred |
| Court Reporter | As incurred |
| Council Member Meeting Fees | In accordance with provincial government requirements |
| Travel Expenses | As incurred |