

Corporate Policy and Procedure



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Effective Date 2009 10 20
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TAB: HUMAN RESOURCES
SECTION: EMPLOYEE CONDUCT
SUBJECT: PUBLIC COMPLAINTS PROCEDURE

POLICY STATEMENT

Employees, citizen members of committees and volunteers acting on behalf of the City of Mississauga are expected to conduct themselves and perform their duties in a responsible and professional manner. Any complaints from members of the public regarding the conduct of City employees or representatives will be addressed according to this policy.

PURPOSE

The purpose of this policy is to outline the City's Informal Complaints resolution process and to establish a record keeping procedure for Formal Complaints from members of the public regarding the conduct of City employees, citizen members of committees and volunteers. Volunteers, while not employees of the Corporation, are also expected to conduct themselves in accordance with established City standards.

The City will endeavour, first and foremost, to resolve complaints regarding Employee conduct informally. In those situations where a member of the public is not satisfied with an informal resolution they may follow the Formal Complaint process.

The City's expectations regarding the general behaviour of employees are outlined in various City of Mississauga by-laws, agreements, policies and procedures, and rules and regulations, including but not limited to, Corporate Policy and Procedure, Human Resources, Standard of Behaviour; Conflict of Interest; Fraud and Theft; and Respectful Workplace.

SCOPE

All union and non-union full time, part time, temporary and

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contract employees, citizen members of committees and volunteers acting on behalf of the City of Mississauga are covered by this policy.

All employees and members of the general public, visitors to City facilities, and individuals conducting business with, or performing work on behalf of, the City of Mississauga are required to adhere to the Respectful Workplace Statement of Commitment, which is posted at City facilities.

Investigation of complaints regarding unionized employees will be conducted in accordance with applicable collective agreement provisions.

Exceptions

This policy does not address:

- Situations that are of concern to the complainant but which are outside of the control of the employee, such as service levels, resource allocations or departmental policies.
- Internal employee complaints, problems or concerns. Refer to Corporate Policy and Procedure, Human Resources, Employee Conduct, Employee Complaints Review Procedure.
- Complaints from the public regarding the conduct of Security Staff. Refer to Corporate Policy and Procedure, Human Resources, Code of Conduct and Complaints Procedure for Security Staff.
- Allegations of violations of Canada's Criminal Code. These should be reported to and dealt with by the police.

Definitions

For the purposes of this policy:

- "Complaint" means an allegation made by a member of the

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public regarding misconduct on the part of a City Employee. The complaint can be either Formal or Informal.

- “Designated City Official” (Designate) means the City employee assigned the responsibility of addressing and responding to a Formal Complaint.
- “Employee” means all employees, citizen members of committee and volunteers acting on behalf of the City of Mississauga.
- “Formal Complaint” means a complaint that has not been successfully resolved through the Informal Resolution Process as outlined in this policy. The complainant has chosen to formalize the complaint by completing a City of Mississauga Public Complaint Form.
- “Frivolous or Vexatious” means the complaint is initiated with malicious intent or is part of a pattern of conduct by the complainant that amounts to an abuse of the Formal Complaints process.
- “Informal Complaint” means a complaint that has been received by the City, either by telephone, e-mail, postal mail or in person, which has not been submitted on a Public Complaint Form.
- “Investigator” means the person(s) responsible for examining the circumstances of a complaint.
- “Manager” includes a Manager or any employee acting in a supervisory capacity and authorized to handle complaints from the public.

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- “Misconduct” means a breach of the City’s expectations of acceptable employee conduct as outlined in various City of Mississauga by-laws, agreements, policies and procedures, and rules and regulations, including but not limited to, Corporate Policy and Procedure, Human Resources, Standard of Behaviour; Conflict of Interest; Fraud and Theft; and Respectful Workplace.

COMPLAINT PROCEDURE

The City of Mississauga will receive complaints from the public related to a perceived breach of any of the City’s by-laws, agreements, policies and procedures, and rules and regulations related to Employee conduct.

In order to protect the privacy of individuals with respect to personal information all complaints are to be handled in accordance with the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Refer to Corporate Policy and Procedure, Records Management, Freedom of Information and Protection of Privacy for more information on MFIPPA.

City forms and/or documents referred to in this policy are available in alternative formats upon request.

INFORMAL COMPLAINTS

While an individual may wish to immediately file a formal, written complaint with the City, issues raised by members of the public regarding the conduct of City Employees, whether received in person or by telephone, should be resolved by a Manager at the point of contact, if possible, prior to a Formal Complaint being made.

Existing Processes

Departments within the City that experience a high degree of employee/customer interaction, such as Parking Enforcement and Transit, have established complaint and informal resolution processes in place. These informal resolution processes may

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continue to the point that a customer wishes to pursue a formal, written complaint. Where no informal complaints process exists, the informal process in this policy will apply. All formal complaints regarding employee conduct must be submitted on the Formal Complaint Form 2467.

Onsite Complaints

A member of the public may approach an on duty Manager with a complaint about a City Employee. The complainant may be directed to the Employee's direct Manager if they are onsite. If no Manager is available, the Employee receiving the complaint will take basic contact information and advise the complainant that a Manager will contact them within three business days. If a Manager is available they should attempt to defuse the situation and come to an informal resolution. Informal resolution of an onsite complaint may involve simply bringing the complainant and the subject Employee together to hear each other's concerns.

If the complainant wishes to escalate their concern to the Employee's direct Manager or the next level of management, but does not want to launch a Formal Complaint, the Manager who is involved in the initial discussion will forward the complainant's name, contact information, a brief description of the incident and a request for a call back to the appropriate individual. The complainant will be advised that they will be contacted within three business days.

Complaints Received in Person

Should a complainant wish to file a complaint in person at the Office of the City Clerk, they will be offered the option of having a Manager call them within three business days to discuss their concern. If the complainant agrees, the Clerk or designated staff will obtain their name and contact information and immediately forward this information to the appropriate individual. If the complainant advises that they wish to lodge a Formal Complaint they will be advised of the procedure.

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Complaints Received by Mail and E-mail

Written and e-mail complaints received by the City will be considered to be informal if they are not on a Formal Complaint form. If an informal complaint is sent to a general City postal or e-mail address or has been misdirected, the recipient will forward the complaint to the appropriate Manager or Director. Managers who receive a complaint letter or e-mail regarding the conduct of an Employee who reports to them should attempt to resolve the complaint following the Informal Complaint resolution process. If the complaint cannot be resolved informally, the complainant will be advised of the Formal Complaint process. Formal Complaints received in the mail room must be forwarded to the Office of the City Clerk.

Complaints Received by Telephone

Managers receiving complaints by telephone will conduct an informal discussion with the complainant with the intention of resolving the issue. Other City staff who receive telephone complaints will attempt to put the caller in contact with the appropriate Manager. If the Manager is not available, the employee will obtain the complainant's contact information, provide the Manager's name and advise the complainant that they will receive a call back within three business days.

Complaints Received in the Call Centre

Complaints about City Employees received in the Call Centre will be forwarded to that person's Manager. This will be done electronically to those Business Units where it is technically feasible. The Call Centre representative will obtain the following information only:

- the complainant's name and contact information;
- the name of other Managers the complainant has dealt with, if applicable; and
- sufficient information (date, time, location of the incident) to direct the complaint to the appropriate Manager.

The complainant will be advised that they will receive a call back from the Manager within three business days. If the complainant

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advises that they wish to lodge a Formal Complaint, the Call Centre representative will advise them of the Formal Complaint procedure.

The Role of the Manager

The Manager receiving a complaint will gather and review any preliminary information available and attempt to resolve the issue informally through separate discussions with the complainant and the Employee involved. The Manager may choose to involve Human Resources at this point if they require their assistance and/or guidance, however are required to involve their departmental Human Resources representative prior to taking any disciplinary action against City staff.

Managers must ensure that all staff involved in the resolution of the complaint are aware of their responsibility to keep the issue confidential and respect the privacy rights of all parties involved.

Records of Informal Complaints

The details of Informal Complaints should be noted as soon as possible and may include such information as when and where the alleged Employee misconduct occurred, who was involved, and the names of any witnesses. These notes may be required if a Formal Complaint is eventually filed.

Complaints that are informally resolved to the complainant's satisfaction will not be tracked. However, any records pertaining to the resolution of Informal Complaints, including but not limited to Manager's notes, e-mails, and letters, are to be maintained within each department in accordance with the City Records Retention By-Law 537-96. Any disciplinary action resulting from an Informal Complaint will be maintained in accordance with established Human Resources procedures and Corporate Policy - Corporate Administration, Records Management, Employee Records.

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Unresolved Complaints

If the issue cannot be resolved informally, or the complainant requests an investigation into the alleged misconduct, a Formal Complaint Form must be submitted.

FORMAL COMPLAINTS

Formal Complaints against City Employees must be submitted to the Office of the City Clerk via postal mail, e-mail or in person using the Public Complaints Form 2467. The form can be found on the City of Mississauga's web site or is available at the Office of the City Clerk.

The Clerk, or designated staff, is solely responsible for:

- receiving and date stamping the complaint;
- ensuring it is completed and signed;
- creating and maintaining a record of all Formal Complaints received for statistical purposes; and
- indicating who the complaint was forwarded to.

This information may be used to verify or demonstrate the number of Formal Complaints received by the City and to monitor complaint resolution progress. The Office of the City Clerk will provide a summary to City Council on an annual basis.

Once the Formal Complaint is logged, a confidential copy of the complaint will be forwarded via inter-office mail to the City Manager and the applicable Commissioner, with the original going to the appropriate Designate according to the Investigation of Complaints section of this policy.

Details of Complaint

The complaint should provide details of the grounds of the complaint, factual information of when and where the incident occurred, and a description of what happened. All complaints must be signed by the complainant. In the case of a complaint made on behalf of a person under 18 years of age, a parent or legal guardian may sign; in the case of a person with a disability,

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their Support Person may sign on their behalf in their presence.

Complaints Not Considered Anonymous complaints will not be considered.

Complaints should be made as soon as possible following the incident. Complaints filed 90 days or more after the incident will only be investigated if the Director of the department to which the Employee reports determines that circumstances exist to reasonably justify the extension.

Investigation of Complaint All Formal Complaint forms with the details of the complaint and any attachments will be forwarded to the appropriate Designated City Official (the Designate) as follows:

- Complaints regarding a Citizen Member of Committee to the City Manager;
- Complaints regarding City Employees, including Managers and Supervisors, to the Director of the person's Division;
- Complaints regarding a Director to the applicable Commissioner;
- Complaints against Commissioners to the City Manager; and
- City Manager complaints are referred to the Mayor.

The Designate, or their appointed delegate, will assume responsibility for the complaint at this point.

The Designate will review the complaint with the Employee's Manager. The Designate, in consultation with Human Resources, will then assign an Investigator suitable to the circumstances of each complaint.

The investigation will be made in the context of existing City of Mississauga policies and procedures, accepted practices, and relevant legislation in place at the time of the incident.

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If the Investigator deems the complaint to be Frivolous or Vexatious it will not be pursued. The Designate, in consultation with Human Resources, will advise the complainant, in writing, of the Investigator's decision and the reasons for it, and copy the City Manager and the applicable Commissioner.

Upon completion of the investigation, the Investigator will present a confidential written report which will include the allegations and the Investigator's findings. This report will be discussed with the Designate who, in consultation with Human Resources, will take any necessary action, which may include disciplinary action and/or the imposition of an assessment period. (Refer to Corporate Policy and Procedure – Standard of Behaviour for more information on disciplinary action and assessment periods.)

The Designate, or their delegate, in consultation with Human Resources, will provide both the complainant and those alleged in the complaint with a written response which either:

- revealed a contravention of the City's policies regarding conduct, and appropriate corrective action will be taken or;
- revealed that no contravention took place, and the matter is closed.

Details of any disciplinary action taken will not be released to the complainant. A confidential copy of the decision will be forwarded to the City Manager. The original will be sealed and maintained in accordance with current practices.

The Designate will also advise the Clerk's office as soon as possible that the complaint process is complete and the date the file was closed. This information will be added to the existing record.

Deadline for Complaint
Resolution

Every effort will be made to investigate and respond to

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complaints within 30 days of receipt of the Formal Complaint by the City Clerk.

If the investigation into the complaint is not complete within 30 days, the Designate will advise the complainant or their guardian, in writing, of the status of the investigation and the expected time frame for a response.

In cases where the complaint cannot be resolved within 30 days, the Designate will endeavour to have the complaint resolved no later than 60 days following receipt of the complaint.

Withdrawal of a Formal Complaint

A complainant may withdraw a Formal Complaint by writing to the City Clerk's office. The Designate may continue the investigation if they believe further investigation is warranted.

Formal Complaints that are withdrawn will be included in data collection with the status of "withdrawn" clearly indicated.

REFERENCE:

GC-0880-2008 – 2008 12 10
2009 10 20 – administrative revision – Commissioner copied on Formal Complaints

LAST REVIEW DATE:

CONTACT:

For more information contact the departmental Human Resources Manager or your Manager.