



Hamilton Police Service Board Complaints of Misconduct Policy P-018

Effective date: April 1, 2024
Reviewed:
Amended:

Applicable Legislation

O.Reg. 406/23 Discipline under the *Community Safety and Policing Act, 2019, S.O. 2019, c.1, Sched.1 (the Act)*.

O.Reg. 411/23 Complaints about Special Constables under *the Act*.

Policy Application

Section 1 - General

- 1.1 The Chief of Police shall ensure that procedures are in place to maintain an effective and efficient complaint system and to adhere to all requirements under *the Act* and associated Regulations. The procedures shall provide that:
- a. A Professional Standards Unit be maintained, adequately staffed and trained, to liaise with the Complaints Director, and to receive and investigate public complaints in accordance with *the Act*;
 - b. Well-defined and rigorous processes exist for the purpose of investigating alleged misconduct by sworn members and Special Constables;
 - c. Adequate training is provided to all members of the service in respect of the complaints procedures of the Service and relevant parts of *the Act*;
 - d. The Professional Standards Unit's Inspector or designate co-operate and follow the direction of the Complaints Director in respect of all public complaints;
 - e. A mechanism is developed and implemented to provide assistance for public complainants who may not be literate, or who may not be fluent in English.

- 1.2 Any complaints received by a board member against a police officer or a Special Constable shall be forwarded to the board's Administrative Director. The Administrative Director shall forward a complaint against a police officer to the Complaints Director, and shall forward a complaint against a Special Constable to the Chief of Police, in accordance with *the Act* and associated Regulations.
- 1.3 If the board receives a report from a person or body responsible for reviewing complaints about police officers in another province or territory about a complaint made against an Ontario police officer appointed to act as a police officer in that province or territory, the board shall forward the report to the Complaints Director.
- 1.4 If a person makes a complaint to the board, a board member, or the Chief of Police, or any member of the police service about the conduct of a board member, that person or entity shall forward the complaint to the Inspector General, inform the person who made the complaint that the complaint has been forwarded, and provide the person with information about the role of the Inspector General.

Section 2 - Policy and Procedure Complaints

- 2.1 If a person makes a complaint to the board, a board member, the Chief of Police, or any member of the Police Service about:
 - a. The adequacy and effectiveness of policing provided;
 - b. A failure of the board, Chief of Police, Special Constable employer, police service, prescribed policing provider or the regulations, other than misconduct, including a systemic failure;
 - c. The policies of the board or the procedures of the Chief of Police;
 - d. The complaint shall be forwarded to the Inspector General, and the person who made the complaint shall be informed that the complaint has been forwarded, and the person shall be provided with information about the role of the Inspector General.
- 2.2 If the Inspector General refers a complaint to the board about the board's policies or the procedures of the Chief of Police, the board shall:
 - a. Review the complaint as it relates to the policies or procedures referred to;

- b. Report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint; and
- c. Report to the Minister about any steps taken in response to the complaint.

Section 3 - Complaints about Sworn Members

- 3.1 The Chief of Police shall investigate all complaints referred to the Chief of Police by the Complaints Director, in the manner directed by the Complaints Director and in accordance with the requirements of *the Act* and associated Regulations.
- 3.2 In conducting an investigation, the Chief of Police shall endeavour to ensure that the investigation is concluded within 120 days of its commencement, not including any period during which an investigation is postponed or suspended in accordance with *the Act*.
- 3.3 If the timing requirements above are not met in respect of an investigation, the Chief of Police shall give notice of the status of the investigation to the complainant, the person who is the subject of the investigation, the applicable designated authority and the Complaints Director every 30 days until the investigation is concluded unless, in the opinion of the Chief of Police, doing so might prejudice the investigation.
- 3.4 On concluding an investigation, the Chief of Police shall cause the investigation to be reported on in a written report. The Chief of Police shall promptly give a copy of the report to the Complaints Director. A copy of the report shall be provided to the complainant, the person who was the subject of the investigation, and any applicable designated authority, after the Complaints Director determines that providing a copy of the report will not interfere with a criminal investigation or proceeding.
- 3.5 The Chief of Police may conduct an investigation of a police officer employed by the Service, other than a Deputy Chief of Police, and shall cause the investigation to be reported on in a written report.

- 3.6 The Chief of Police shall promptly give notice of the substance of the reason for the investigation to the police officer, unless in the opinion of the Chief of Police, to do so might prejudice an investigation into the matter.
- 3.7 In finally resolving the complaint, the Chief of Police shall take no action, resolve the matter informally, or order a hearing, as appropriate, in accordance with the requirements *the Act*.

Section 4 - Complaints about Special Constables

- 4.1 If the Chief of Police receives a complaint about a Special Constable, the Chief of Police shall provide the complainant with written acknowledgment that the complaint has been received.
- 4.2 The Chief of Police shall ensure that the complaint is investigated to determine whether the Special Constable's conduct constitutes misconduct, contravened the terms and conditions of the Special Constable's certificate of appointment or contravened any provision of *the Act* or the regulations.
- 4.3 The Chief of Police shall ensure that any allegations in the complaint of conduct that may constitute criminal conduct are investigated by a member of the police service or of another police service.
- 4.4 The Chief of Police shall, in writing, advise the complainant of the outcome of the investigation of the complaint and report on the outcome of the investigation to the board.
- 4.5 The Chief of Police shall endeavour to complete any investigation of a Special Constable under this section within 120 days after receiving the complaint, not including any period during which the investigation is postponed or suspended.
- 4.6 If the timing requirements above are not met in respect of an investigation, the chief of police shall give notice of the status of the investigation to the complainant and to the person being investigated every 30 days until the investigation is concluded unless, in the opinion of the chief of police, doing so might prejudice the investigation.

- 4.7 If the Special Constable is found to have engaged in conduct that constitutes misconduct, contravened the terms and conditions of their certificate of appointment or contravened any provision of *the Act* or the Regulations, the chief of police shall take appropriate action to remedy the contravention.
- 4.8 Notice to the public about how to make a complaint against a Special Constable shall be published on the board's website.

Section 5 – Complaints Against the Chief of Police or A Deputy Chief of Police

- 5.1 If the board becomes aware that the Chief of Police or a Deputy Chief of Police may have engaged in conduct that constitutes misconduct, whether during the conduct of an investigation or otherwise, the board shall provide notice of the alleged misconduct to the Complaints Director in accordance with *the Act* and associated Regulations.
- 5.2 The board may conduct an investigation in order to determine if the Chief of Police or Deputy Chief of Police has engaged in conduct that constitutes misconduct or unsatisfactory work performance.
- 5.3 The board shall adhere to all requirements of *the Act* and associated Regulations in executing its responsibilities under this section, and shall seek legal counsel as required.

Section 6 - Disclosure of Misconduct

- 6.1 The Chief of Police shall establish and operate according to written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by members. The procedures shall:
 - a. Address how a member or former member of the Police Service may make disclosures of misconduct, including giving directions as to the persons to whom disclosures may be made;
 - b. Establish procedures to protect the identities of persons involved in the disclosure process, including persons who make disclosures, witnesses and persons alleged to be responsible for misconduct; and

- c. Provide for exceptions to be made to procedures described in clause b. where the interests of fairness require that a person's identity be disclosed to one or more persons.
- 6.2 The Chief of Police shall ensure members are familiar with the procedures and the protections from reprisals for disclosing misconduct.
- 6.3 The board shall establish and operate according to written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by the Chief of Police or a Deputy Chief of Police.

Reporting

The Chief of Police shall submit yearly reports to the board as outlined below:

1. The reports shall include the following information, except for complaints against the Chief of Police or a Deputy Chief of Police:
 - a. The number of public complaints made against sworn members and Special Constables;
 - b. The nature of the allegations against sworn members and Special Constables;
 - c. The resolution of the complaints;
 - d. The number of complaints resulting in discipline;
 - e. The number of complaints against Hamilton Police members referred to another agency; and
 - f. The number of disclosures made under section 5 of this policy.
2. The report 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 remediation or other training.