

## **BYLAW NUMBER 13-01**

**of**

### **THE POLICE SERVICES BOARD FOR THE CITY OF BRANTFORD**

Being a Bylaw to repeal Bylaw Number #98-01, establish guidelines for dealing with complaints under Part V of the Act and to provide a system for review of the Chief of Police's administration of the complaints system.

WHEREAS Police Services Boards are required to establish guidelines for dealing with complaints made under Part V of the Act and are to 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 the Board recognizes that public confidence in a complaints system is dependent upon it following the principles of fair treatment; professional, prompt and thorough handling of all allegations; an open, accessible and user friendly system; transparency and open communication with the complainant and officers; integrity in the administration of complaints; and the use, where appropriate, of informal resolution, and; the development of human resources.

AND WHEREAS it has been found advisable to repeal Bylaw Number 98-01;

THEREFORE, the Police Services Board for the City of Brantford enacts Bylaw Number 13-01 as follows:

#### **DEFINITIONS**

1. For the purpose of this Bylaw:
  - (a) "Act" is the Police Services Act, R.S.O. 1990.
  - (b) "Board" shall mean the Police Services Board for the City of Brantford.
  - (c) "Commission" is the Ontario Civilian Police Commission.
  - (d) "Complainant" is a member of the public who makes a complaint in accordance with the provisions of the Act.
  - (e) "Complaint" means an allegation made in writing by the complainant about the policies of the Service or the conduct of a police officer.
  - (f) "Misconduct" means an act or omission on a part of an officer, including the Chief or Deputy Chief, that constitutes an offence under the Act.
  - (g) "Offence" refers to a violation of a law of Canada or of a province or territory.
  - (h) "OIPRD" means the Office of the Independent Police Review Director.
  - (i) "Service" means the Brantford Police Service.

## GENERAL

1. The Chief of Police is responsible to ensure processes as prescribed by the Act, associated Regulations, and Service policy for administering complaints are complied with; and, that the Service cooperates with the OIPRD and follows its Rules.
2. Complaints received in the prescribed form shall be sent to the OIPRD for screening within three business days of their receipt.
3. The OIPRD will determine the type of complaint (whether it is about policies of the Service or services provided or about conduct of an officer) and will screen the complaint, determining whether to exercise their discretion to deal with the complaint.
4. The OIPRD will provide the information on a complaint about officer conduct to the Chief, to be dealt with in accordance with their directions.
5. Complaints about the conduct of the Chief or Deputy Chief will be referred by the OIPRD by the Board to be dealt with under section 69 of the Act, unless it has been screened out.
6. Complaints about the conduct of a Commissioner shall be referred by the Independent Police Review Director to the Solicitor General to be dealt with as he or she sees fit. There is no appeal from a decision or action taken by the Solicitor General in dealing with the complaint.
7. Where a complaint is about the policies of or services provided by the Service the OIPRD will refer the complaint to the Chief to be dealt with under the section 63 of the Act, unless it has been screened out.

## POLICY AND SERVICE COMPLAINTS

1. The OIPRD will refer complaints about the policies or services provided by the Service to the Chief to be dealt with. The Chief will review every policy or service complaint referred by the OIPRD and in response to the complaint shall take any action, or no action, that is considered appropriate.
2. The Chief shall within 120 days of the referral of the complaint, notify 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.
3. The Chief may extend the above time period by notifying the complainant in writing of the extension before the expiry of the period being extended.
4. Upon the disposition of the complaint a written report shall be submitted to the Board and to the Independent Police Review Director respecting the disposition, with reasons.
5. The complainant may request a review of the complaint by the Board if the request is made in writing to the Board within 30 days of receiving the notice under item 2 above.
6. Upon receiving a request for a review of a complaint previously dealt with by the Chief, the Board shall, advise the Chief of the request, and unless this is done by a Committee of the Board in accordance with the Act, review the complaint and take any action, or no action, in response to the complaint, as is considered appropriate, and notify the complainant, the Chief, and the Independent Police Review Director in writing of its disposition of the complaint, with reasons.

7. As part of the review, a public meeting may be held by the Board or the Committee of the Board respecting the complaint.

#### CONDUCT COMPLAINTS – CHIEF OR DEPUTY CHIEF

1. The Board shall review every complaint about the conduct of the Chief or Deputy Chief referred to it by the OIPRD.
2. The Board shall give notice of the substance of the complaint to the Chief or Deputy Chief who is the subject of the complaint unless, in the Board's opinion, to do so might prejudice an investigation into the matter.
3. If at the conclusion of the review the Board is of the opinion that the conduct of the Chief or Deputy Chief who is the subject of the complaint may constitute an offence under a law of Canada or of a province or territory, or misconduct as defined in section 80 or unsatisfactory work performance, the Board shall ask the Independent Police Review Director to cause the complaint to be investigated and to provide a written report on their investigation. The Board shall pay the cost of the investigation.
4. If at the conclusion of the review the Board is of the opinion that the conduct of the Chief or Deputy Chief who is the subject of the complaint is not an offence as described in item 2 above, the Board shall take no action in response to the complaint and shall notify the complainant, the Chief or Deputy Chief and the Independent Police Review Director in writing of the decision, with reasons.
5. At the conclusion of the investigation, the Independent OIPRD will either determine that the complaint is unsubstantiated, or that there are reasonable grounds to believe that the conduct of the Chief or Deputy Chief constitutes misconduct or unsatisfactory work performance.
6. Where the determination is that the complaint is unsubstantiated, a written report shall be made to the Board by the Independent Police Review Director and the Board shall take no action in response to the complaint and shall notify the complainant, the Chief or Deputy Chief who is the subject of the complaint in writing of the decision, together with a copy of the written report from the OIPRD.
7. Where the OIPRD believes on reasonable grounds that the conduct investigated constitutes misconduct or unsatisfactory work performance, the matter shall be referred, together with a written report to the Board. The report will indicate if it is believed that the misconduct or unsatisfactory work performance is not of a serious nature.
8. If misconduct or unsatisfactory work performance is of a serious nature, the Board must hold a hearing into the matter or refer the matter to the Ontario Civilian Police Commission to hold a hearing.
9. The OIPRD has the power, at any time after a public complaint about the conduct of the Chief or Deputy Chief has been referred to the Board and before a hearing in respect to the complaint is commenced, to:
  - i. direct the board to deal with the complaint as specified;
  - ii. assign the conduct of a hearing in respect of a complaint to the Commission;

- iii. take or require to be taken by the Board any other action with respect to the complaint the Independent Police Review Director considers necessary in the circumstances.
  - iv. If the investigation or a hearing of the complaint is assigned by the OIPRD to another police force, the police force to which the complaint relates is to pay the cost of the investigation or hearing incurred by the force to which the matter is assigned.
- 10. If the misconduct or unsatisfactory work performance is not of a serious nature, the Board may resolve the complaint informally without holding a hearing, with the consent of the Chief or Deputy Chief who is the subject of the complaint and the complainant. An Informal Resolution Agreement form would be completed, signed by both parties. The Board must then wait twelve business days, to ensure the parties do not revoke their consent. Should they revoke their consent within that time it must be in writing.
- 11. In a successful informal resolution, the OIPRD are to be sent the completed Agreement along with any other information requested. Once done, the complaint would be considered resolved.
- 12. Should an informal resolution not be successful, the Board must provide the Chief or Deputy Chief with reasonable information about the finding of misconduct or unsatisfactory work performance and give an opportunity to reply orally or in writing.
- 13. The Board may then dispose of the matter by imposing penalties as prescribed in the Act (section 69 (12)2.) if the penalties are agreed to by the Chief or Deputy Chief that they are being imposed upon. The Board must notify the OIPRD of the penalties or action taken.
- 14. Where the Chief or Deputy refuses to accept the penalties imposed, the Board must instead hold a hearing or refer the matter to the Commission to hold a hearing and the Board shall notify the OIPRD that a hearing will be held.
- 15. Complainants may withdraw their complaints prior to the commencement of a hearing by providing notice to the OIPRD. The OIPRD will notify the parties involved. Within 30 days of receiving the notice of withdrawal, if the Board feels it is inappropriate to withdraw the complaint about the conduct of the Chief or Deputy Chief, the Board may continue to deal with the complaint as a Board complaint.
- 16. If the Chief or Deputy Chief who is the subject of a complaint resigns, the Board shall take no further action. If the complaint was made by a member of the public, the Board shall promptly notify the complainant and the OIPRD of the resignation. If the complaint was made by the Board, the Board shall promptly notify the Commission of the resignation.

#### BOARD COMPLAINTS ABOUT THE CHIEF OR DEPUTY CHIEF

- 1. A Board may make a complaint about the conduct of the Chief or Deputy Chief and shall review such complaint. In initiating a complaint against the Chief or Deputy Chief, the Board is not a complainant under Part V of the Act.
- 2. The Board shall promptly give notice of the substance of the complaint to the Chief or Deputy Chief unless, in the opinion of the Board, to do so might prejudice an investigation into the matter.

3. If at the conclusion of the Board's review, the Board is of the opinion that the conduct of the Chief or Deputy Chief may constitute an offence, or misconduct or unsatisfactory work performance, the Board shall ask the Commission to assign the chief of police of another police force to cause the complaint to be investigated promptly and the investigation to be reported on in a written report at the Board's expense.
4. At the conclusion of the investigation, if the investigating Chief forms the opinion that the complaint is unsubstantiated, that opinion is to be reported in writing to the Board. The Board shall take no further action in response to the complaint and shall notify the Chief or Deputy Chief who is the subject of the complaint in writing of the decision, together with a copy of the written report.
5. If at the conclusion of the investigation, the investigating Chief believes on reasonable grounds that the conduct of the Chief or Deputy Chief under investigation constitutes misconduct or unsatisfactory work performance, the matter shall be referred in a written report to the Board. The Board will review the report and determine if the conduct is serious or not of a serious nature.
6. Unless the matter is considered not of a serious nature and an informal resolution is obtained, the Board shall hold a hearing into the matter or refer the matter to the Commission to hold a hearing.
7. If the matter is considered not of a serious nature and the Chief or Deputy Chief agrees, the Board may resolve the matter informally without holding a hearing.
8. If an informal resolution is attempted but not achieved, the following rules apply:
  - i. The Board shall provide the Chief or Deputy Chief reasonable information concerning the matter and shall provide an opportunity to reply orally, or in writing.
  - ii. Subject to subsection iii, the Board may impose a penalty described in clause 85(2) (d), or (f) of the Act or any combination thereof, and may take any other action described in subsection 85(7), and may cause an entry concerning the matter, the penalty imposed or action taken and the Chief's or Deputy Chief's reply to be made in their employment record.
  - iii. If the Chief or Deputy Chief refuses to accept the penalty imposed or action taken, the Board shall not impose a penalty or take any other action or cause an entry to be made in the employment record, but shall hold a hearing, or refer the matter to the Commission to hold a hearing.
9. An entry in the Chief's or Deputy Chief's employment record of an informal discipline shall be expunged after two clear years.
10. The Commission may at any stage in the complaints process direct the Board to deal with the complaint as it specifies.

## BOARD REVIEW AND CHIEF'S REPORTING REQUIREMENTS

1. The Chief of Police shall submit quarterly reports to the Board on the administration of the complaints system. Information on complaints for that quarter shall include:
  - a. For policy and service complaints:
    - i. the total number of complaints referred by the OIPRD;
    - ii. the number of complaints where the Chief took no action;
    - iii. the number of complaints where the Chief took action and a summary of the action taken;
    - iv. the number of requests to the Board for review and the results;
    - v. the number of time extensions requested to investigate the complaints.
  - b. For conduct complaints, including Chief's complaints:
    - i. the number of conduct complaints, including Chief's complaints;
    - ii. the number of complaints screened out by OIPRD and the reason given by OIPRD for them being screened out;
    - iii. the number of investigations conducted by other police services;
    - iv. the number of investigations conducted by this Service for another police service and an estimated cumulative cost;
    - v. the number of complaints dealt with by informal resolution, customer service resolution or withdrawn;
    - vi. the number of time extensions requested;
    - vii. the number of investigations where misconduct was substantiated, and the number where conduct was unsubstantiated;
    - viii. the number of requests for review by the OIPRD from complainants who disagreed with the decision of the Chief;
    - ix. the decisions made by the OIPRD in any review;
    - x. the number of outstanding complaint investigations at the end of the reporting period;
    - xi. the number of informal disciplines from complaints;
    - xii. the number of hearings and findings and a summary of penalties imposed;
    - xiii. the number of biased-based profiling complaints, and
    - xiv. the number of complaints against the Chief or Deputy Chief.

READ A FIRST TIME  
READ A SECOND TIME  
ENACTED AND PASSED

September 19, 2013  
September 19, 2013  
September 19, 2013

**Appendix ‘A’** Policy Complaints and Conduct Complaints of Chief and Deputy Chief

