



PROCEDURE

PROCEDURE NO: 121•1

PAGE: 1 OF 5

TITLE: Complaint Reporting and Investigation Process

APPROVAL DATE: May 6, 2019

POLICY: 121, Council Code of Conduct Complaint

REVISION DATE:

SECTION: Administration

LAST REVIEWED: June 7, 2022

RESPONSIBLE

DEPARTMENT: City Manager

This Procedure establishes the process for the reporting, investigation, and adjudication of complaints against Elected Officials and to provide details and certainty on the process to be followed, respecting the rules of fairness and natural justice to all parties.

Complaint and Investigation Process

- 1.1 Any Complaints are to be submitted, in confidence, to the City Manager, who will forward them to the Committee.
- 1.2 The Committee or Adjudicator will review the Complaint, and all materials provided by the Complainant.
- 1.3 The Respondent will be given a copy of the Complaint and an opportunity to submit a written reply to the Committee or Adjudicator.
- 1.4 The Complainant will be provided with a copy of the Respondent's written reply and also with copies of any other information that was provided by the Respondent as part of that reply.
- 1.5 The Respondent shall not retaliate or threaten to retaliate in any way against the Complainant for making the Complaint or against any other Person who gives evidence in the process, provides disclosure of materials related to the Complaint or in any way participates in the Complaint process. An act of retaliation or threat of retaliation by a Respondent may be the subject of a Complaint pursuant to the Bylaw.
- 1.6 If the Committee or Adjudicator decides that the Complaint does not apply, the Committee or Adjudicator will provide the reasons for this decision in writing to the Complainant and to the Respondent.

- 1.7 If the Committee or Adjudicator decides that the Complaint does apply, then the Respondent shall provide a written reply to the Complaint to the Adjudicator or Committee, including any documents or other material.
- 1.8 During the Complaint process, the Complainant may choose to withdraw the Complaint, in writing addressed to the Committee, at any time and for any reason.
- 1.9 The Complainant and the Respondent may try to resolve the Complaint, including through a mediator or other Person, at any time during the Complaint process.
- 1.10 The Complainant and the Respondent may engage Independent Legal Counsel, at their own expense, to represent them during the Complaint process.
- 1.11 The Committee or Adjudicator will review the Complaint, the Respondent's reply and the information provided and the Committee or Adjudicator will decide by majority vote, to assign a third party to act as the Investigator to conduct an Investigation of a Complaint.
- 1.12 If an Investigator has been assigned to investigate the Complaint, the Committee or Adjudicator will inform the parties that an Investigator has been assigned, and will provide the name of the Investigator to the parties.
- 1.13 The purpose of an Investigation is to allow the Investigator to gather information related to the Complaint, to share the collected information with the parties, to seek the comments of the parties on the information collected and to assess if there is a reasonable basis to proceed with the Complaint process.
- 1.14 If the Complaint is resolved, the Committee or Adjudicator may instruct the Investigator to end the Investigation process.
- 1.15 Elected Officials, Board Members and Administration must cooperate with any Complaint Investigation and with the Complaint process and must respect the confidentiality of the entire Complaint process, including the Investigation process.
- 1.16 During the Complaint process, the Committee or Adjudicator may take such steps as the Committee or Adjudicator considers appropriate, which may include seeking legal advice.
- 1.17 The parties will be permitted to provide written comments to the Committee or Adjudicator on the Investigation report.
- 1.18 After considering any written comments from the parties in relation to the Investigation report, the Committee or Adjudicator shall decide whether there is a reasonable basis to proceed with the Complaint process.

- 1.19 If the Committee or Adjudicator decides there is a reasonable basis to proceed with the Complaint after reviewing the Investigation report, then he may ask the parties to attempt settlement, before continuing the Complaint process.
- 1.20 If the Investigator recommends that there is no reasonable basis to proceed with the Complaint process, the Committee or Adjudicator may decide to:
 - a) dismiss the Complaint; or
 - b) allow the Complaint process to continue, despite the Investigator's recommendation.
- 1.21 The Committee or Adjudicator shall not be under an obligation to proceed with the Complaint where the Investigator determines that the Complaint is frivolous, vexatious, is not made in good faith or that there are no reasonable and probable grounds upon which to proceed with the Complaint process.
- 1.22 The Committee or Adjudicator will provide a decision to the parties in writing, on the next steps in the Complaint process, after their review of the Investigation report.
- 1.23 At the end of the Complaint process, the Committee or Adjudicator shall provide Council and the Elected Official, who is the subject of the Complaint, with a written report of the results of the Complaint process, including the results of any Investigation.
- 1.24 Upon completion of the Complaint process and Council's receipt of a written Complaint report from the Adjudicator or Committee, which confirms the Complaint has been substantiated, in whole or in part, Council shall, either at the next regularly scheduled Council meeting or at a special Council meeting called for this purpose, meet In Camera to review the report and to determine the appropriate response to the identified contraventions of the Bylaw.

Formal Complaint Process

- 2.1 If a formal Complaint has been made to the Committee or Adjudicator and there is a reasonable basis to proceed with the formal Complaint process, the Complainant may use the formal Complaint process to resolve the Complaint.
- 2.2 The Complainant will notify the Committee or Adjudicator, in writing if he wishes to pursue the Complaint by way of the formal Complaint process.
- 2.3 The Committee or Adjudicator must approve the Complainant's use of the formal Complaint process, based on all the information provided by the parties and provided in any Investigation report. The Committee or Adjudicator may recommend that the parties first attempt to resolve the particular Complaint using the informal Complaint process.
- 2.4 The Committee or Adjudicator will advise the parties, in writing, whether the formal Complaint process will be used.

- 2.5 The Committee or Adjudicator may request additional information from the parties, from any witnesses and from any other Person as part of his review of the formal Complaint.
- 2.6 If the Committee or Adjudicator determines that all or part of the formal Complaint is not governed by the Bylaw or that all or part of the Complaint is governed by other legislation, he will advise the Complainant in writing. The Committee or Adjudicator shall provide the parties with written reasons for this determination and may also provide information about which legislation may govern the Complaint.
- 2.7 If an Investigator is assigned to investigate a formal Complaint, the Investigation will follow the steps described in this Procedure.
- 2.8 The Committee or Adjudicator shall provide a written report to the parties upon the completion of their review of the formal Complaint. The report shall outline the formal Complaint, the decision and the findings of the Committee or Adjudicator, any identified contraventions of the Bylaw and any recommended corrective actions or Censure Motions.
- 2.9 Where the formal Complaint is substantiated, in whole or in part, the Committee or Adjudicator shall also provide his written report to Council In Camera.
- 2.10 Where the formal Complaint is dismissed by the Committee or Adjudicator, other than in exceptional circumstances, the Committee or Adjudicator shall not provide his report to Council.

Informal Complaint Process

- 3.1 Any Person who has identified or witnessed conduct by an Elected Official that the Person reasonably believes, in good faith, contravenes the Bylaw, may address the prohibited conduct by:
 - a) advising the Elected Official that the conduct violates the Bylaw and encouraging the Elected Official to stop; or
 - b) requesting the Committee to assist in informal discussion of the alleged conduct with the Elected Official, in an attempt to resolve the issue.
- 3.2 Individuals may decide to pursue the informal complaint process as a first means to remedy the conduct that they believe violates the Bylaw. However, no one is required to complete the informal complaint process before pursuing the formal complaint process set out in this Procedure.
- 3.3 The Complainant may decide to pursue the informal Complaint process as a way to attempt to resolve the Complaint.

- 3.4 If the Complainant has discussed the Complaint with the Committee but has not yet attempted to resolve the Complaint using the informal process and if the Complainant then decides to pursue the informal Complaint process, he must advise the Committee of this decision in writing.
- 3.5 The Committee or Adjudicator will consider the Complainant's decision to use the informal Complaint process, based on all the information provided by the parties and provided in any Investigation report. The Committee or Adjudicator may recommend that the Complainant use the formal Complaint process to resolve the particular Complaint.
- 3.6 The Committee will advise the Complainant and the Respondent, in writing that the informal Complaint process will be used, if the Committee will be assisting the parties in the informal Complaint process.

General Information

- 4.1 The Committee shall be at liberty to establish time frames in which to deal with the above.