

Step-by-Step Guide

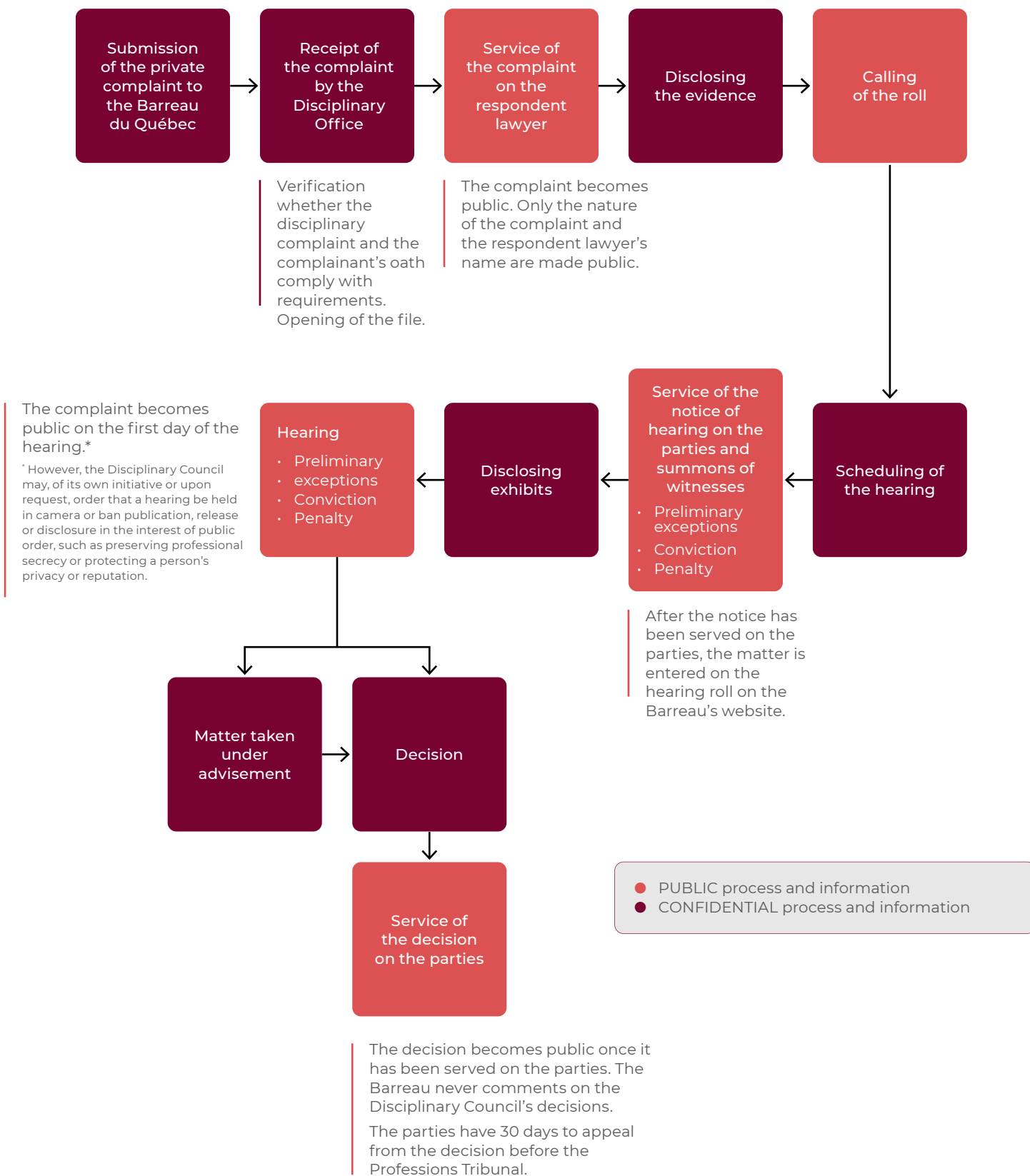
Filing a Private Complaint Against a Lawyer Before the Disciplinary Council



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Progression of a private complaint before the Disciplinary Council



General information

You have decided to file a complaint against a lawyer directly with the Disciplinary Council of the Barreau du Québec. This type of complaint is called a private complaint. This guide explains what to do to ensure your complaint is accepted by the Secretary of the Disciplinary Council. Please note that you may be represented at any time by a lawyer who is a member in good standing of the Barreau du Québec. The respondent lawyer has the same right.



Who is the respondent lawyer?

A respondent is the person against whom legal proceedings are instituted. In this context, the respondent is the lawyer against whom you are filing your complaint.

Private complaint vs complaint filed by the Syndic

If you believe a lawyer has breached an ethical obligation, it is recommended that you file a complaint with the Office of the Syndic of the Barreau du Québec. The Syndic has broad powers and is best equipped to conduct an inquiry and file a complaint with the Disciplinary Council, if appropriate. In addition, filing a complaint with the Office of the Syndic is free of charge, and the Syndic will represent you before the Disciplinary Council.

A private complaint is the recourse available if the Office of the Syndic decides not to file a complaint with the Disciplinary Council, or if you choose not to go through the Office of the Syndic. A private complaint is a proceeding initiated by members of the public on their own behalf, representing themselves before the Disciplinary Council and bearing the burden of proof.

You may consult the table on the [Barreau's website](#) outlining the main differences between a complaint filed by the Syndic and a private complaint.

Important

In a private complaint proceeding, you are responsible for demonstrating that the lawyer committed the acts you allege. You must be able to submit evidence supporting your allegations. Moreover, if the Disciplinary Council dismisses your complaint, it may order you to pay the costs.

Preparation is essential

To prepare yourself, it is important that you review the following documents, which govern the process and outline the rules that must be followed in the context of a disciplinary complaint:

- The [Professional Code](#)
- the [Code of Professional Conduct of Lawyers](#)
- the [Regulation for the conduct of proceedings relating to complaints and motions lodged with the disciplinary councils of professional orders](#)
- the [Directive relative à la conduite des plaintes et des requêtes soumises aux conseils de discipline](#) [French version only]

Lastly, we encourage you to consult the [Guide à l'usage des personnes non représentées devant les conseils de discipline](#), published by the Bar of Montréal [French version only].

What the Disciplinary Council cannot do

The Disciplinary Council cannot award damages or resolve disputes regarding professional fees. If you are seeking monetary compensation, contact the [Fonds d'assurance responsabilité professionnelle du Barreau du Québec](#).

To contest a lawyer's account, please go to [this website](#) for all relevant information.

If a lawyer has misappropriated funds or property for purposes other than those for which you entrusted them to the lawyer, you may file a claim with the Compensation Fund of the Barreau. For more information, visit the [website](#).



Please note

Employees of the Barreau du Québec are not authorized to give you legal advice in connection with the disciplinary process you wish to initiate. However, you may consult a member of the Barreau or be represented by a lawyer. The [Find a lawyer](#) tool on the homepage of the Barreau du Québec's website can help you find a lawyer.

You may also contact the following referral services :

- Montréal : 514 866-2490 ou reference@barreaudemontreal.qc.ca
- Québec, City, Beauce and Montmagny : 418 529-0301
ou [Service de référence - Barreau de Québec](#)
- Other regions of Quebec : 1 866 954-3528 or www.avocatsdeprovince.qc.ca
- Longueuil and surrounding areas : 450 468-2609 or barreau.longueuil@bellnet.ca
- JurisRéférence : www.jurisreference.ca

Submitting your complaint

You must submit your complaint in writing. The complaint, as well as any other proceeding submitted later, must be clearly written, on one side only of a letter-size sheet of paper (8.5 X 11 inches). If you submit your complaint by email, it must be included as an attachment in PDF format.

Your complaint must be dated and signed, be directed against a single lawyer and briefly summarize your allegations. You must provide a brief description of the facts, including when and where they occurred. In addition, you must explain how the acts you are alleging against the respondent lawyer constitute a breach of their professional obligations. For this reason, each alleged act must include a reference to one of the sections of the [Code of Professional Conduct of Lawyers](#) or the [Professional Code](#).

The complaint must also include :

- your name, address, telephone number and email address;
- the title, name and address of the lawyer against whom you are filing the complaint.

Taking an oath

You must then be administered an oath by a commissioner for oaths.



Why take an oath?

To be administered the oath means taking an oath. By taking an oath, you confirm that the facts or details contained in your complaint are true. An example of a solemn declaration is provided in the [appendix](#).

The following individuals may, by virtue of their office, administer an oath to you or have you make your complaint under oath:

- lawyers;
- notaries;
- court clerks and their assistants;
- mayors, municipal clerks, secretaries-treasurers of any municipality, but only within the limits of their municipality;
- the secretary general, the associate secretaries general and the associate secretaries of the National Assembly;
- justices of the peace.

You can also find a commissioner for oaths in your area in the [Register](#).



Please note

If your complaint concerns more than one lawyer, you must prepare a separate complaint for each person concerned.

List of exhibits

In addition to the complaint and your statement under oath, you must include with your submission a list of the exhibits that constitute your evidence. **Do not attach any other documents.** For more information, see the section entitled SUBMITTING EXHIBITS.

Your complaint, your statement under oath and the list of exhibits must be submitted to the Barreau du Québec by one of the following methods: :

- by email, in PDF format, to greffe.discipline@barreau.qc.ca
- by mail, to the following address: Greffe de discipline du Barreau du Québec, 445, boulevard Saint-Laurent, Montréal (Québec), H2Y 3T8.
- in person, by appointment, at the same address, between 8:30 a.m. and 4:30 p.m.

Please note that templates for a [complaint](#), [solemn declaration](#) and [list of exhibits](#) are provided in the appendix.

Complaint submission checklist

Complaint format

- ☐ Letter-size paper or PDF format (if submitted by email)
- ☐ Text printed on one side of the paper only
- ☐ Clear and legible content

Complaint content

- ☐ Only relevant facts;
- ☐ When and where the facts occurred;
- ☐ Acts alleged against the respondent lawyer;
- ☐ Provisions of the Code of Professional Conduct of Lawyers or the *Professional Code* relating to the alleged acts;
- ☐ Your complete contact information;
- ☐ Respondent lawyer's contact information.

Other required formalities

- ☐ Sworn statement in respect of the complaint
- ☐ List of exhibits in support of the complaint

If you have checked all the boxes, you may submit your complaint to the Barreau du Québec.

If your complaint does not contain all the required elements, it will be refused and you will receive a letter from the Disciplinary Office explaining the reasons for the refusal. A complaint that is refused is deemed never to have existed.

Receipt of the complaint by the Barreau du Québec

Within 10 days following receipt of your complaint by the Disciplinary Office of the Barreau du Québec, you will be sent an acknowledgement of receipt indicating the record number assigned to your complaint. **This number must be included in any proceeding**, letter, email or other document you send to the respondent lawyer (or their counsel) and to the Disciplinary Office.



The Bureau des présidents des conseils de discipline hears complaints filed against members of the various professional orders. All disciplinary complaints are heard by three individuals: two members of the professional order and one chair of the Bureau des présidents des conseils de discipline.

The Disciplinary Office is responsible for service, meaning delivery of your complaint by a bailiff to the respondent lawyer. The Disciplinary Office will send you proof of service.

Proof of service is sent together with a copy of the [*Regulation for the conduct of proceedings relating to complaints and motions lodged with the disciplinary councils of professional orders*](#) and the [*Directive of the Bureau des présidents des conseils de discipline*](#). **You must read these documents carefully, as you are required to comply with them.**

In addition, as soon as you receive proof of service, you must disclose the evidence to the opposing party, namely the respondent lawyer. The following section explains how to disclose the evidence.



Disclosing evidence

Once the Disciplinary Office notifies you that your complaint has been served on the respondent lawyer, you must disclose your evidence to the opposing party within 15 days and provide the Disciplinary Office with proof that you have done so.

Disclosing evidence means providing the opposing party with all the evidence you have against the respondent lawyer. If you do not provide this information, the respondent lawyer may ask the Disciplinary Council to dismiss your complaint.



Disclosing evidence is different from disclosing exhibits.

The primary purpose of both is to ensure that the respondent lawyer has the opportunity to present a full and complete defence, in accordance with section 144 of the *Professional Code*.

Evidence must be disclosed as soon as the complaint has been served on the respondent lawyer. At that stage, you are required to disclose all evidence in your possession against the respondent lawyer.

Disclosing exhibits consists in providing the opposing party, that is, the respondent lawyer, and the Disciplinary Office with the exhibits (that is, the evidence) you intend to present at the hearing. You must disclose the exhibits no later than **two working days** (Monday to Friday, excluding holidays) **before the hearing**.

Evidence disclosure checklist

As soon as the complaint has been served, you must:

- ☐ send all evidence to the opposing party;
- ☐ confirm to the Disciplinary Office that you have done so and provide proof of transmission.

If you have checked both boxes, you have disclosed the evidence.

Calling of the provisional roll

You will receive a notice by email requiring you to attend the calling of the provisional roll. This is an invitation to a preparatory meeting the purpose of which is to set a date for the disciplinary hearing and determine its duration and format (virtual or in person). The content of your complaint will not be discussed at this meeting. The provisional roll is called by phone, once a month, barring exceptions.

It is very important to be present at this stage, as a hearing date may be set in your absence. The chair may also decide to schedule a special case management conference. We encourage you to review the document entitled [Directive of the Bureau des présidents des conseils de discipline](#) to understand your obligations regarding the calling of the provisional roll and the special case management conference.

Disclosing exhibits

As mentioned earlier, the primary purpose of disclosing exhibits is to ensure that the responding lawyer has the opportunity to present a full and complete defence, in accordance with section 144 of the *Professional Code*. This obligation allows the respondent lawyer to avoid any surprises during the hearing by being presented with evidence against which they had no opportunity to prepare a defence. For evidence to be introduced at the hearing, it must have been disclosed to the opposing party and the Disciplinary Office **at least two working days before the hearing date**.

Keep in mind that this evidence must already be included in the list of exhibits attached to your complaint and must also have been disclosed to the opposing party.

Your exhibits must be accompanied by a list of exhibits and numbered, starting with P-1, P-2, and so forth. A sample is provided in the [appendix](#). Please also refer to the [Directive of the Bureau des présidents des conseils de discipline](#) to fully understand your obligations regarding the identification of documents.

Evidence may include the following :

- a copy of any documents you wish to submit to the Disciplinary Council (for example, a contract, correspondence, email exchanges);
- the names of all witnesses you wish to call before the Disciplinary Council or whom you have named in your complaint, together with a summary of the facts to which each witness will testify;
- if applicable, the names and curricula vitae of any experts you wish to call to testify (for example, a psychologist, physician, accountant), as well as copies of their written expert reports;
- any other evidence you wish to submit to the Disciplinary Council.

You are responsible for submitting your exhibits at the hearing before the Disciplinary Council. If you do not disclose these documents and this information to the opposing party within the required time limits, the Disciplinary Council may postpone the hearing of your complaint.

Exhibit disclosure checklist

No later than two working days before the hearing :

- ☐ send the exhibits and a list of the exhibits to the opposing party;
- ☐ send the exhibits and a list of the exhibits to the Disciplinary Office.

If you have checked both boxes, you have disclosed the exhibits.

Disciplinary hearing

After the calling of the provisional roll, the parties will receive a notice of hearing for the disciplinary hearing.

If the hearing is held in person, you must appear at the date, time and location indicated. If the hearing is held virtually, the Disciplinary Office will send the parties a link approximately 48 hours before the hearing.

The Disciplinary Council is composed of three members: the chair (from the Bureau des présidents des conseils de discipline), who is appointed by the Quebec government, and two members, all of whom are lawyers. As a general rule, hearings are public and recorded. Anyone wishing to attend the hearing (whether in person or virtually) must behave with dignity and respect. They must not interfere with the conduct of the hearing or do anything that would adversely affect the decorum and good order of the hearing. We encourage you to review the [Directive of the Bureau des présidents des conseils de discipline](#) on this subject.

As the complainant, you will be invited to speak and present your submissions first before the Disciplinary Council.

If, for a serious reason, you are unable to attend the hearing on the scheduled date, you must submit a written request to the Disciplinary Office by email, addressed to the attention of the Disciplinary Council, and copy the opposing party on your email. The chair of the Disciplinary Council may decide whether to grant or refuse your request to postpone the hearing, choosing one of the following options:

1. grant your request and postpone the hearing to a later date;
2. require you to present your request to the Council on the date originally scheduled and decide the matter at that time;
3. refuse your request, in which case you will have to appear before the Disciplinary Council on the date originally scheduled for the disciplinary hearing.

ANY COMMUNICATION TO THE DISCIPLINARY OFFICE OF THE BARREAU DU QUÉBEC MUST ALSO BE SENT TO THE RESPONDENT LAWYER OR THEIR COUNSEL.

Important

Under no circumstances should you write directly to the Bureau des présidents des conseils de discipline or the members of the Disciplinary Council. One of the roles of the Disciplinary Office is to act as an intermediary between the Disciplinary Council and the parties. Therefore, you must send all correspondence to the Disciplinary Office, addressed to the attention of the Disciplinary Council. The Disciplinary Office will obtain the Council's response and forward it to you.

Summoning witnesses

If you wish to call witnesses to testify at the hearing, the procedure will differ depending on whether or not the witness is cooperating with you. If the witness is not cooperating, they must be summoned by subpoena.



Subpoena

A subpoena is a notice to appear as a witness in court that specifies the date, time and location of the hearing at which the witness must appear. A subpoena must be served on the witness by a bailiff.

Cooperative witness

If you are confident that your witness will attend the hearing because they are cooperating with you, you need only provide their name to the Disciplinary Office at least two working days before the hearing. If the witness will testify virtually, you must provide their email address so that the link to connect by videoconference can be sent to them.

Witness requiring a subpoena

If the witness is not cooperative and you consider it necessary to issue a subpoena to ensure that they will attend the hearing, you must submit their name, address and telephone number in writing to the Disciplinary Office. If the hearing is held virtually, you must also provide their email address.

Since witnesses must be called at least 10 days before the time at which they are scheduled to testify before the Disciplinary Council, you must provide the Disciplinary Office of the Barreau du Québec with the required information at least 15 days before the hearing before the Disciplinary Council to prepare the subpoena and ensure it is served on the witness within the prescribed time limit (10 days). If the information about a witness is submitted fewer than 15 days before the hearing, the Disciplinary Office must request authorization to call the witness from the chair of the Disciplinary Council.

Once summoned by subpoena, witnesses are required to attend the disciplinary hearing, unless notified otherwise.

Important

The parties are responsible for coordinating with their witnesses, in particular to notify them not to attend the hearing if the Disciplinary Council has granted postponement of the hearing.

Other applications and proceedings

Applications to the Disciplinary Council must be made by written motion and notified to the respondent lawyer (or their counsel) and the Disciplinary Office at least five days before the hearing.



Notification

To “notify” means to inform or communicate. In this context, to “notify” specifically means that the motion must be brought to the respondent lawyer’s attention in the manner required by law (written motion, at least five days before the hearing). Notification may be effected by email, for example.

Applications must be written on one side only of letter-size sheet of paper (8.5 x 11 inches) or in PDF format. They must indicate the parties’ names and the record number and state their purpose as well as the conclusions sought. They must be submitted together with any exhibits invoked in their support.

YOU MUST NOTIFY YOUR APPLICATION TO THE OPPOSING PARTY AND THE DISCIPLINARY OFFICE OF THE BARREAU DU QUÉBEC.

Under advisement

At the end of the disciplinary hearing, the Disciplinary Council takes the case under advisement. This means that the Council considers and discusses the decision to be made. During this period, and until a decision is rendered, no information is disclosed and no documents may be submitted to the Disciplinary Council.

Decision

The Disciplinary Council’s decision is rendered in writing and served on you by bailiff. No information about the decision will be provided by telephone or email.

If the Disciplinary Council finds the respondent lawyer guilty of an offence, you will be directed to appear again so that a fair and appropriate penalty may be recommended in accordance with the [*Professional Code*](#).

The Disciplinary Council may impose one or more of the following penalties:

- reprimand;
- temporary or permanent striking off the roll of the Order, even if the respondent has ceased to be entered on the roll since the date of the offence;
- a fine of not less than \$2,500 and not more than \$62,500 for each offence;
- the obligation to remit to any person entitled to it a sum of money the professional is or should be holding for them;
- the obligation to disclose a document or any information contained in it and to complete, delete, update or rectify such document or information;

- revocation of their permit to practise the profession;
- revocation of their specialist's certificate;
- restriction or suspension of the right to engage in professional activities.

It is important to note that the Disciplinary Council **cannot rule on a claim for damages**.

On the other hand, if the Disciplinary Council acquits the respondent lawyer, **you may be required to pay all costs incurred** in processing your complaint. They include, in particular, the cost of serving the proceedings, the stenographer's fees, if applicable, registration fees, the cost of expert reports admitted in evidence, as well as any indemnities payable to witnesses who testified before the Disciplinary Council.

Appealing the decision

If you are not satisfied with the Disciplinary Council's decision, you may appeal from it before the Professions Tribunal. You have **30 days** from the date the Disciplinary Council's decision is served by bailiff to file your application for appeal. Please note that the respondent lawyer may also appeal from the Disciplinary Council's decision before the Professions Tribunal.

Important

The appeal process before the Professions Tribunal does not fall within the jurisdiction of the Barreau du Québec. For more information, please see sections 162 and following of the [*Professional Code*](#).

Important

At all relevant times, you must notify the Disciplinary Office of

1. any change in the address, telephone number or email address listed in previously submitted documents;
2. the name of the lawyer representing or assisting you, if applicable, together with their address, telephone number and email address; your lawyer will be required to appear.

Appendix 1 – Complaint template

C A N A D A

DISCIPLINARY COUNCIL
OF THE BARREAU DU
QUÉBEC

PROVINCE OF QUEBEC
COMPLAINT NO.: leave blank

MS. or MR. YOUR NAME, in
their capacity as a private complainant,
residing and domiciled at **YOUR FULL
ADDRESS** (including your email address
and telephone number)

Private Complainant

-v.-

M^E LAWYER'S NAME, practising at
(provide full address);

Respondent

PRIVATE COMPLAINT SUBMITTED TO THE DISCIPLINARY COUNCIL OF THE BARREAU DU QUÉBEC

I, the undersigned, **YOUR NAME**, in my capacity as a private complainant,
declare that:

LAWYER'S NAME, while duly entered on the
Roll of the Barreau du Québec, committed acts that are derogatory to the honour and
dignity of the profession, namely:

- 1- On or around (indicate the date of the alleged offence), (state the allegations against the lawyer—see the *Code of Professional Conduct of Lawyers*, the *Act respecting the Barreau du Québec* or the *Professional Code*) by (describe how the lawyer committed the alleged offence), in violation of section (specify section(s)) of the *Code of Professional Conduct of Lawyers*, the *Act respecting the Barreau du Québec* or the *Professional Code*;
- 2- On or around (indicate the date of the alleged offence), (state the allegations against the lawyer—see the *Code of Professional Conduct of Lawyers*, the *Act respecting the Barreau du Québec* or the *Professional Code*) by (describe how the lawyer committed the alleged offence), in violation of section (specify section(s)) of the *Code of Professional Conduct of Lawyers*, the *Act respecting*

the Barreau du Québec or the Professional Code;

The respondent is therefore liable, for the offences set out above, to the penalties provided for in section 156 of the *Professional Code*.

Therefore, in light of the foregoing, I am filing this private complaint against **LAWYER'S NAME** with the Disciplinary Council of the Barreau du Québec.

AND THE PRIVATE COMPLAINANT PRAYS FOR JUSTICE.

IN WITNESS WHEREOF, I HAVE SIGNED AT **NAME OF CITY OR TOWN**, ON THIS **FULL DATE**

YOUR NAME, in my capacity as private complainant

Appendix 2 – Solemn declaration template

SOLEMN DECLARATION

I, the undersigned, YOUR NAME, YOUR PROFESSION, domiciled and residing at YOUR FULL ADDRESS, in the judicial district of INDICATE THE JUDICIAL DISTRICT, do solemnly declare the following:

1. I am the complainant in this complaint;
2. All of the facts alleged in this complaint are true;

AND I HAVE SIGNED,

Complainant

Solemnly affirmed before me,
at CITY _____, on this FULL DATE _____

Commissioner for oaths for (all) the
district(s) of _____.

Appendix 3 – List of exhibits template

C A N A D A

DISCIPLINARY COUNCIL OF THE
BARREAU DU QUÉBEC

PROVINCE OF QUEBEC
COMPLAINT NO.: leave blank

MS. or MR. YOUR NAME, in
their capacity as a private complainant,
residing and domiciled at **YOUR FULL
ADDRESS** (including your email address
and telephone number)

Private Complainant

-V.-

M^E LAWYER'S NAME, practising at
(provide full address);

Respondent

NOTICE OF DISCLOSURE OF EXHIBITS

P-1: Email from, dated ...

P-2: Letter from, dated...

P-3: ...

P-4: ...

P-5: ...

P-6: ...

For additional information, please contact the
Disciplinary Office of the Barreau du Québec by email, fax or mail:

Maison du Barreau – Disciplinary Office

445 Saint-Laurent Boulevard, Montréal, Quebec H2Y 3T8

Phone 514 954-3411 | Toll-free 1 844 954-3411

Fax 514 954-3457

greffe.discipline@barreau.qc.ca | www.barreau.qc.ca



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