

Insurance Council

BRITISH COLUMBIA

Suitability Review Process for Licensing Applicants

v.1.0

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The Insurance Council of BC (Insurance Council) is authorized by the provincial government to license and regulate the activities of life and general insurance agents, general insurance salespersons, and independent insurance adjusters (licensees) in British Columbia. Under the *Financial Institutions Act (Act)*, the Insurance Council has a mandate to protect the public with respect to the sale of insurance products and services in British Columbia.

Individuals looking to become licensed in British Columbia must meet the requirements of Insurance Council Rule 3(2), which states the requirements for applicants to satisfy Council including the criteria for suitability to hold a licence. Applications for licensure may be subject to suitability review based on these criteria. This Suitability Review document outlines that process.

This document should be viewed as providing general direction and, in some cases, specific prescriptions for action as required by existing policies or regulations.

DEFINITIONS

Applicant: A person applying for a licence, an amendment of a licence or a transfer of a licence.

Application:

A form submission that:

- a. Contains all requested information;
- b. Is signed by the applicant; and
- c. Is accompanied by the fees as published in the Insurance Council's Fee Schedule, including all documentation required by the Insurance Council.

Licensee: A person licensed by the Insurance Council.

PRINCIPLES FOR APPLICATION REVIEW

The Insurance Council follows the following core licensing principles in its review of applications.

Objective – The Insurance Council will employ procedures and processes that are designed to enhance the consistency of decision-making from one application to another, regardless of who makes the decision, when it is made, and the context.

Impartial – The decisions made are free of bias.

Fair – The Insurance Council identifies the steps necessary, and the documentation required, for an applicant to complete the licensing process. The assessment criteria are rational and do not place unnecessary and ill-conceived obstacles in the way of success. The process is expedient, and the Insurance Council has an appeal process if the applicant disagrees with a decision.

Transparent – The Council Rules and legislative framework that the Insurance Council applies are clear so that applicants understand the steps they need to take to submit a complete application and how their applications are processed. The licensing process is straightforward, and applicants have direct access to information, which is easily understood, complete and accurate.

GROUNDINGS FOR SUITABILITY REVIEW

Applications for licensure are forwarded to a Licensing Committee when the Insurance Council identifies that an application should be reviewed for suitability to hold a licence based on the criteria in Council Rule 3(2). This may be at the request of the applicant or by staff as a part of the application review process.

The Licensing Committee may consider the following and provide recommendations to Council on:

- a. Conflict of interest or reasonable possibility of undue influence as a result of other business interests or activities;
- b. Council Rule 3(2)(e) - trustworthy, competent, and financially reliable;
- c. Equivalent education, experience, or qualification;
- d. Other suitability to practice concerns; or
- e. Any other matter that may impact the approval of an application.

The Insurance Council endeavours to notify the applicant by email, usually within 5 business days of reviewing a complete licence application requiring or requesting suitability review. The notification will include the date of the Licensing Committee meeting where the application will be reviewed, and whether any additional information is required by the stated deadline. This notification will provide the applicant a chance to submit any other information they would like the Licensing Committee to consider as a part of their evaluation.

ABOUT THE LICENSING COMMITTEE

The Committee is composed of at least seven Council members. The Committee may consist of voting and/or non-voting members based on the particular expertise of members deemed of value to the Committee. The Committee is usually composed of at least one voting member who serves as Chair of the Committee and one member who is a lay person. Licensing Committee meetings are usually scheduled monthly as necessary.

ABOUT THE LICENSING COMMITTEE MEETING

An applicant whose application for licensing is to be reviewed by a Licensing Committee will be invited to attend the meeting to answer questions and provide information about the matters at issue in the application. A suitability report contains a memo regarding the applicant's submission including all relevant information along with the complete application and supporting documents. This report will be shared with the applicant and the Licensing Committee members in advance of the meeting to facilitate the applicant's participation at the meeting.

Applicants are encouraged to attend the meeting as it provides an opportunity to present or explain anything they consider important in the circumstances. Applicants will be provided with the suitability review report and accompanying documents at least two weeks in advance of the scheduled meeting date.

Applicants are entitled to bring legal representation to a Licensing Committee meeting. They may also choose to be accompanied by a representative of the agency they wish to represent and, in some cases, an advocate for themselves with prior approval from the Insurance Council. However, the committee can exclude a lay person acting as an advocate if that person:

- Is not competent to advocate on behalf of the applicant;
- Is acting contrary to the Law Society of British Columbia requirements;
- Is not complying with the duties and responsibilities of an advocate or advisor at the Licensing Committee meeting; or
- For any other reason as determined by the committee.

In addition to the Licensing Committee, licensing staff and legal counsel for the Insurance Council may attend the meeting.

All Licensing Committee meetings are recorded as they are considered part of the licensing process. A transcript of the Licensing Committee meeting may be admissible as evidence if a licence hearing is requested by the applicant.

CONCLUDING THE LICENSING COMMITTEE PROCESS

Based on the evidence presented at the meeting, the Licensing Committee may make one of two recommendations to Council:

- i. Approve the application and issue a licence with conditions
- ii. Decline the application.

Once the review has been concluded, the Licensing Committee will prepare a report for Council setting out its recommendations and the reasons for the recommendations. The Licensing Committee may direct Staff to approve the application and issue a licence without conditions.

THE INSURANCE COUNCIL'S INTENDED DECISION

After receiving and reviewing the report with recommendations from the Licensing Committee, the Insurance Council may issue a written notice of intended decision to the applicant if the decision is to issue a licence with conditions or decline the application for licence.

The intended decision will include the following:

- The facts of the application, including the background and circumstances of the licensee;
- The Licensing Committee's discussion with the applicant;
- The legislative framework;
- Analysis or reasons for the decision, including applicable precedents; and
- Council's intended decision.

An intended decision is not issued if Council issues a licence without conditions.

REQUESTING A HEARING

An applicant may request a hearing to dispute the decision laid out in the intended decision. A request for a hearing must be delivered to the Insurance Council in writing within 14 days of the applicant's receipt of the Insurance Council's written notice of intended decision.

The Insurance Council's intended decision is withdrawn when a hearing is requested. After the intended decision is withdrawn, it is up to a Hearing Committee to decide on the application.

Applicants are encouraged to seek legal advice prior to disputing an intended decision.

Hearing Committees are appointed by the Insurance Council and consist of at least three Council members. The chair of the committee must be a voting member and the other members may be voting or non-voting Council members. The Council members who were members of the Licensing Committee reviewing the matter are not eligible to be part of the Hearing Committee considering the same matter.

HEARING RELATED COSTS AND LEGAL ADVICE

Applicants are responsible for their own hearing-related costs, including legal fees, and in some instances, though rare, Council may seek hearing costs against an applicant based on its [cost assessment schedule](#)

HOLDING A HEARING

Once a hearing has been requested, the Insurance Council will contact the applicant to arrange a hearing date and discuss the hearing process. The Insurance Council is required to hold a hearing within a reasonable period of time after receiving a written request for a hearing from an applicant. A Notice of Hearing will be published on the Insurance Council's website at least 14 days before the

hearing. Hearings are open to the public. However, if the Hearing Committee considers that a public hearing would be unduly prejudicial to any person, the committee may order that the public be excluded from all or part of the hearing. Hearings may be held at the Insurance Council's offices, elsewhere in the province or virtually at the discretion of the Insurance Council.

EVIDENCE AT THE HEARING

A hearing is like a court proceeding. The Hearing Committee is tasked with making findings of fact and law based on evidence provided during the proceeding. The Hearing Committee will consider and weigh the evidence as though they are hearing and seeing the application for the first time.

The Insurance Council will typically submit the application and the related documents used to reach the intended decision as evidence. The Insurance Council may also call witnesses to give oral evidence under oath about the matters at issue. The intended decision is not entered as evidence out of fairness to the applicants. After the Insurance Council presents its case (i.e., documents and evidence from witnesses), applicants have an opportunity to present their evidence to the Hearing Committee, call and cross-examine witnesses about any matters at issue.

After all the evidence has been entered, the Insurance Council and the applicant will each be allowed to make submissions to the Hearing Committee about what they say the evidence establishes about the matters at issue.

LEGAL REPRESENTATION AT THE HEARING

While it is not required that the applicant have legal counsel represent them at the hearing, applicants are urged to seek independent legal advice about the matters at issue in their application prior to proceeding to a hearing.

The Insurance Council and the Hearing Committee may each retain separate, independent counsel for the hearing. Neither the Insurance Council's nor the Hearing Committee's lawyers can represent the applicant or give legal advice to the applicant about their application, including about evidence the applicant should call or the way the applicant should present their case.

THE HEARING COMMITTEE DECISION

After the hearing concludes, the Hearing Committee will review and weigh all the evidence entered at the hearing. The Hearing Committee will make findings on whether the applicant should be granted a licence with conditions, without conditions, or if the licence should be declined.

Once a decision is made, the Hearing Committee will set out its decision in writing in the form of a *Reasons for Decision of the Hearing Committee* document, which will contain the reasons for the Insurance Council's decision regarding the application. This document will be provided to the applicant.

The Insurance Council does not currently publish the suitability decisions of licence applications on its website; all licences approved with or without conditions are shown in the online licensee directory.

APPEALS

If an applicant disagrees with the Hearing Committee's final decision, the applicant may appeal to the Financial Services Tribunal, an external body appointed by BC's Lieutenant Governor in Council.

In making an appeal to the Financial Services Tribunal, the applicant must establish that the Insurance Council made one of the three errors in reaching its decision. They include the *Error of Fact*, that the Insurance Council misinterpreted the evidence and reached a wrong factual conclusion; the *Error of Law*, that the Insurance Council misinterpreted the law; and the *Error of Mixed Fact and Law*, that the Insurance Council did not apply the law correctly to the facts.

More information about the Financial Services Tribunal, including applicable timelines and processes, can be found [here](#). The Act also names the British Columbia Financial Services Authority (BCFSA) as a party to the decision and affords BCFSA the right of appeal to any decision of the Insurance Council.

ROLE OF THE OMBUDSPERSON

Applicants have the right to file a complaint about the Insurance Council to the British Columbia Ombudsperson to have their matter reviewed. The Ombudsperson would investigate whether the Insurance Council met its primary duty of procedural fairness, in reaching its decision.

Information about the Ombudsperson's role, including information about how to make a complaint, is available on their website: bcombudsperson.ca.

MORE INFORMATION

Contact the Insurance Council's Licensing department for any inquiries related to Suitability Review: licensing@insurancecouncilofbc.com or 604-695-2007.