

## **Schedule 'A' to By-law Number 02-2011 of the Durham Regional Police Services Board**

Being 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 Durham 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 Durham 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 DURHAM 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 Durham Regional Police Services Board;
- (c) "Chief" means the Chief of Police of the Durham 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) "Complaints Form" means the form approved for use by the Office of the Independent Police Review Director;
- (g) "Conduct Complaint" means a complaint made pursuant to Section 66(1) related to the conduct of a police officer;

- (h) "Deputy" means the Deputy Chief of Police of the Durham Regional Police Service;
- (i) "Director" means the Independent Police Review Director appointed by the Lieutenant Governor in Council;
- (j) "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 26.3;
- (k) "Member" means a member of the Durham Regional Police Service, and includes the term "police officer";
- (l) "Misconduct" means an act or omission on the part of a police officer under Sections 80 and 81 of the *Act*;
- (m) "OIPRD" means the Office of the Independent Police Review Director;
- (n) "Officer In Charge" means the police officer who at any particular time, while on-duty, is in charge of a police facility;
- (o) "Policy Complaint" means a complaint made pursuant to Section 58(1)(a) related to the policies of the Service;
- (p) "Professional Standards Unit" means a unit of the Service designated by the Chief to deal with public complaints;
- (q) "Service" means the Durham Regional Police Service;
- (r) "Service Complaint" means a complaint made pursuant to Section 58(1)(a) 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 maintain a Professional Standards Unit, adequately staffed and trained, to liaise with the OIPRD, to receive, investigate and where appropriate, prosecute or assist in the prosecution of public complaints in accordance with Part V of the *Act*.

- 3.3 The Chief shall ensure that the procedure referred to in Section 3.1 includes the following provisions:
- (a) That OIPRD Complaint Forms and public complaint information be made available at every Division or Station of the Service in an area accessible to the public.
  - (b) That public complaints must be on the OIPRD Public Complaint form and signed.
  - (c) That public complaints received by any member of the Service be faxed to the OIPRD and the original mailed to the OIPRD within three (3) business days. A copy of the complaint shall also be faxed or mailed to the Professional Standards Unit.
  - (d) That when the Service is accepting a complaint it will ensure that notice of the complaint is not provided to the respondent officer or any other officer until the OIPRD makes a direction in accordance with its powers under Section 61(5) of the *Act*.
  - (g) That adequate training is provided to all members of the Service in respect of the complaints procedures of the Service and Part V of the *Act*.
  - (h) That the Professional Standards Unit's Inspector or his designee co-operate and follow the direction of the OIPRD in respect of all public complaints, including but not limited to providing the OIPRD with information to assist in screening or assigning the complaint to investigation, investigating the complaint, reporting on the investigation, and prosecuting or assisting the OIPRD in the prosecution of the complaint when appropriate.
  - (f) That the procedures developed by the Chief include a mechanism to provide assistance for public complainants who may not be literate, or who may not be fluent in English.

#### 4. CONDUCT COMPLAINTS - OFFICER

- 4.1 This section is applicable to complaints about the conduct of an officer other than the Chief of Police or Deputy Chief of Police.
- 4.2 The Chief of Police shall ensure that:
- (a) The Complaints Procedure regarding the handling of public complaints about the conduct of an officer is compliant with the *Police Services Act* and the OIPRD Rules of Procedure.
  - (b) Complainants are given all necessary guidance, support and protection.
  - (c) Complainants are advised of the progress of disciplinary proceedings and their right to participate in the disciplinary hearing and their right to be represented by counsel or by a licensed paralegal.
- 4.3 In finally resolving the complaint, the Chief shall take no action, resolve the matter informally, or hold a hearing, as appropriate, in accordance with the requirements the *Act*.
- 4.4 The Chief of Police shall provide a report to the Board outlining all conduct complaints which have resulted in a conviction under the *Act*. The report shall contain information as to the nature of the conduct and the disposition of the charge.

## 5 POLICY OR SERVICE COMPLAINTS

- 5.1 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*.
- 5.2 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.
- 5.3. 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.
- 5.4 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.
- 5.5 The complainant may request a review by the Board provided the request is made to the Board in writing within 30 days of receiving the Chief's decision.
- 5.6 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.
- 5.7 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.
- 5.8 The Board may, in conducting the review, hold a public meeting respecting the complaint.

## 6. LOCAL COMPLAINTS

- 6.1 The Chief shall develop and maintain a Local Complaint procedure in compliance with Ontario Regulation 263/09.
- 6.2 The Chief shall ensure that the said procedure includes the following provisions:
  - (a) That persons wishing to make a Local Complaint be advised of their right to make a Part V complaint.
  - (b) That members of the Professional Standards Unit receive adequate training in respect of local complaints, including the alternative dispute resolution mechanisms of Section 4 of Ontario Regulation 263/09.
  - (c) That members of the Service receive adequate training respecting the distinction between a Local Complaint and a Part V Complaint.
  - (d) That information or publications received from the OIPRD in respect of Local Complaints be posted in each Division or Station in an area readily accessible to the public.

- (e) That local complaints that deal with the same subject matter as a Part V Complaint be referred to the Part V Complaint procedure.
- (f) That the Chief delegate authority to deal with Local Complaints to a member or members of the Professional Standards Unit of the Service.
- (g) That the procedures developed by the Chief include a mechanism to provide assistance for public complainants who may not be literate, or who may not be fluent in English.

## **7. CHIEF'S INTERNAL COMPLAINTS**

- 7.1 The Chief may make a complaint about the conduct of a police officer employed by the Service, other than the Deputy Chief of Police, and shall cause the complaint to be investigated and the investigation to be reported on in a written report.
- 7.2 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*.
- 7.3 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.
- 7.4 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.
- 7.5 In finally resolving the complaint, the Chief shall take no action, resolve the matter informally, or hold a hearing, as appropriate, in accordance with the requirements the *Act*.

## **8. BOARD COMPLAINTS AGAINST CHIEF OF POLICE OR DEPUTY CHIEF OF POLICE**

- 8.1 The Board may generate a complaint on its own motion regarding the conduct of the Chief or Deputy Chief in accordance with Section 77 of the *Act*.
- 8.2 In initiating a complaint against the Chief or Deputy Chief, the Board is not a complainant for the purposes of Part V of the *Act*.
- 8.3 The Board shall promptly give notice of the substance of the complaint to the Chief or Deputy Chief, unless, in the Board's opinion, to do so might prejudice an investigation into the matter.
- 8.4 In finally resolving the complaint, the Board shall take no action, resolve the matter informally, or hold a hearing or refer the matter to the Commission to hold a hearing, as appropriate, in accordance with the requirements the *Act*.

## **9. PUBLIC COMPLAINTS AGAINST A CHIEF OF POLICE OR DEPUTY CHIEF OF POLICE**

- 9.1 All public complaints about the Chief of Police or Deputy Chief of Police must be made to the OIPRD. The Board shall forward any complaint received to the OIPRD within three (3) business days of its receipt.
- 9.2 When a public complaint is referred to the Board by the OIPRD, the Board shall give notice of the substance of the complaint to the Chief of Police or Deputy Chief of Police, unless in the Board's opinion, to do so might prejudice an investigation into the matter.

- 9.3 In finally resolving the complaint, the Board shall take no action, resolve the matter informally, or hold a hearing or refer the matter to the Commission to hold a hearing, as appropriate, in accordance with the requirements the *Act*.

## 10. **WITHDRAWAL OF COMPLAINTS**

- 10.1 If a complaint is withdrawn by a complainant and the OIPRD has given notice of the withdrawal to the Chief or Board, depending on the type of complaint, the Chief or Board (as the case may be) may continue to deal with the complaint if they determine within 30 days of receiving the notice of withdrawal that it is appropriate to do so.
- 10.2 In making a decision concerning whether to proceed with a complaint that has been withdrawn, the Board or Chief, as the case may be, shall be guided by the public interest.
- 10.3 In the case of a public complaint about the conduct of a police officer, a complaint continued under paragraph 10.1 above shall be dealt with as if it had been made by the Chief or by the Board, as the case may be, in accordance with the *Act*.
- 10.4 If the Chief or Board continues to deal with a complaint about the conduct of a police officer after it is withdrawn, the Chief or Board, as the case may be, shall within 30 days after receiving the notice of withdrawal, notify the complainant and the police officer who is the subject of the complaint of the withdrawal and the continuance of the complaint unless, in the Chief's or Board's opinion, notifying the police officer might prejudice an investigation into the matter.

## 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. **REPORTING TO THE BOARD**

- 12.1 The Chief of Police shall submit semi-annual reports to the Board as outlined in 12.2. The first report shall provide information on the previous calendar year, and the second report shall provide cumulative year-to date information. Both reports shall include comparative data for the previous reporting period.
- 12.2 The reports shall include the following information, except for those complaints against a Chief or a Deputy Chief:
- a) the number of public complaints;
  - b) the type of public complaint (Policy/Service, Conduct);
  - c) the number of Chief complaints (internal);
  - d) the nature of the allegations;
  - e) the resolution of the complaints;
  - f) the number of complaints resulting in discipline;
  - g) the number of local complaints;
  - h) the number of outstanding complaints;
  - i) the number of complaints referred to another agency; and
  - j) the number of requests for review made to the Board.

- 12.3 The first report each year shall include an analysis of the frequency, nature and substance of policy, service and conduct complaints (excluding complaints against the Chief of Police and a Deputy Chief of Police), and the opinion of the Chief of Police as to whether the frequency, nature and substance of such complaints require some form of remedial or other training.