

## **GOING TO A HEARING**

An Administrative Justice Compliance Officer will appoint Professional Standards Committee Members to form a Hearing Panel to hear the case. All evidence gathered from the start of the complaint until the end of the investigation, including the decision letter of the Investigation Team, will be provided to the Hearing Panel members.

During the hearing, the Respondent, and Applicant if required to attend, will have the opportunity to bring any witnesses and/or legal representation to the hearing. However, they will need to notify AREA at least fourteen business days prior to the date of the hearing being set.

The Administrative Justice Compliance Officer will work with all parties to the hearing to set a date that works for everyone.

Hearing locations will be based on the affected Member's region.

Please note, this guide speaks to what occurs and what to expect when a Member finds themselves in an Inquiry Hearing or Penalty Hearing, however, there are additional Hearing Types.

### **Plea: NOT GUILTY – Proceed to an Inquiry Hearing**

A Hearing Panel will be composed of four Panel Members and a Chairperson. These Members will not be the same Members who conducted the investigation.

For an Inquiry Hearing both the Applicant and the Respondent will be required to attend the hearing and they will each be required to present their case. Their Brokers will also be required to attend the hearing. Each Party is responsible for submitting their evidence and position to the Hearing Panel, this ensures that the Hearing Panel can reach a decision based on the entirety of the facts.

Should someone choose to have a lawyer present, their lawyer will not be able to actively participate in the hearing, they can attend the hearing and advise their client, but they **do not** present their clients case before the Hearing Panel. If either party brings witnesses, the witness will only be allowed into the hearing when the Applicant or Respondent are ready to ask them questions. Both the Applicant and Respondent, as well as the Hearing Panel may ask questions to all witnesses in the hearing.

### **Plea: GUILTY – Proceed to a Penalty Hearing**

A Penalty Hearing is composed of two Panel Members and a Chairperson. These Members will not be the same Members who conducted the investigation. For the Respondent's Penalty Hearing, the Applicant, **will not** be a part of this hearing, however, the result of the hearing will be provided to the Applicant and their Broker.



The Respondent is given the opportunity to speak to the situation and add in any additional information they want the Hearing Panel to know.

### Hearing Preparation

1. Know your file inside and out.
2. Be well rested and nourished prior to the hearing.
3. Be prepared and rehearse your presentation prior to the hearing.
4. Practice presenting your case to an uninformed party for feedback or in the mirror prior to the hearing date.
5. Both the Applicant and Respondent get a chance to present their cases in an Inquiry Hearing.
6. Listen while the other person is presenting. Take notes. Be prepared to ask questions of the other party or to witnesses.
7. Presenting your case:
  - a. Is your presentation of the case easy to follow?
  - b. What do you hope to accomplish at the hearing?
    - i. Appropriate penalty amount?
    - ii. Education?
    - iii. What would be reasonable for someone else charged under the same Rules?
  - c. Do you have other documents or evidence to support your case?
    - i. Bring copies to provide to all parties at the hearing (6 copies for a Penalty Hearing, 12 copies for an Inquiry Hearing)
    - ii. It is at the discretion of the Hearing Panel whether to admit the evidence into the Hearing and Evidence Log.
8. If you disagree with one of the charges:
  - a. Review the Rule you were charged with
  - b. Was the right Rule applied?
  - c. Does the evidence support the decision? If not, how are you going to present the evidence?
  - d. What did the Investigation Team miss, for them to reach their conclusion, and you to conclude the opposite?
9. If you felt there were mitigating or aggravating factors in the file, were they mentioned in the decision?
  - a. How are you going to present these?
10. Be you. Do not try to portray someone else.
11. Review the format of a hearing below so you know what to expect.



### Member to Member Inquiry Hearing

- Everyone in the room will be identified.
- If there are objections to the Hearing Panel by either the Applicant or the Respondent, they will have the opportunity to raise these objections at the start of the hearing.
- Please note the only recording permitted in the hearing is the one taken by AREA. You are not permitted to record any parts of the hearing.
- The Hearing Panel shall endeavour to resolve the dispute with fairness, justice, and equity according to the established standards of practice and ethics in the real estate business.
- An Inquiry Hearing is pursuant to AREA Definition 1(iv) when a Respondent agrees to “Not admit guilt to the charges and/or the facts of the Complaint and proceed to an Inquiry Hearing where a Hearing Panel will determine guilt in the matter.”
- If you have questions during the hearing, all questions must be addressed through the Chairperson. Please note, the Chairperson has the right to rule any question out of order.
- The Hearing will proceed as follows:
  - The Applicant will present their case, including documents and witnesses, if any
  - The Respondent may ask questions
  - The Hearing Panel may ask questions
  - The Respondent will present their case, including documents and witnesses, if any
  - The Applicant may ask questions
  - The Hearing Panel may ask questions
  - The Applicant will summarize their case
  - The Respondent will summarize their case
  - Note – all evidence must be introduced during the Applicant and Respondent’s original presentations. New evidence will not be allowed to be introduced during the summary portion of the hearing.



- To start the proceedings, the Applicant will give testimony – please refrain from interrupting those giving statements or presenting evidence until they have finished.
- All written documents used as evidence will be entered in the file and marked as exhibits. All documents produced in evidence at the hearing will be retained by AREA until the Appeal period has lapsed.
- The decision of the Hearing Panel shall be in writing and will be forwarded to the Applicant and Respondent within twenty (20) days after the conclusion of the Hearing.

### Penalty Hearing

- Everyone in the room will be identified.
- If there are objections to the Hearing Panel by the Respondent, they will have the opportunity to raise these objections at the start of the hearing.
- Please note the only recording permitted in the hearing is the one taken by AREA. You are not permitted to record any parts of the hearing.
- A Penalty Hearing pursuant to AREA Definition 1(v) when a Respondent agrees to “Admit guilt to the charges and the facts of the Complaint and proceed to a Penalty Hearing where a Hearing Panel will determine the appropriate penalty based on the written and oral evidence and the Member’s history of infractions.”
- The Hearing Panel shall endeavour to resolve the dispute with fairness, justice, and equity according to the established standards of practice and ethics in the real estate business.
- The Hearing will proceed as follows:
  - The Respondent will present their case addressing the charge(s) and has the right to state what they believe to be a suitable penalty for the charge(s)
  - Direct your position and case through the Chairperson.
  - The Hearing Panel may ask questions
  - The Respondent will summarize their case
- The decision of the Hearing Panel shall be in writing and will be forwarded to the Respondent within twenty (20) days after the conclusion of the Hearing.