

Appendix C - PUBLIC COMPLAINTS RESOLUTION GUIDELINE

PURPOSE:

To provide a standardized, accessible, and efficient mechanism for resolving public complaints regarding alleged misconduct by City staff.

SCOPE:

This guideline applies to any member of the public who has a complaint respecting alleged misconduct by an employee or employees of The Corporation of the City of Brampton, provided that the member of the public has been directly affected by such alleged misconduct (the "Complainant"). The guideline will apply to full time, part-time, temporary and contract staff. In appropriate circumstances, complaints relating to City volunteers and contractors may also be addressed under this guideline. The complaint must be filed in accordance with the time limitations set out in this guideline. Staff behavior that is of concern to the Complainant, but which is outside of the control of the employee, such as service levels, resource allocations or departmental policies, will not be addressed under this guideline. This guideline is not intended to replace other specific City programs and legal processes available to address the Complainant's concerns, nor is it intended to serve as a venue for harassment of City employees. Any complaints related to personal information privacy matters and/or the handling of personal information are to be forwarded to the City Clerk, in a timely manner, for assessment and investigation.

PROCEDURE:

The following procedure will be followed should a complaint be made respecting the alleged misconduct of a City employee(s).

1. Informal Resolution Stage

- a) Less serious complaints about an employee's conduct may be resolved by way of an informal resolution. When a Complainant makes a complaint alleging misconduct by an employee(s) of the City, the matter will be referred to the applicable Manager of the work area in which the City staff member is employed. Less serious complaints about a Director's conduct will be referred to the applicable Commissioner for the work area. Less serious complaints about a Commissioner's conduct, will be referred to the City Manager, and less serious complaints about the City Manager's conduct, will be referred to the Mayor. In the circumstance where a complaint is referred to the Mayor, the Mayor may choose to delegate the responsibility to process the complaint to the City Solicitor or to the Director of Human Resources. The City Solicitor and/or the Director of Human Resources will report directly to the Mayor, when acting as his/her delegate under this guideline. Hereinafter the City official designated to address the complaint shall be referred to as the Designated City Official.

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Brief details concerning the complaint, together with the Complainant's name and contact information, will be documented by the staff member and/or Designated City Official who is first notified of the issue. The Complainant will be advised that a Designated City Official will contact him/her within five (5) working days. The Designated City Official will contact the Complainant and, within ten (10) working days, will attempt to resolve the issue informally through discussion with the Complainant and by appropriate follow-up with the subject employee(s).

- b) In the event that the matter has not been resolved to the satisfaction of the Complainant at the Informal Resolution Stage, the Complainant will be advised in writing, that if the Complainant wants the complaint to be processed through the formal complaint process, then the Complainant must submit a complete written complaint to the Designated City Official, within ten (10) working days of receiving the City's informal resolution response.
- c) The recipient of the formal complaint will forward a copy of the written complaint to the City Solicitor, for tracking purposes, immediately upon receipt of same.

2. Formal Complaint

2.1 Format of Complaint

Formal complaints must be in writing and must identify the name and full contact particulars of the Complainant. Complaints that are anonymous will not be accepted.

The Complainant may be asked to provide additional written details, supporting documentation, and records concerning the complaint before the investigation can be commenced.

The complaint may be submitted in the form of a letter, or in accordance with the attached format (Attachment "A").

2.2 Time Limitations

In order to achieve due process, a complaint must be made in a timely fashion - generally within two weeks of the alleged event, but in any case, not later than thirty (30) days after the facts on which it is based became known, or reasonably ought to have become known, to the Complainant. The Complainant must abide by the time limitations set out in this guideline. These time limitations may only be extended when, in the opinion of the Designated City Official, circumstances exist to reasonably justify the extension.

The Designated City Official will also adhere to the timelines set out in this guideline unless circumstances exist to reasonably justify a delay. In the event that a delay becomes necessary, the Complainant and subject employee(s) shall be notified in writing of the reason for delay and will be advised of the date when the response will

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be forthcoming. A copy of the notification will be provided to the applicable Commissioner and to the City Solicitor for tracking purposes.

2.3 Process

- a) When a complaint is advanced to the Formal Complaint Stage, the Designated City Official will first make a determination whether the issue properly falls within the scope of this guideline. The Designated City Official will determine whether
- the Complainant is alleging misconduct by an employee(s) of the Corporation; and
 - the Complainant has been directly affected by the employee's conduct; and
 - the complaint has been filed within two weeks of and not later than thirty (30) days after the facts on which it is based became known, or reasonably ought to have become known, to the Complainant (or whether reasonable circumstances exist to justify the delay in submitting the complaint); or
 - the complaint is frivolous, vexatious, trivial or made in bad faith, or
 - this guideline is the appropriate venue through which to consider the complaint, as opposed to any other parallel process that may be underway, regarding the alleged event that lead to the complaint. (Upon request, where possible, the City Solicitor will provide information, assistance and legal advice to the Designated City Official, regarding other ongoing parallel processes that the City Solicitor's office may be aware of, relating to the incident that gave rise to the complaint.)

In the event that the Designated City Official declines to investigate the formal complaint under this guideline because of his/her determination of any of the matters set out above, then written notification of the determination not to proceed will be provided to the Complainant within ten (10) working days of receipt of the complaint. The notification will advise the Complainant of the determination made. A copy of the complaint and a copy of the letter to the Complainant regarding the determination not to proceed will also be provided to the subject employee.

A copy of the notification of the decision not to proceed will be provided to the City Solicitor, with a copy to the applicable Commissioner for the subject employee's work area. The City Solicitor's office will accept the determination and will record the information for tracking purposes.

- b) Subject to a) above, the Designated City Official will commence a full investigation and will, at a minimum, meet with the Complainant and the subject employee(s) independently. The Designated City Official will attempt to ensure that as much information has been obtained as possible and will obtain and review any applicable background documents or records. In the event that the meeting with the Complainant yields additional concern(s) that are not directly related to the original written complaint filed, the Complainant may be asked to submit a separate written complaint(s) with respect to such additional concern(s). When

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dealing with a complaint of a very serious nature, the City Solicitor and/or the Director of Human Resources will assist by managing the investigation.

- c) The subject employee(s) will be provided with a copy of the written complaint(s) (or the portion(s) of the complaint that relates to him/her) and will be given the opportunity to address every allegation made against him/her orally and/or in writing. Union/Association representation and/or representation by legal counsel will be permitted in accordance with clause 7 below. The Designated City Official may also review additional documentary information and will meet with other individuals or witnesses, who have relevant information regarding matter(s) under investigation.
- d) The Designated City Official will provide a written response concerning the complaint, setting out his/her decision and, where appropriate, the reasons therefore, to the Complainant and subject employee(s) with a copy to the applicable Commissioner for the section/division, within thirty (30) working days of receipt of the complaint.
- e) A copy of the written response will be forwarded forthwith, to the City Solicitor for tracking purposes.
- f) In some instances, where the alleged misconduct is of a serious nature, a third party may be retained by the City Solicitor's office to review the matter, to conduct an independent investigation, to prepare a written report and to make recommendations to City Council regarding the matter. The third party investigation report and its recommendations will be presented to City Council for its consideration. City Council's decision regarding the investigation will be final and binding, except where the employee has further rights under legislation or common law. Where appropriate, Council's direction will be recorded by the City Solicitor, for tracking purposes and where appropriate, the Complainant and the subject employee will be advised of the City Council's decision within 30 days of the receipt of the formal complaint. If the third party investigator requires additional time to complete the investigation and the report, the Complainant and the subject employee will be advised in writing within the said 30 days, of the status of the complaint and of the anticipated completion date.
- g) In the case of investigations that do not require a third party investigation, the Designated City Official will provide a written response concerning the complaint, setting out his/her decision and, where appropriate, the reasons therefore. The written response will be provided to the Complainant and to the subject employee(s) within 30 working days of receipt of the formal complaint request. If the City Official investigating the matter requires additional time to investigate the complaint, the Complainant and the subject employee will be advised in writing, within 30 days of receipt of the formal complaint, of the status of the complaint and of the anticipated completion date.

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h) A copy of the written response from the Designated City Official will be forwarded forthwith to the City Solicitor for tracking purposes.

3. Expediting Process

In the event that a complaint is received that relates to a very serious matter (i.e. involving a threat to health, safety or property), and the Designated City Official determines that the matters involved would increase the possibility of imminent damage or injury if not addressed immediately, then the complaint will be expedited and will be processed immediately by the applicable Commissioner for the subject employee's work area, with notice to the City Manager, and where appropriate, to the subject employee, and the Complainant. The City Solicitor will receive a copy of the notice of determination for tracking purposes.

4. Complaints Alleging Misconduct by Decision-Makers under the Guideline

In the event that a complaint arises alleging misconduct on the part of a decision-maker under this guideline, the process set out in this guideline will be applied. For clarification however, a formal complaint received regarding the exercise of judgment by management staff in accordance with and as required by this complaint resolution mechanism will not in itself constitute misconduct by such management staff and therefore will not result in an investigation under this guideline.

5. Complaints Relating to Multiple Departments

In the event that a complaint contains allegations relating to employees of more than one City Department, separate investigations may be conducted and the Designated City Official for each Department may be required to provide separate responses to the Complainant. If required, the City Solicitor and/or the Director of Human Resources will assist to coordinate the separate investigations and individual responses by each Department. A complaint relating to more than one division/section within a single City Department will likely be addressed through a single investigation and response.

6. Mediation Alternative

With the consent of the Complainant and the subject employee(s), the Designated City Official may refer a complaint to mediation. The City's Human Resources Division will recommend a mediator from the list of mediators it maintains. Where the complaint involves a unionized employee, when selecting the mediator, City Human Resources Staff will give due consideration to the names of mediators recommended by the Union. In the event that the mediation is successful, the resolution will be documented and signed off by the Complainant and subject employee(s) and the matter will be considered resolved. A copy of the resolution notice will be forwarded to the City Solicitor for tracking purposes.

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In the event that the mediation is unsuccessful, the mediator will refer the matter back to the Designated City Official, the Designated City Official will continue to process the investigation in accordance with this guideline, and will issue an applicable notice to the City Solicitor for tracking purposes, advising that the mediation was unsuccessful.

7. Staff Representation at Investigation Meeting(s)

Union/Association representation and/or legal representation of the subject employee will be permitted at investigation meetings held with the employee. In the case of a complaint against a unionized employee, upon consent of the subject employee, relevant documentation relating to the complaint will be provided to the employee's Union/Association. Investigations regarding unionized employees will be conducted in accordance with applicable collective agreement provisions. The rules of natural justice and procedural fairness will apply to all investigations conducted regarding union and/or non-union staff.

8. Parallel Processes

Due to the restricted scope of this guideline, it is not anticipated that multiple internal and external processes associated with a matter referred to in a formal complaint will be initiated with respect to any single incident/occurrence. In the event that such a situation arises, the City Solicitor will make a determination concerning which process will govern the City's involvement. The City Solicitor will make such determination while having due regard for collective agreement provisions, all applicable legislative and common law processes and other specific City policies and procedures.

In the event that an external legal process (i.e. a civil law suit, a criminal investigation, a human rights complaint) has been initiated by either the Complainant or the subject employee, or the Corporation, or, if such action is anticipated with respect to a formal complaint that has been filed under this guideline, then the City Solicitor will determine whether this process will be placed in abeyance. Notwithstanding the initiation of such external legal process, the Corporation retains the right to continue with its own independent internal investigation concerning the incident/occurrence referred to in the formal complaint and to take appropriate action in relation to the incident/occurrence.

Public complaints related to Provincial Offences Court Administration and Prosecution will be addressed under this guideline, where appropriate. The Director of Council and Administrative Services, Management and Administrative Services will ensure that the requirements of the City's Memorandum of Understanding with the Ministry of the Attorney General, for the Province of Ontario, are also addressed and where required by the Memorandum of Understanding, will refer matters related to Court Adjudication to the Regional Senior Justice of the Peace and the Local Administrative Justice of the Peace with notice to the Complainant and the subject employee. A copy of the notice will also be provided to the City Solicitor for tracking purposes.

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9. Withdrawal of Complaint

A Complainant may withdraw his/her complaint at any time; notwithstanding, the Corporation may continue to deal with the complaint if it considers it appropriate to do so. For tracking purposes, the City Solicitor will be notified that the complaint has been withdrawn and will be advised by the Designated City Official whether the investigation will continue nonetheless.

10. Confidentiality

The public complaint resolution mechanism will be handled in as confidential a manner as possible. Complainants, respondents and witnesses will be advised to maintain confidentiality concerning complaints or incidents.

11. Tracking of Complaints

The complaint, response letters, notices and advancements produced through this guideline will be tracked by the City Solicitor. The designated City Official will maintain all original documentation related to the investigation. This documentation will not form a part of the employee(s) file of reference but may be used to support the imposition of discipline or other corrective action, including being used as evidence in proceedings challenging such action. The City Solicitor will provide a summary of the nature and type of tracked complaints to City Council on an annual basis.

All records are subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and may be subject to disclosure under the Act or to a court of law.

ACCOUNTABILITY:

The guideline will apply to full time, part-time, temporary and contract staff of the Corporation. In appropriate circumstances, complaints relating to City volunteers and contractors may also be addressed under this guideline.

Management staff is accountable to ensure adherence to this guideline.

Versions

May 30, 2007	Corporate Services Division – P.W.
April 2, 2013	City Clerk's Office – P.F. (personal information privacy complaint reference update)

PUBLIC COMPLAINTS FORM - CITY OF BRAMPTON

INSTRUCTIONS:

PRINT CLEARLY

1. IF YOU WISH TO LODGE A COMPLAINT, YOU MAY WRITE YOUR OWN LETTER OR USE THIS FORM. THE COMPLAINT MUST BE REPORTED WITHIN THIRTY DAYS OF THE INCIDENT.
2. PLEASE COMPLETE AS MANY AREAS AS YOU CAN AND PROVIDE AS MUCH DETAIL AND INFORMATION AS POSSIBLE.
3. IN ORDER TO HAVE THE COMPLAINT PROCESSED, YOU MUST BE DIRECTLY AFFECTED BY THE EMPLOYEE'S CONDUCT.
4. THE *CITY'S GUIDELINE* REQUIRES THAT YOU, AS THE COMPLAINANT, PROVIDE FULL CONTACT INFORMATION INCLUDING YOUR FULL NAME AND ADDRESS.

Last Name of Complainant	First Name	Initial
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Address (home) _____

City/Province	Postal Code	Telephone No.:	Fax No.:
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Address (business or alternate location where you can be contacted) _____

City/Province	Postal Code	Telephone No.:	Fax No.:	E-mail
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COMPLAINT DETAILS

Date of Incident (DD/MM/YY) _____

Time of Incident: _____ Location of Incident: _____

Date reported (DD/MM/YY) _____

Please complete the following sentence. *I am complaining that...*

**PUBLIC COMPLAINTS FORM - CITY OF BRAMPTON
CONTINUED**

PHYSICAL/DOCUMENTARY EVIDENCE

Are you including any photographs or other evidence to support your complaint? If yes, please list below.

Is an Interpreter required? If yes, Language:

Signature of Complainant

Date:

**PUBLIC COMPLAINTS FORM - CITY OF BRAMPTON
CONTINUED**

TO BE COMPLETED BY MANAGEMENT STAFF RECEIVING COMPLAINT

Complaint received by:

Dated: _____

Complaint received by: Letter In Person Fax Email

Confirm receipt of evidence supplied by complainant: No Yes

Copy of completed complaint provided to complainant: No Yes

INFORMAL RESOLUTION DISCUSSED: No Yes

Particulars:

Preliminary complaint classification by Manager/Director/Commissioner/City Manager/Mayor:
(Section 2.3 a) of Guidelines)

The personal information on this form is collected and disclosed under the authority of the *Municipal Act, S.O 2001, c.25*, and will be used for the purpose of investigating the complaint referenced herein. Questions about the collection of personal information should be directed to the City Clerk's Office, Freedom of Information and Privacy Coordinator, 2 Wellington Street W, Brampton, ON., L6Y 4R2.