



HALTON REGIONAL POLICE SERVICES BOARD

COMPLAINTS BY-LAW NO. 2010-01

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HALTON REGIONAL POLICE SERVICES BOARD



BY-LAW NUMBER 2010-01

A By-law to establish guidelines for the administration of the complaints process under Part V of the Police Services Act.

WHEREAS Section 31(1) of the *Police Services Act*, R.S.O. 1990, c.P.15, as amended, provides that Police Services Boards are responsible for the provision of adequate and effective police services in the municipality and shall establish policies for the effective management of the police service;

AND WHEREAS Part V of the said *Act* sets out obligations of Police Services Boards and Police Services relative to Public Complaints;

AND WHEREAS Section 31(1)(i) provides that Police Services Boards shall establish guidelines for dealing with complaints made under Part V of the *Police Services Act*;

AND WHEREAS Section 31(1)(j) requires that Police Services Boards shall review the Chief of Police's administration of the complaints system under Part V and receive regular reports from the Chief of Police on his or her administration of the complaints system;

AND WHEREAS Section 31(6) authorizes Police Services Boards to make, by By-law, rules for the effective management of the police service;

AND WHEREAS the Halton Regional Police Services Board has considered the provisions of Part V in the context of its responsibilities under Section 31(j) of the said *Act* and advocates the principle that a fair, open, prompt, thorough and efficient response to Public Complaints is a cornerstone to establishing and maintaining a positive community-police relationship;

AND WHEREAS the Halton Regional Police Services Board deems it expedient to enact this By-law to ensure that the response to Public Complaints by the Service, adheres to the *Police Services Act* and the principles set out above.

NOW THEREFORE THE HALTON REGIONAL POLICE SERVICES BOARD ENACTS as follows:

1. DEFINITIONS

1.1 In this By-law:

- (a) "Act" means the *Police Services Act*, R.S.O. 1990, c. P.15, as amended;
- (b) "Board" means the Halton Regional Police Services Board;
- (c) "Chief" means the Chief of Police of the Halton Regional Police Service;

- (d) "Chief's Internal Complaint" means a complaint made by the Chief pursuant to Section 76(1) of the *Act*;
- (e) "Complainant" means a member of the public who makes a complaint in accordance with the provisions of the *Act*;
- (f) "Complaint" means an allegation made in writing on the Complaints Form and signed by a member of the public, about the policies of or the services provided by the police service or the conduct of a police officer, or a Chief's Internal Complaint;
- (g) "Complaints Form" means the form approved for use by the Office of the Independent Police Review Director;
- (h) "Conduct Complaint" means a complaint made pursuant to Section 66(1) related to the conduct of a police officer;
- (i) "Deputy" means the Deputy Chief of Police of the Halton Regional Police Service;
- (j) "Director" means the Independent Police Review Director appointed by the Lieutenant Governor in Council;
- (k) "Liaison Officer" means the Chief, or a Member who works in the Professional Standards Bureau, or any other Member who has been authorized by the Chief to perform duties of the Chief under Part V of the *Act* pursuant to Section 63(1);
- (l) "Member" means a member of the Halton Regional Police Service, and includes the term "police officer";
- (m) "Misconduct" means an act or omission on the part of a police officer under Sections 80 and 81 of the *Act*;
- (n) "OIPRD" means the Office of the Independent Police Review Director;
- (o) "Officer In Charge" means the police officer who at any particular time, while on-duty, is in charge of a police facility;
- (p) "Policy Complaint" means a complaint made pursuant to Section 58(1) related to the policies of, or services provided by the Service;
- (q) "Professional Standards Bureau" means a unit of the Service designated by the Chief to deal with public complaints;
- (r) "Service" means the Halton Regional Police Service;
- (s) "Service Complaint" means a complaint made pursuant to Section 58(1) of the *Act* related to the services provided by the Service.

1.2 Wherever applicable in this by-law, the singular shall include the plural and the masculine gender shall include the feminine and vice versa.

2. GENERAL

- 2.1 If the Board receives a Complaint on the prescribed form, the Board shall forthwith send it to the OIPRD for screening.
- 2.2 The OIPRD will determine the type of Complaint and whether to exercise discretion to deal with the complaint.
- 2.3 This by-law shall deal with Complaints filed by the public in relation to conduct, policy or service issues, and Chief's Internal Complaints.

3. PUBLIC COMPLAINT PROCESSING

- 3.1 The Chief shall develop and maintain a procedure to ensure that Complaints are processed in accordance with the provisions of the *Act*.
- 3.2 The Chief shall ensure that the procedure referred to in Section 3.1 includes the following provisions:
 - (a) the delegation of his authority, where appropriate to Officers under his command to administer public complaints in accordance with the requirements of the OIPRD;
 - (b) the availability of OIPRD Complaint Forms and public information pamphlets at every Division or Station of the Service;
 - (c) to direct that complaints be referred to and handled by the Officer-In-Charge;
 - (d) the Officer-in-Charge must be familiar with the 3 options available to a complainant; namely, inquiries, local complaints and public complaints; and
 - (e) all complainants are provided with the OIPRD brochures/forms regarding local and public complaints.
- 3.3 The Chief shall ensure that the procedure for processing complaints includes the following:
 - (a) Any member of the public, subject to the exclusions defined in Section 58(2) of the *Act*, may file a complaint with the Service or with the OIPRD directly. The complaint may relate to service delivery, policy or the conduct of a police officer;
 - (b) A complaint may be e-filed, submitted by fax or in person to the OIPRD or any police service;
 - (c) The complaint must be completed and signed on the form prescribed by the OIPRD;
 - (d) Anonymous complaints will not be accepted;
 - (e) Where a member of the public chooses to file their complaint through the Service, the complaint must be forwarded forthwith to the Liaison Officer;

- (f) The intake officer within the Professional Standards Bureau shall ensure that notice of the complaint is not provided to the involved officer(s) or any other officer until directed to do so once the OIPRD makes a decision in accordance with their powers under Section 61(5) of the *Act*;
- (g) Every effort shall be made to encourage the complainant to complete a public complaint form at any Division;
- (h) Although a complaint must be lodged within 6 months of the incident, the OIPRD has discretionary power to extend the 6 month time limit;
- (i) All anonymous complaints about a member of the Service shall be forwarded to Professional Standards;
- (j) A member who, while on duty, receives a complaint or who is approached by a member of the public wishing to initiate a complaint shall:
 - (i) refer the complainant to the Officer-In-Charge of an operational division;
 - (ii) ensure that the Officer-In-Charge is immediately apprised of the circumstances;
 - (iii) should the complainant decline to attend an operational police division, inform the complainant of other options, including submitting the complaint directly to the OIPRD, or submitting the complaint in writing to the Chief;
- (k) The Officer-In-Charge or designate to whom a complainant is referred, shall ensure that every effort is made to resolve the complaint at the earliest opportunity through the Local Complaint process where applicable.

4. **LOCAL COMPLAINTS**

4.1 The Chief shall develop a Local Resolution/Local Complaint procedure in compliance with Ontario Regulation 263/09. The policy shall include the following:

- (a) local complaints must be made in person and recorded on the appropriate OIPRD form.
- (b) local complaints are available if the complainant has not filed a public complaint with the OIPRD and the issue is a qualifying matter.

4.2 A qualifying matter is:

- (a) A complaint about a local policy or service;
- (b) A complaint about the conduct of an Officer that does not constitute misconduct;
- (c) A complaint about misconduct by an Officer of a less serious nature which falls under any of the following:

- (i) dealing with personal property other than firearms or money;
- (ii) failing to treat a person equally;
- (iii) using profane language;
- (iv) acting in a disorderly manner;
- (v) neglect of duty;
- (vi) failing to work in accordance with orders;
- (vii) failing to make a report or record entry;
- (viii) conspiring to commit any of the above;
- (ix) contravening any provision of the *Act* or its Regulations.

- 4.3 The Chief will ensure that even if the issue falls within the definition of a Qualifying Matter, it should be clearly stated within the policy that the Officer-in-Charge must refuse to process a complaint as a Local Complaint if the Officer has committed or been charged with a criminal offence, the complaint is against a Chief of Police or Deputy Chief; or the Officer-in-Charge believes it is in the public interest for the matter to be dealt with as a public complaint.
- 4.4 If the Local Complaint is not a qualifying matter, the Chief shall ensure that the matter is not accepted as a Local Complaint, and the complainant is asked to make a public complaint. If the complainant refuses to make a public complaint, the Chief shall direct that an internal complaint be forwarded to the Professional Standards Bureau for review.
- 4.5 If the Local Complaint is a qualifying matter, the Chief shall ensure that the Officer-in-Charge must accept the Local Complaint and attempt to resolve it by discussing the matter with the Officer involved; facilitating discussion between the complainant and the Officer; facilitate an apology by the Officer; or contact the Professional Standards Bureau if a formal mediation or alternative dispute resolution process is required.
- 4.6 If the Local Complaint is resolved, the Chief shall ensure that the resolution is recorded on the OIPRD form and signed. If the complainant refuses to sign the form and is not making a public complaint, the Chief shall direct that the matter is recorded as a Local Inquiry and advise the involved Officer accordingly.
- 4.7 The Chief shall direct that the resolution be completed and signed within 30 days.

5. CHIEF'S INTERNAL COMPLAINTS

- 5.1 In initiating a complaint against regarding the conduct of a Police Officer, the Chief is not a complainant for the purposes of Part V of the *Act*.
- 5.2 The Chief shall promptly give notice of the substance of the complaint to the Police Officer, unless in the Chief's opinion, to do so might prejudice an investigation into the matter.

- 5.3 With the approval of the Board, and on written notice to the Commission, the Chief may ask the Chief of Police of another police service to cause the complaint to be investigated and to report in writing, back to him at the Service's expense.
- 5.4 At the conclusion of the investigation, the Investigating Chief may form the opinion that the complaint is unsubstantiated and in such a circumstance, the Investigating Chief shall report that opinion in writing to the Chief.
- 5.5 If the Chief receives a written report from the Investigating Chief with the opinion that the complaint is unsubstantiated, the Chief shall take no action in response to the complaint and shall notify the Police Officer who is the subject of the complaint in writing of the decision, together with a copy of the written report.
- 5.6 At the conclusion of the investigation, the Investigating Chief may form the opinion, on reasonable grounds, that the conduct of the Police Officer under investigation constitutes misconduct or unsatisfactory work performance. In such a circumstance, the Investigating Chief shall refer the matter to the Chief together with a written report.
- 5.7 If the Chief receives a written report from the Investigating Chief with the opinion that there are reasonable grounds to conclude that the conduct of the Police Officer constitutes misconduct or unsatisfactory work performance, the Chief must make a decision regarding the seriousness of the misconduct or unsatisfactory work performance.
- 5.8 If the Chief is of the opinion that the misconduct or unsatisfactory work performance is serious in nature, the Chief shall hold a hearing into the matter.
- 5.9 If the Chief is of the opinion that the misconduct or unsatisfactory work performance is not of a serious nature, the Chief may resolve the matter informally without holding a hearing, if the Police Officer consents to the proposed resolution.
- 5.10 If the Police Officer does not consent to an informal resolution as provided for in Section 76(10) or 93(1) of the *Act*, the Chief shall hold a hearing in accordance with Section 76(9) of the *Act*.
- 5.11 Informal resolutions must be consented to by the Police Officer and the statutory 12 day cooling off period would not apply, unless it is a public complaint.
- 5.13 The Commission may at any stage in the complaints process direct the Chief to deal with the complaint as it specifies in accordance with Section 78(1) of the *Act*.

6. **PUBLIC COMPLAINTS**

- 6.1 The Chief shall ensure that public complaints must be on the OIPRD Public Complaint form and signed.
- 6.2 The Chief shall ensure that all public complaints must be accepted and forwarded to the OIPRD by Professional Standards Bureau within 3 business days of receipt.

6.3 The Chief shall ensure that Service policy or procedure regarding public complaints includes the following:

- (a) The complainant is made aware of the OIPRD and is provided with information on the Public Complaint process;
- (b) The complainant is provided with assistance in filling out all aspects of the OIPRD form;
- (c) If possible, a written statement is obtained from the complainant and attached to the OIPRD Complaint Against Police form;
- (d) The complainant is requested to sign the completed OIPRD Complaint Against Police form and the accompanying witness statement;
- (e) If the complainant is unwilling to sign the completed OIPRD Complaint Against Police form or the accompanying witness statement, an appropriate notation is made in the space provided for their signature, and the complainant advised that the complaint will be processed as a Chief's Internal Complaint;
- (f) The names and addresses of all witnesses are recorded on the OIPRD Complaint Against Police form;
- (g) All reasonable steps are taken to gather and preserve evidence;
- (h) The complainant shall be photographed on consent if injuries are apparent, and the complainant shall be sent for medical attention if required;
- (i) The complainant is provided with a copy of all paperwork and the original immediately forwarded to Professional Standards along with any evidence seized; and
- (j) The Officer-in-Charge of Professional Standards is notified if it is believed that an immediate criminal investigation should be commenced.

6.4 The Chief shall appoint a Liaison Officer with the OIPRD and shall ensure that:

- (a) The duties pertaining to this position are carried out in accordance with the related legislation and OIPRD Rules of Procedure;
- (b) A complaint containing a criminal allegation is clearly identified as containing a criminal allegation;
- (c) Statement requests are forwarded to the appropriate Division;
- (d) When statements are requested during an investigation, every effort is made to clearly identify subject officers by utilizing all available resources;
- (e) The subject officer is provided with a copy of the Public Complaint Form and a copy of the complainant's statement upon direction of the OIPRD unless it is believed that to do so may prejudice the investigation;

- (f) Records of all complaints and bureau investigations are maintained; and
 - (g) Statistical reports are compiled annually or as requested by the Chief or the OIPRD.
- 6.5 The Chief or his designate shall review complaints when they are received and may direct special handling when required; for instance, if the Special Investigations Unit has a mandate.
- 6.6 The Chief or his designate shall review all investigations and adjudicate all complaints.
- 6.7 If at any time during a review or investigation into a complaint made by a member of the public about the conduct of a police officer the conduct appears to be obviously conduct that is not of a serious nature, the Chief may resolve the matter informally, if the police officer and the complainant, if any, consent to the proposed resolution.
- 6.8 If a complaint made by a member of the public is informally resolved under section 6.7, the Chief shall give notice to the OIPRD of the resolution, and shall provide to the Director any other information respecting the resolution of the complaint that he or she may require
- 6.9 The Chief may resolve a complaint upon review of the Investigations Report as follows:
- (a) The complaint is unsubstantiated and no further action shall be taken pursuant to Section 66(2) of the *Act*;
 - (b) Hold a hearing pursuant to Section 66(3) of the *Act*;
 - (c) Attempt to resolve the matter informally pursuant to Section 66(4) of the *Act*; or
 - (d) Cause a criminal information to be laid against the Police Officer and refer the matter to the Crown Attorney for prosecution.
- 6.10 The Chief shall ensure that the complainant and the subject officer are provided with a report containing the decision of the Chief.
- 6.11 If the Chief is of the opinion that the complaint is unsubstantiated, the Chief shall take no action in response to the complaint and shall notify and provide a copy of the written report to the complainant, the police officer who is the subject of the complaint and the OIPRD. The complainant shall be advised of his or her right under Section 71(1) of the *Act* to ask the OIPRD to review the decision within 30 days of receiving the notice.
- 6.12 If the Chief is of the opinion that a hearing pursuant to Section 66(3) of the *Act* should be held, it shall be conducted in accordance to Section 82 of the *Act*.
- 6.13 If the Chief is of the opinion that the matter is appropriate for an informal resolution, the Officer and the complainant must consent to the proposed resolution. The complainant and police officer shall be notified in writing and the complainant must be advised of the right under Section 71(1) of the *Act* to seek a review by the OIPRD within 30 days of receiving such notification. The Chief shall take no action to resolve the matter until the 30 day time period has expired or the statutory review has been completed.

6.14 The Chief shall ensure that if he is notified of the withdrawal of a public complaint about the conduct of an Officer, the Chief shall notify the Police Officer who is the subject of the complaint within 30 days. The Chief may continue to deal with the complaint if he considers it appropriate to do so.

7. RESIGNATION

7.1 The Chief shall ensure that no further action is taken with respect to a complaint once he is notified of the resignation of the subject police officer. The Chief shall advise the OIPRD of the resignation, if the complaint made was by a member of the public.

8. POLICY OR SERVICE COMPLAINTS

8.1 The OIPRD determines if a complaint is a policy or service complaint and will refer the complaint directly to the Chief in accordance with Section 63 of the *Act*.

8.2 The Chief shall ensure that within 60 days of the OIPRD referral, he notifies the complainant in writing of his disposition of the complaint with reasons and of the complainant's right to request that the Board review the complaint if the complainant is not satisfied with the disposition.

8.3. The Chief may extend the 60 day period by notifying the complainant in writing of the extension before the expiry of the period being extended.

8.4 Pursuant to Section 63(4) of the *Act*, the Chief shall ensure that upon his disposition of the complaint, that a written report is submitted to the Board and to the OIPRD respecting the disposition with reasons.

8.5 The complainant's request for review by the Board must be submitted in writing within 30 days.

8.6 Upon receiving a written request for a review of a complaint previously dealt with by the Chief, the Board shall:

(a) advise the Chief of the request;

(b) review the complaint, and
(i) take any action, or
(ii) take no action as the Board considers appropriate; and

(c) notify the complainant, the Chief and the OIPRD of the disposition in writing, with reasons.

8.7 The Board may assign the review of a policy or service complaint to a Committee of the Board of not fewer than three (3) members (2 will equal quorum) to make recommendations to the Board.

8.8 The Board may, in conducting the review, hold a public meeting respecting the complaint.

9. **EXTERNAL COMPLAINT INVESTIGATIONS**

9.1 The Chief shall cause every complaint referred to him or her by the OIPRD involving another Service to be investigated and the investigation to be reported on, in a written report.

10. **OIPRD DIRECTIONS**

10.1 The Chief shall comply with any direction of the OIPRD issued.

11. **PUBLICATION OF DECISIONS**

11.1 The Chief shall ensure that every decision made after a hearing held under Subsection 66(3) or 68(5) is made available to the public in the manner that he considers appropriate in the circumstances and shall give a copy of every such decision to the OIPRD, and the Board.

12. **PERFORMANCE AUDITS**

12.1 The performance audit is in relation to the administration of the public complaint process and shall be conducted in accordance with the directions of the OIPRD in accordance with Section 91 of the *Act*.

13. **BOARD REPORTS**

13.1 In addition to any specific reports or requests provided for in Section 5.3 (Chief's Internal Complaints) and Section 8.4 (Policy/Service Complaint), the Chief shall report to the Board in accordance with any Board Policy which may be approved by the Board.

14. **EFFECTIVE DATE:**

14.1 That By-Law No. 97-3 passed the 18th of December, 1997 be repealed.

14.2 This by-law is hereby enacted by the Halton Regional Police Services Board on this 16th day of December, 2010, and shall take effect immediately upon its passing.

CHAIRMAN

EXECUTIVE DIRECTOR