



Appeal Committee and Panel Terms of Reference

(Last reviewed January 2021)

Overview:

These terms of reference set out the purpose, mandate and scope of work for the Appeal Committee, which was established by the Minister and members appointed by the Bereavement Authority of Ontario (BAO) Board of Directors.

1. Purpose

- 1.1 The Appeal Committee will hear and determine licensee appeals of discipline proceedings.
- 1.2 The Appeal Committee is established as per subsection 63 (2) of the *Funeral, Burial and Cremation Services Act, 2002* (FBCSA), in accordance with Ontario Regulation 374/18.

2. Membership

- 2.1 The Appeal Committee will consist of at least 10 members selected by the Board of Directors and comprised of at least 2 individuals from each of the following license classes:
 - 2.1.1 Cemetery Operator
 - 2.1.2 Crematorium Operator
 - 2.1.3 Funeral Establishment Operator – Class 1
 - 2.1.4 Funeral Director – Class 1
 - 2.1.5 At least 2 representatives of the general public, who have never been a licensee or former licensee, a shareholder, officer, director, interested person or employee of a licensee or former licensee, an officer, director or employee of a trade association that represents licensees or the interests of licensees, or a member of the advisory committees established by the board of the Authority.

2.2 The Board of Directors will appoint one committee member to sit as the Chair, and two committee members to sit as Vice-Chairs of the Appeal Committee.

3. Eligibility

3.1 Current or former Board of Director members from the BAO or former Board of Funeral Services cannot be committee members.

3.2 Members shall not serve as a member of both the Discipline Committee and the Appeal Committee concurrently.

4. Terms of Service

4.1 Appeal Committee members are appointed by the Board of Directors for terms of 1, 2 or 3 years and can be reappointed at the pleasure of the Board.

5. Roles and Responsibilities

5.1 General Responsibilities

5.1.1 The Appeal Committee is responsible for hearing and determining appeals of decisions made by the Discipline Committee.

5.1.2 The Appeal Committee's determination will be provided in writing to the licensee and any other party to the proceeding as soon as practicable.

5.1.3 Appeal Committee members will commit to:

- Reviewing appeal hearing materials in a timely manner;
- Attending all Appeal Committee meetings to the best of their abilities;
- Abiding by the Board of Director's conflict of interest policies;
- Treating appeal proceedings and decisions as confidential unless authorized by the Board of Directors to communicate such information; and
- Disclosing potential conflicts of interest in advance of Appeal Committee discussions and refraining from the discussion or voting if necessary.

5.2 Assigning Panel Members

5.2.1 When a notice of appeal is filed under section 64(3) of the *FBCSA*, it shall be referred to the Chair of the Appeal Committee. The Committee Chair

must assign a panel of at least 3 of the committee's members to hear and determine the matter (with each member having one vote):

- At least 1 member must be the Committee's Chair or Vice-Chair;
- At least 1 member must be a committee member who is not the Committee's Chair or Vice-Chair;
- At least 1 member must be:
 - a Cemetery Operator if the subject licensee before the panel is a Cemetery Operator or Sales Representative;
 - a Crematorium Operator if the subject licensee before the panel is a Crematorium Operator;
 - a Funeral Establishment Operator (Class 1) if the subject licensee is a Funeral Establishment Operator or Transfer Service Operator; or
 - a Funeral Director (Class 1) if the subject licensee is a Funeral Director or Funeral Preplanner
- At least 1 member must be a representative of the general public, who have never have been a licensee or former licensee, a shareholder, officer, director, interested person or employee of a licensee or former licensee, an officer, director or employee of a trade association that represents licensees or the interests of licensees, or a member of the advisory committees established by the board of the Authority.

5.2.2 Panels shall only be called by the Chair of the Appeal Committee, and a new panel will be called for each appeal case that meets the criteria set out in the *Rules of Practice*.

5.3 Authority of the Panel

5.3.1 As per section 64(4) of the FBCSA, the Appeal Committee can overturn, affirm or modify an order of the Discipline Committee. The Appeal Committee also has the power to order any, or a combination of the following as per section 64(2) of the FBCSA:

- Require the licensee to complete specified educational programs;
- Require licensees who are operators to fund and/or arrange educational programs for their employees;
- Impose fines up to \$25,000;
- Suspend or postpone any of the above decisions; or

- Fix and impose costs of not more than \$25,000 to be paid by the licensee to any person as prescribed.

6. Meetings

- 6.1 Appeal Committee meetings may be held in person, by teleconference or other such communication method that allows all participants equal access to communicate with one another.
- 6.2 A quorum of Appeal Committee members is required for executing the business of the committee.
- 6.3 Appeal panel members shall attend appeal proceedings in person or virtually if necessary.

7. Deliverables

- 7.1 The Appeal Committee shall provide a report to the Board of Directors at least semi-annually, or as requested.

8. Minutes

- 8.1 The minutes of all meetings will be maintained, recorded and retained by a designated BAO staff member.
- 8.2 Minutes will be shared with all Appeal Committee members in a timely manner.

9. Communications Protocol

- 9.1 Unless approved by the Board of Directors, members of the Appeal Committee should not communicate the activities of the committee publicly.
- 9.2 The Appeal Committee may conduct in camera sessions during their meetings to discuss confidential matters.

10. Access to Bereavement Authority of Ontario Staff Resources

- 10.1 The Appeal Committee will be supported by one or more designated BAO staff members who will be responsible for:
 - 10.1.1 Scheduling meetings and appeal proceedings;
 - 10.1.2 Taking meeting minutes;
 - 10.1.3 Filing all materials of the Appeal Committee; and

10.1.4 Providing administrative support.

11. Expenses

11.1 Expenses incurred by the Appeal Committee members will be reimbursed according to the BAO's Expense Policy and Remuneration Policy.

12. Amendment, Modification or Variation

12.1 These Terms of Reference may be amended, varied or modified by agreement of the Board of Directors.

12.2 The Appeal Committee will strive to review this Terms of Reference on an annual basis.