Insurance Council
BRITISH COLUMBIA

Suitability Review Process for Licensing Applicants

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The provincial government authorizes the Insurance Council of BC ("Insurance Council") 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 the mandate to protect the public regarding 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 suitability criteria for holding a licence. Applications for licensure may be subject to suitability review based on these criteria. This Suitability Review document outlines that process.

This document provides general directions and, in some cases, specific prescriptions for action as required by existing policies or regulations.

DEFINITIONS

Applicant

A person applying for a licence, a licence amendment, or a licence transfer.

Application

A form submission that:

- Contains all requested information.
- Is signed by the applicant.
- 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 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 necessary steps and documentation for an applicant to complete the licensing process. The assessment criteria are rational and do not place unnecessary and ill-conceived obstacles in a 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 steps required to submit a complete application are clearly outlined and publicly available. The licensing process is straightforward, providing applicants with direct access to clear, comprehensive, and accurate information.

GROUNDS FOR SUITABILITY REVIEW

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

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

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

The Insurance Council endeavors 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 with a chance to submit any other information they would like the Licensing Committee to consider as part of their evaluation.

ABOUT THE LICENSING COMMITTEE

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

ABOUT THE LICENSING COMMITTEE MEETING

The Licensing Committee reviews matters pertaining to Licensing. Depending on the nature of the assessment, some applicants whose applications are reviewed by a Committee may be invited to attend in person, while others will undergo a paper-based process. Further information regarding the types of assessments is outlined below.

Equivalency Assessments

If the review pertains to an equivalency assessment, the default review process is paper-based. However, applicants may request an in-person review if preferred and be accommodated at an available date. If no request is made, the individual will not be invited to attend.

The equivalency report contains a memo detailing the applicant's submissions, the complete application, and all supporting documents. Applicants will be given a fair opportunity and sufficient time to prepare a detailed submission. They will be informed in advance about the requirements and deadlines for their submission, ensuring that the Licensing Committee can thoroughly review all pertinent information and supporting documents.

All other Suitability Assessments

If the review pertains to a suitability assessment, the applicant will be invited to attend the meeting to answer questions and provide information about the application's issues. A suitability report contains a memo regarding the applicant's submission, including all relevant information and the complete application and supporting documents. Before the meeting, this report will be shared with the applicant and the Licensing Committee members to facilitate the applicant's participation.

Applicants are encouraged to attend the Licensing Committee meeting, as it provides an opportunity to present or explain anything they consider important in the circumstances.

In-Person Assessments

The suitability review report and accompanying documents will be provided to applicants at least two weeks before 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 layperson 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.
- 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 part of the licensing process. A meeting transcript may

be admissible as evidence if the applicant requests a licence hearing.

CONCLUDING THE LICENSING COMMITTEE PROCESS

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

1. Approve the application and issue a licence with conditions; or
2. Decline the application.

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

Where the Committee has made a decision that may be considered incongruent to the policy intentions of the Insurance Council, the decision may be escalated to Council.

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 the intended decision to the applicant if the decision is to issue a licence with conditions or decline the application for a 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, if applicable.
- The legislative framework.
- Analysis or reasons for the decision, including applicable precedents.
- 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 before disputing an intended decision.

Hearing Committees are appointed by the Insurance Council and consist of at least three Council members. The committee chair must be a voting member, and the other members may be voting or non-voting Council members. The Council members who were part 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 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 must hold a hearing within a reasonable time period 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. They consider and weigh the evidence as though 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 can 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 regarding the matters at issue.

LEGAL REPRESENTATION AT THE HEARING

While legal counsel is not required to represent the applicant 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 about their application, including about what evidence the applicant should call or how 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. They will then make findings on whether the applicant should be granted a licence with conditions or 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, anexternal 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. It affords BCFSA the right to 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 review their matter. 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 or any licensing related activities: licensing@insurancecouncilofbc.com or 604-695-2007.