



**Home
Construction
Regulatory
Authority**

Application of Monetary Benefit Policy

Purpose:

The purpose of this policy is to comply with a Minister’s regulation that requires the Home Construction Regulatory Authority (HCRA) “to establish, maintain, and comply with a policy (subject to the Minister’s approval) to govern payments the HCRA makes to persons adversely impacted by contraventions, with such payments being made from the funds the HCRA collects as discipline committee fines and administrative penalties.”

This policy outlines the process the HCRA will use to make payments to persons adversely impacted by persons who contravene prescribed provisions of the *New Home Construction Licensing Act, 2017* (NHCLA), its regulations, any other applicable legislation, such as the *Ontario New Home Warranties Plan Act* (ONHWPA), and conditions on a licence.

Other guidelines will support assessors in considering an administrative penalty, including any monetary benefit component.

Policy:

Who has been adversely affected by contraventions?

The HCRA would consider all the following criteria:

1. Whether the person submitted a complaint.
2. If so, whether they are a consumer.
3. If so, whether there is reasonable evidence (i.e. on a balance of probabilities) that the person was adversely affected by the contravention.
4. If so, whether the adverse effect is monetary in nature.
5. If so, whether the adverse effect is linked to the contravention for which the assessor has ordered a monetary penalty with a monetary benefit component or the Discipline Committee has ordered a fine with a monetary benefit component.

Funds for eligible payment

A fine or administrative penalty may have two components: a “base penalty” amount and a “monetary benefit” amount.

Funds received as payment for the “monetary benefit” portion of a fine or an administrative penalty are eligible for disbursement to persons adversely affected.

Funds received as payment for the “base penalty” portion of a fine or administrative penalty are not eligible for disbursement. The HCRA will retain these payments primarily to offset administrative costs.

Determining payment amounts

The HCRA will determine payment of the “monetary benefit” portion on a case-by-case basis. Although the facts of each contravention and each adversely affected person will differ, the

HCRA will work to ensure equitable treatment of eligible complainants. Among other things, the HCRA will consider:

- The specific contravention for which a penalty has been applied
- The financial harm to each person as a result of the contravention
- Payments from other sources made to each person as compensation
- Number of persons adversely affected by the contravention
- Other remedies available to each person (e.g. other venues that might be more appropriate to obtain compensation)

The HCRA will also consider whether the total amount of “monetary benefit” collected exceeds the adverse impact on the adversely affected persons. In such a case, the HCRA will designate any excess funds collected as “monetary benefit” to support research and education for consumer protection.

Public posting

The HCRA shall make this policy available to the public, including by posting on its website.

Policy Change History

Version	Date Approved	Description of Change
1	2023-01-25	Policy established.