



## **REPORT TO THE EDMONTON POLICE COMMISSION**

**DATE:** May 15, 2020

**AUTHOR:** Bonnie Riddell, Policy & Research Analyst

**SUBJECT:** POLICY REVISIONS – POLICE DISCIPLINE MATTERS

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### **RECOMMENDATION(S):**

The following actions are required:

- 1) Review and approve revisions to the following policies:
  - 1.2.1 – Public Complaint Director
  - 1.2.2 – Submitting Complaints & Compliments (Name changed to: Receiving, Referring and Reporting Complaints)
  - 1.2.3 – Inquiries Before The Commission
  - 1.2.4 – Service & Policy Appeals
  - 1.2.5 – Complaints Against The Chief
  - 1.2.6 – Extension Requests
  - 1.2.7 – Relief From Duty Without Pay
  - 5.2.4 – Professional Standards Committee Terms of Reference
- 2) Rescind the following policy:
  - 1.2.7 – Retroactive Extension Requests
- 3) Approve new policy:
  - 1.2.8 – Frivolous, Vexatious & Bad Faith Complaints

### **BACKGROUND:**

As per the Commission's policy review schedule, all the policies under Police Discipline Matters have been reviewed and revised as necessary. It should be noted that in some instances the names of the policies have been changed and one policy has been rescinded (1.2.7 – Retroactive Extension Requests). The guidelines for this policy have been folded into policy 1.2.6 – Extension Requests. An additional policy was developed to address a gap in policy direction (1.2.8 – Frivolous, Vexatious & Bad Faith Complaints).

(Attach – Current & Revised Policies)

**Effective:** November 30<sup>th</sup>, 2007

**Revised:** April 19, 2012

**Repealed:**

September 17, 2015

**(CURRENT)**

## **POLICE DISCIPLINE MATTERS**

### **1.2.1 PUBLIC COMPLAINT DIRECTOR**

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The Commission shall designate a Public Complaint Director as required by the *Police Act*.

The Edmonton Police Commission is committed to effective oversight of the public complaint process. To this end, the Commission will:

1. promote a complaints process that is fair, equitable and transparent for all parties to a ~~the~~ complaint;
2. monitor the complaints process;
3. receive complaints, offer alternative dispute resolution processes (where appropriate), and refer complaints to the Chief of Police as required by the *Police Act*; and,
4. other duties as assigned by the Commission.

**(REVISED)**

<b>Effective:</b> November 30/07	<b>Revised:</b> April 19, 2012 Sept. 17, 2015
<b>Repealed:</b>	

## **POLICE DISCIPLINE MATTERS**

### **1.2.1 PUBLIC COMPLAINT DIRECTOR**

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The Edmonton Police Commission (“Commission”) is committed to effective oversight of the complaint process and will designate a Public Complaint Director (“PCD”) to assist with that oversight role in accordance with the *Police Act*.

#### **Guidelines:**

1. The Commission will promote a complaint process that is fair, equitable, and transparent for all parties.
2. The Commission, with the assistance of the PCD, will monitor the complaint process and review the disposition of complaints.

#### **Procedures:**

1. The Commission shall designate a PCD in accordance with section 28.1 of the *Police Act*.
2. The PCD is responsible for the administration and review of public complaints, on behalf of the Commission, and for meeting the responsibilities set out in the *Police Act*.
3. The PCD shall ensure that the information provided by the Edmonton Police Service (“Service”) or any materials approved by the Provincial Public Complaint Director to explain the complaint process are made available to the public.
4. The PCD shall ensure there are clearly defined processes in place to receive and refer a public complaint to the Service for investigation. This includes consideration and offer of alternative dispute resolution (ADR) rather than a formal investigation, if appropriate and applicable.

5. The PCD shall act as a liaison between the Commission, the Chief of Police, and the complainant.
6. The PCD shall have access to records pertaining to complaints and citizen contacts. Records include those in hard copy and those stored on a professional complaint database (e.g. IAPro). The records shall include, but are not limited to, pertinent dates, timelines, allegations, findings, dispositions, and status of all complaints.
7. The PCD shall review the investigation conducted in respect of a complaint during the course of an investigation and at the conclusion of the investigation.
8. The PCD shall perform other duties assigned by the Commission in relation to police discipline matters as set out in other policies of the Commission.
9. The PCD shall provide a report to the Commission at its regular monthly meetings, or as otherwise requested by the Commission.

**References:**

1. *Police Act, RSA 2000, c P-17*
2. *Alberta Policing Oversight Standards for Municipal Police Commission - Alberta Justice and Solicitor General – November 6, 2014*

**(CURRENT)**

<b>Effective:</b> November 30 <sup>th</sup> , 2007	<b>Revised:</b> September 17, 2015
<b>Repealed:</b>	

## **1.2.2 INFORMATION ON SUBMITTING COMPLAINTS AND COMPLIMENTS**

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The Edmonton Police Commission and the Chief of Police will ensure that the public has access to the information required to make a complaint or to compliment a member of the Edmonton Police Service. The Chief of Police will ensure that this information is readily available and visible to the public at all police stations at all times.

**Effective:** Nov. 20, 2007

**Revised:** September 17, 2015

**Repealed:**

**(REVISED)**

## **1.2.2 RECEIVING, REFERRING AND REPORTING COMPLAINTS**

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The Edmonton Police Commission (“Commission”) is committed to maintaining confidence of the public as it relates to the conduct of members and the policies or services of the Edmonton Police Service (“Service”).

### **Guidelines:**

1. In accordance with the *Police Act* and associated regulations, the Chief of Police (“Chief”) will establish policies and procedures for the professional conduct of Service members to ensure that members will not act in any manner that would likely bring discredit on the reputation of the Service.
2. In accordance with the *Police Act* and associated regulations, the Chief will ensure there is a process in place to discipline members who violate the foregoing policies and procedures and will also ensure these policies and procedures are consistently applied to all Service members.
3. The Chief will ensure that all complaints with respect to the conduct of Service members and the policies or services of the Service are handled in a timely manner and in accordance with the *Police Act* and associated regulations.
4. The Service and the Commission will ensure that the public complaint brochure is readily available and accessible by members of the public and that information on how to file a complaint is readily accessible on the public facing websites of the Service and Commission.

### **Procedures:**

1. The Public Complaint Director (“PCD”) will receive complaints against Service members and the policies or services of the Service and will refer them to the Chief as set out in section 43(1) of the *Police Act*.
2. A complaint must be made in writing and must include the following information:

- a) the full name of the complainant;
  - b) the complainant's contact information including the following:
    - i. address,
    - ii. telephone number,
    - iii. electronic mail address (if available);
  - c) if the complaint is in respect of the conduct of a Service member then the following information:
    - i. the date of the alleged conduct (if known),
    - ii. the identification of the Service member(s) (if known),
    - iii. a description of the incident that gave rise to the alleged conduct;
  - d) if the complaint is in respect of a policy or service, then sufficient information to be able to identify the policy or service being complained of;
  - e) any other information requested by the Chief, PCD or Provincial Public Complaint Director.
3. A complaint may be transmitted by electronic mail.
  4. If a complainant is unable to provide a written document due to a valid reason such as, but not limited to, a language barrier, then the PCD shall take reasonable steps to have the complaint recorded in writing.
  5. All complaints with respect to the Chief will be referred to the Chair of the Commission as set out in section 43(2) of the *Police Act*. (*The protocol for handling complaints against the Chief is contained in a separate EPC policy.*)
  6. Once the PCD receives a public complaint against a Service member, other than the Chief, or a complaint regarding the policies or services of the Service, the PCD will:
    - a) acknowledge receipt of the complaint by letter, in-person, telephone call or email;
    - b) forward a copy of the complaint and any attachments to the Service's Professional Standards Branch ("PSB") and retain original documents in the Commission office.
  7. The Chief shall provide a summary report of all complaints and their current status to the PCD on a quarterly basis. This report will be provided to the Commission and made available to the public at the Commission's public meeting and on the Commission's website.
  8. The Chief shall submit annual complaint statistics to the PCD, which will be provided to the Commission. The Commission will submit those annual statistics to the City of Edmonton and make them available to the public at the Commission's public meeting and on the Commission's website.

**References:**

1. *Police Act, RSA 2000, c P-17*
2. *Police Service Regulation, AR 356/1990*
3. *EPS Policy CO2PO – Complaints Against, Investigations of, and Discipline of Sworn Members Policy*



**(CURRENT)**

<b>Effective:</b> November 30 <sup>th</sup> , 2007	<b>Revised:</b> September 17,
<b>Repealed:</b>	2015

### **1.2.3 INQUIRIES BEFORE THE COMMISSION**

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The *Police Act* provides that the Edmonton Police Commission may conduct an inquiry into any matter respecting the Edmonton Police Service or the actions of any police officer or other person employed by the Police Service.

Upon receipt of a request for inquiry, the Executive Director shall notify the Chair and bring the request forward to the Commission as a whole. The Commission shall follow the inquiry provisions set out in the *Police Act*.

**Effective:** Nov. 30, 2007

**Revised:** September 17, 2015

**Repealed:**

**(REVISED)**

### **1.2.3 INQUIRIES BEFORE THE COMMISSION**

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The Edmonton Police Commission (“Commission”) promotes public confidence through its governance and oversight role, and by being accountable and responsive to concerns raised or otherwise identified about the conduct of police officers or the Edmonton Police Service (“Service”).

The Commission sets high expectations for the Service with regards to the conduct of all members and employees in the discharge of their duties. Accordingly, and pursuant to the *Police Act*, the Commission may conduct formal inquiries into any matter respecting the Service to provide an additional layer of accountability and transparency into matters of public interest.

#### **Guidelines:**

1. The *Police Act* provides that the Commission may conduct an inquiry into any matter respecting the Service or the actions of any Service member or other person employed for the Service.

#### **Procedures:**

1. Upon receipt of a request for inquiry, the Executive Director shall notify the Commission Chair and bring the request forward to the Commission as a whole.
2. The Commission will designate one or more commissioners to serve on a committee that will conduct the inquiry. If the committee conducting the inquiry consists of more than one person, the Commission shall designate one of the committee members to act as the chair of the inquiry.
3. Alternately, the Commission, at its discretion, may ask the Minister responsible for the *Police Act* (“Minister”) to appoint a person or persons to conduct the inquiry on behalf of the Commission.

4. The Commission will advise the Minister, prior to commencement of an inquiry, that it intends to conduct an inquiry under section 32 of the *Police Act*.
5. If required and as determined, the Commission will direct the Executive Director to retain external resources in the form of legal counsel, investigators or other support staff for the purposes of conducting the inquiry.
6. Once the inquiry is completed, the chair of the inquiry committee will provide a written report of the findings, and any recommendations, to the Commission as a whole and the Minister.
7. Where the Law Enforcement Review Board (“Board”) is conducting an inquiry under section 17(1)(a) of the *Police Act*, the Commission shall not commence an inquiry with respect to a matter that is the subject of the Board’s inquiry until the Board’s inquiry is completed.

**References:**

1. *Police Act, RSA 2000, c P-17*

<b>Effective:</b> November 30 <sup>th</sup> , 2007	<b>Revised:</b>
<b>Repealed:</b>	

**(CURRENT)**

#### **1.2.4 SERVICE AND POLICY APPEALS**

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The Edmonton Police Commission will follow the processes laid out in the *Police Act* for appeals of the decision of the Chief of Police regarding complaints about the policies of or services provided by the Edmonton Police Service.

The Executive Director, with the assistance of legal counsel (as required), will coordinate the exchange of submissions between the appellant and Chief of Police (where appropriate) and bring the matter before the Commission for decision.

The Commission shall provide the appellant and the Chief of Police with a written decision. A copy of the Commission's decision shall be included in the next scheduled Commission meeting materials.

**(REVISED)**

<b>Effective:</b> Nov. 30, 2007	<b>Revised:</b>
<b>Repealed:</b>	

#### **1.2.4 POLICY AND SERVICE APPEALS**

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Section 44 of the *Police Act* provides for appeals to the Edmonton Police Commission (“Commission”) of the disposition of a complaint regarding the policies of, or services provided by, the Edmonton Police Service (“Service”).

##### **Guidelines:**

1. A complainant may appeal the disposition of a policy or service complaint to the Commission within 30 days from the date the complainant was advised of the disposition.
2. The Commission shall review the matter and take whatever action it considers appropriate, if any, regarding the appeal.
3. The Commission may appoint a committee consisting of not less than three commissioners to conduct the appeal and make a recommendation to the Commission with respect to the disposition of the appeal.
4. The Commission or committee may conduct a hearing into the matter being appealed.

##### **Procedures:**

1. Upon receiving a notice of appeal, the Public Complaint Director (“PCD”) will respond to the appellant in writing acknowledging receipt of the notice of appeal, providing an overview of the appeal process, and requesting any clarification that may be required.
2. The PCD will send correspondence to the Chief of Police (“Chief”) advising of the appeal and requesting that a copy of the record be provided within 30 days.
3. Once the Chief provides the record for the appeal, the PCD will forward the record to the appellant along with correspondence setting out a deadline of 30 days for the appellant to provide written submissions on the appeal. The PCD will also advise the appellant that

if they wish to make oral submissions at a hearing on the appeal, they must indicate that in their written submissions along with the reason why they believe a hearing is required.

4. Once the appellant provides written submissions for the appeal, the PCD will forward those submissions to the Chief along with correspondence setting out a deadline of 30 days for the Chief to provide written submissions on the appeal.
5. Once the Chief provides written submissions for the appeal, the PCD will forward those submissions to the appellant along with correspondence setting out a deadline of 14 days for any reply submissions the appellant may wish to provide. If the appellant chooses to provide reply submissions, the PCD will forward those submissions to the Chief.
6. Once all written submissions for the appeal have been received, the PCD will advise the full Commission of the appeal at the next Commission meeting. The Commission will determine whether the appeal should be conducted by a committee or the full Commission, along with any other preliminary matters that must be determined.
7. If the Commission or committee conducting the appeal decides that it will proceed with a hearing under section 44(8) of the *Police Act*, a notice of the hearing will be sent to the parties who are the subject of the hearing. The PCD will be responsible for coordinating the hearing.
8. If the Commission or committee conducting the appeal decides that a hearing is not required, the parties will be notified that a hearing is not required and advised that the Commission will provide a decision in due course.
9. Once the Commission or committee conducting the appeal decides that a hearing is not required, the PCD will present a report summarizing the appeal to the Commission or committee that is conducting the appeal for its decision or recommendation.
10. If the appeal is conducted by committee, the committee will present its recommendation(s) at the next Commission of the whole meeting for decision.
11. Once the Commission makes a decision regarding the disposition of the appeal, a written decision will be provided to the appellant and the Chief notifying them of the disposition of the appeal and the Commission's reasons for decision.

**References:**

1. *Police Act, RSA 2000, c P-17*

(Current)

<b>Effective:</b> November 30 <sup>th</sup> , 2007	<b>Revised:</b> September 17, 2015
<b>Repealed:</b>	

## 1.2.5 COMPLAINTS AGAINST THE CHIEF

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As set out in the *Police Act*, the Edmonton Police Commission is responsible for receiving and disposing of complaints against the Chief of the Edmonton Police Service.

Upon receipt of a complaint against the Chief, the Executive Director, or his designate, shall:

1. notify the Commission Chair with a copy of the complaint;
2. notify all Commissioners with a copy of the complaint;
3. notify the Chief of Police with a copy of the complaint, unless there is an investigative reason to delay notice;
4. acknowledge receipt of the complaint to the complainant and advise the complainant that the matter will be considered by the Commission; and,
5. with the assistance of legal counsel (if required) coordinate the complaint being brought forward to the Commission for their review and direction.

The Commission shall follow the provisions of the *Police Act* as they relate to complaints against the Chief of Police.

The Executive Director shall ensure that any reporting requirements as set out in the *Police Act* are met.

The Commission shall provide the complainant and the Chief of Police with a written disposition of the complaint. A copy of the disposition shall be included in the next scheduled Commission meeting materials.

**Effective:** Nov. 30, 2007

**Revised:** September 17, 2015

**Repealed:**

**(REVISED)**

### **1.2.5 COMPLAINTS AGAINST THE CHIEF**

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As set out in the *Police Act*, the Edmonton Police Commission (“Commission”) is responsible for receiving and disposing of complaints against the Chief of Police (“Chief”) of the Edmonton Police Service (“Service”).

#### **Definitions:**

**Fivolous:** When a complaint is either clearly devoid of substance, lacking in factual basis, absent an air of reality, lacking in proper seriousness, or without importance.

**Vexatious:** When a complaint is clearly repetitious of one or more previous complaints that all share substantially the same theme and have already been determined. Attempts to abuse or misuse the complaint process even if legally justified to do so. Vexatious complaints include without limitation, any one or more of the following:

- (a) persistently bringing complaints to determine an issue that has already been determined by a competent body;
- (b) persistently bringing complaints that cannot succeed or that have no reasonable expectation of success;
- (c) persistently bringing complaints for improper purposes;
- (d) inappropriately using previously raised grounds and issues in subsequent complaints.

**Bad Faith:** When a complaint is made dishonestly or for an improper purpose.

#### **Guidelines:**

1. The Commission shall follow the provisions of the *Police Act* as they relate to complaints against the Chief.



2. The Public Complaint Director (“PCD”) shall ensure that the Commission’s reporting requirements as set out in section 52 of the *Police Act* are met, along with any other reporting required by the *Police Act*.
3. At any time following the receipt of a complaint and prior to a formal investigation, an informal resolution process may be used.
4. Additional external legal advice may be sought at any time throughout the complaint process by the Commission.

**Procedures:**

1. When a complaint against the Chief is received by the Commission, the PCD will assess the complaint to ensure that it meets the threshold requirements under section 42.1 of the *Police Act*.
2. Should the complaint threshold not be met under section 42.1, the PCD will contact the complainant to inform them that their complaint is deficient, provide the reason for the deficiency, and give the complainant an opportunity to remedy the deficiency.
3. The PCD will also request any clarification as necessary regarding the complaint and discuss the option of alternative dispute resolution (ADR) with the complainant, if appropriate.
4. When the PCD determines that the complaint threshold has been met, the complaint shall be referred to the Chair of the Commission.
5. The Chair shall notify all Commissioners with a copy of the complaint.
6. The PCD will make a preliminary assessment of the complaint to determine whether it was made within the one-year time limit set out in section 43(11) of the *Police Act*.
7. If it appears the complaint was not made within the one-year time limit, the PCD will bring the matter before the Commission which will consider the timing of the complaint and, if determined to be made out of time, shall dismiss the complaint. The Commission shall notify the complainant and the Chief in writing of its decision to dismiss the complaint.
8. If the complaint was made within the one-year time limit, the Chief will be notified and provided a copy of the complaint, unless there is an investigative reason to delay notice.
9. The Commission may ask the Chief to provide a written submission to the Commission relating to the subject matter of the complaint in order to assist with the Commission’s

assessment of the complaint. Any such written submission will be provided by the Chief on a voluntary basis, and if the complaint is subsequently determined to meet the investigation threshold in section 46(2) of the Police Act, that voluntary submission will be provided to the police service that is requested or directed to investigate the complaint against the Chief.

10. The PCD will make a preliminary assessment of the complaint to determine whether it may be frivolous, vexatious or made in bad faith.
11. If the complaint may be frivolous, vexatious or made in bad faith, the PCD will bring the matter before the Commission to decide whether the complaint should be dismissed pursuant to section 43(9) of the *Police Act*.
12. If the Commission decides to dismiss the complaint pursuant to section 43(9), the Commission shall notify the complainant and the Chief in writing of its decision and the reasons for the decision. The written decision will also inform the complainant of their right to request the Law Enforcement Review Board to review the Commission's decision pursuant to section 43(12) of the *Police Act*.
13. If the complaint against the Chief is not dismissed by the Commission for any of the foregoing reasons, the PCD shall bring the complaint before the Commission to decide whether the investigation threshold in section 46(2) of the *Police Act* has been met.
14. If, after reviewing the complaint and any voluntary report from the Chief, the Commission is of the opinion that the investigation threshold in section 46(2) has not been met, the complaint shall be dismissed. The Commission will advise the complainant and the Chief in writing of the disposition of the complaint and the grounds on which the disposition was made.
15. If, after reviewing the complaint and any voluntary report from the Chief, the Commission is of the opinion that the actions of the Chief may constitute an offence under an Act of the Parliament of Canada or the Legislature of Alberta, or a contravention of the regulations governing the discipline or the performance of duty of police officers, then the Chair of the Commission shall request the Minister responsible for the *Police Act* ("Minister") to request or direct another police service to investigate the complaint.
16. If a complaint against the Chief is being investigated as outlined in Procedure 15, the complainant shall be updated in writing at least once every 45 days as to the progress of the investigation. These 45-day update letters may be provided by the external police service that has been requested or directed to conduct the investigation, but the Chair of the Commission is responsible for ensuring these letters are provided to the complainant. Copies of these 45-day update letters shall also be provided to the Minister.

17. If the external police service that has been requested or directed to conduct the investigation determines that the Chief's actions do not constitute an offence under an Act of the Parliament of Canada or the Legislature of Alberta, or a contravention of the regulations governing the discipline or the performance of duty of police officers, the complaint will be dismissed. The Commission shall advise the complainant and the Chief in writing of the disposition of the complaint and the grounds on which the disposition was made. The written decision shall also inform the complainant of their right to appeal the disposition of their complaint to the Law Enforcement Review Board pursuant to section 48(2) of the *Police Act*.
18. If the external police service that has been requested or directed to conduct the investigation determines that the Chief's actions constitute an offence under an Act of the Parliament of Canada or the Legislature of Alberta, they shall refer the matter to the Minister and advise the Commission of their findings, unless the Minister directs otherwise.
19. If the external police service that has been requested or directed to conduct the investigation determines that the Chief's actions are a contravention of the regulations governing the discipline or the performance of duty of police officers, they shall refer the matter to the Commission.
20. When a matter is referred to the Commission as outlined in Procedure 19 then the Commission shall conduct a hearing, unless the Commission is of the opinion that the contravention of the regulations is not of a serious nature in which case the matter may be disposed of without conducting a hearing in accordance with section 19 of the *Police Service Regulation*.
21. The Commission shall conduct a hearing in accordance with section 47 of the *Police Act*. At the conclusion of the hearing, the Commission shall advise the complainant and the Chief in writing of the findings of the hearing and any action taken or to be taken against the Chief, if applicable. The Commission shall also inform the complainant and the Chief of their right to appeal the disposition of the complaint to the Law Enforcement Review Board pursuant to section 48 of the *Police Act*.
22. Where the Commission conducts a hearing and determines that the Chief is guilty of contravening section 5 of the *Police Service Regulation*, the Commission shall impose one or more punishments as outlined in section 17(1) of the *Police Service Regulation*.

**OF NOTE:**

**Formal Investigations:** In the event that an external police service has been requested or directed to conduct an investigation into a complaint against the Chief and a complaint against another

Service member(s) involving the same incident, the external police service should be requested to prepare two separate investigative reports: one addressing only the complaint against the Chief, and the other addressing only the complaint against the other Service member(s).

**Delays:** Investigations should not be delayed unnecessarily. If delays occur, the Commission's best practice is to update the complainant regarding delays, even if an investigation has not yet begun. Additionally, if delays occur, adherence must be made to section 7 of the *Police Service Regulation* and a time extension under section 7(4) must be on record. (Refer to EPC Policy 1.2.6 – Extension Requests)

**Complainant Participation:** As noted in section 43(9.1) of the *Police Act*, if a complainant refuses or fails to participate in an investigation then the Commission may dismiss the complaint.

**References:**

1. *Police Act, RSA 2000, c P-17*
2. *Police Service Regulation, AR 356/1990*
3. *EPC Policy 1.2.6 – Extension Requests*

(Current)

### 1.2.6 EXTENSION REQUESTS

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The Edmonton Police Commission recognizes the importance of efficiency in investigating complaints. The *Police Service Regulation* provides the Edmonton Police Commission with the authority to extend the time limit for the Chief of Police to charge a police officer with misconduct.

In the normal course, the Chief shall bring a request for time extension to the Commission prior to the expiry of the time limit.

Procedures:

1. All extension requests must specify why an extension is being sought and the length of the extension being requested.
2. Requests shall first be provided by the Chief of Police to the Public Complaint Director.
3. The Public Complaint Director shall review the requests, request additional information from the Chief, as required, and bring the requests forward to the Professional Standards Committee.
4. The Professional Standards Committee shall review the requests, request additional information from the Chief, as required, and prepare recommendations to be brought forward to the Commission.
5. The Chair of the Professional Standards Committee shall bring to the Commission the extension requested by the Chief of Police together with the recommendation of the Committee.
6. The Commission shall decide whether to grant the extension requested.

**Effective:** Nov. 30, 2007

**Revised:** December 17, 2009  
September 17, 2015

**Repealed:**

**(REVISED)**

### **1.2.6 EXTENSION REQUESTS**

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The Edmonton Police Commission (“Commission”) recognizes the importance of efficiency in investigating complaints. The *Police Service Regulation* provides the Commission with the authority to extend the time limit for the Chief of Police (“Chief”) to charge a police officer with misconduct.

#### **Guidelines:**

1. The Chief shall bring a request for a time extension to the Commission prior to the expiry of the time limit set out in section 7 of the *Police Service Regulation*.
2. Each time limit extension request will not exceed the amount of time allotted for charging a police officer with misconduct or commencing a hearing as established in section 7 of the *Police Service Regulation*.
3. The Commission will determine if there are circumstances that warrant an extension of time to investigate a complaint. The Commission will not address the merits of the complaint allegations.
4. The Commission will strive for procedural fairness by considering all time limit extension requests made prior to the expiry of the time limit in the same manner and following the same procedure outlined below.

#### **Procedures:**

1. All extension request reports will contain the following information:
  - a) Date original complaint was received;
  - b) Basic outline of the steps taken to investigate or resolve the complaint;
  - c) Timelines regarding the criminal process underway to determine the length of time the complaint may be suspended pending the resolution of the criminal process;

- d) Length of the extension being requested;
  - e) Other relevant dates or milestones.
2. Requests shall first be provided by the Chief to the Public Complaint Director (“PCD”).
  3. The PCD shall review the requests, request additional information from the Chief as required, and bring the requests forward to the Professional Standards Committee (“PSC”).
  4. The PSC shall review the requests, request additional information from the Chief as required, and prepare recommendations to be brought forward to the Commission.
  5. The Chair of the PSC shall bring to the Commission the extensions requested by the Chief together with the recommendations of the Committee.
  6. The Commission shall decide whether to grant the extensions requested.
  7. The PCD will coordinate the preparation of orders granting or denying each extension request, which will be provided to the Chief.

#### **1.2.6.1 RETROACTIVE EXTENSION REQUESTS**

The Police Service Regulation provides the Commission with the authority to extend the time limit for the Chief to charge a police officer with misconduct.

#### **Guidelines:**

1. The Commission may extend the time limit for the Chief to charge a police officer with misconduct even if the time limit has passed.
2. Where the Chief brings a request for a retroactive extension of the time limit within three months of the expiry of the time limit, the Commission may consider that extension request in accordance with the regular extension request procedures set out in 1.2.6 above.
3. Where the Chief brings a request for a retroactive extension of the time limit more than three months after the expiry of the time limit, the Commission shall follow the retroactive extension request procedures set out below.

**Procedures:**

1. All retroactive extension requests will first be provided by the Chief to the PCD.
2. The PCD will notify the complainant(s) and affected officer(s) of the retroactive extension request and provide them with the opportunity to make submissions to the Commission regarding whether the retroactive extension request should be granted.
3. The PCD will coordinate the exchange of submissions between the Chief, complainant(s), and affected officer(s). Generally, submissions are made in writing, however requests to make in person submissions shall be brought forward to the Commission for decision.
4. Once all submissions have been received, the PCD will bring the matter before the Commission for decision.
5. The Commission shall provide the Chief, complainant(s), and affected officer(s) with a written decision regarding the retroactive extension request.

**References:**

1. *Police Service Regulation, AR 356/1990*
2. *EPC Policy 5.2.4 – Professional Standards Committee Terms of Reference*



(Current)

<b>Effective:</b> November 30 <sup>th</sup> , 2007	<b>Revised:</b> September 17,
<b>Repealed:</b>	2015

### **1.2.8 RELIEF FROM DUTY WITHOUT PAY**

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Where the Chief of Police relieved a police officer from duty without pay, the *Police Service Regulation* requires that the Chief of Police have that direction confirmed by the Commission within 30 days from the day that the police officer is relieved from duty without pay.

The Executive Director, with the assistance of legal counsel (as required), will coordinate the exchange of submissions between the Chief of Police and the affected officer and bring the matter before the Commission for decision.

The Commission shall provide the appellant and Chief of Police with a written decision. A copy of the Commission's decision shall be included in the next scheduled Commission meeting materials.

**Effective:** Nov. 30, 2007

**Revised:** September 17, 2015

**Repealed:**

**(REVISED)**

### **1.2.7 RELIEF FROM DUTY WITHOUT PAY**

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The Chief of Police (the “Chief”) may relieve from duty any police officer whom the Chief, on reasonable grounds, suspects has contravened section 5 of the *Police Service Regulation*. Where the Chief relieves an officer from duty without pay, that direction must be confirmed by the Edmonton Police Commission (the “Commission”).

#### **Guidelines:**

1. The Chief may relieve from duty without pay any officer suspected of or charged with any disciplinary misconduct if the Chief is of the opinion that exceptional circumstances exist respecting the alleged misconduct.
2. The Commission shall review the relief from duty without pay decision and advise the Chief and the affected officer(s) whether the Chief’s direction is confirmed within 30 days from the day the officer is relieved from duty without pay.
3. Submissions may be made by the Chief and affected officer(s).

#### **Procedures:**

1. Upon receiving notice from the Chief that an officer has been relieved from duty without pay, the Public Complaint Director (the “PCD”) shall immediately notify the Commission Chair and Vice-Chair.
2. The PCD will send correspondence to the Chief and affected officer(s) inquiring whether an in-person hearing is requested and setting out the deadlines for providing written submissions to the Commission. Deadlines for written submissions will normally accord with the following timelines:
  - a. Approximately one week for the initial written submissions of the Chief;
  - b. Approximately one week for the written submissions of the affected officer(s);
  - c. Approximately 3 business days for any reply submissions of the Chief.

3. If the Chief or affected officer(s) have requested an in-person hearing, the PCD shall coordinate with the Chief, the affected officer(s) and the Commission to arrange the hearing on a suitable date and time prior to the expiry of the 30-day period.
4. If neither the Chief nor affected officer(s) have requested an in-person hearing, the Commission shall determine whether an in-person hearing is nonetheless required. If an in-person hearing is not required, the Commission shall consider the written submissions and decide whether to confirm the Chief's direction prior to the expiry of the 30-day period at a special in camera meeting, or the next regularly scheduled in camera meeting following receipt of all written submissions.
5. Once the Commission decides whether to confirm the Chief's direction to relieve a member from duty without pay, the Chief and affected officer(s) shall be notified of the decision within the 30-day period. The Commission will then provide the Chief and affected officer(s) with a written decision advising them of the Commission's reasons for decision as soon as possible thereafter.
6. Where an officer is relieved from duty without pay for a 30-day period, the Chief shall, at the end of the 30-day period and at the end of any subsequent 30-day periods, report to the Commission as to the status of the matter.

**References:**

1. *Police Service Regulation, AR 356/1990*

(Current)

<b>Effective:</b> April 16th, 2009 <b>Repealed:</b>	<b>Revised:</b> October 22, 2009 April 19, 2012 May 16, 2013 September 15, 2015
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#### **5.2.4 PROFESSIONAL STANDARDS COMMITTEE TERMS OF REFERENCE**

Mandate:

The Professional Standards Committee monitors, gives advice and makes recommendations on behalf of the Commission with respect to the practices, policies and procedures the Edmonton Police Service has in place in order to ensure that all complaints or expressions of concern made against the Edmonton Police Service or its members are dealt with effectively and in a fair and timely manner.

Roles and Responsibilities of the Professional Standards Committee

Without limiting the generality of the foregoing, the Professional Standards Committee shall:

1. oversee and review the manner in which complaints or expressions of concern are categorized and reported by the Edmonton Police Service;
2. ensure that the Edmonton Police Service has in place a process which provides for all complaints to be properly investigated and dealt with in a fair, equitable and timely manner and that this process is transparent for all parties to the complaint;
3. ensure that the investigative and disciplinary processes put in place by the Edmonton Police Service are fully and properly implemented by the Professional Standards Branch or such other branches or areas within the Service that may be charged with the responsibility of dealing with complaints;
4. monitor the complaints process and, to the extent it deems appropriate and/or necessary, conduct regular audits of complaint files and any other files or matters received within Professional Standards Branch which are categorized by the Branch as being something other than a complaint file;
5. monitor the progress of any investigation or informal resolution process initiated or implemented by or on behalf of the Professional Standards Branch and identify opportunities to improve how complaints are handled by or on behalf of Professional Standards Branch including, but not limited to identifying potential alternative dispute resolution processes and their possible uses;
6. review the reasons for any delays in the investigative process and the manner in which complaints are resolved;
7. recommend or report on audit outcomes and its review of the complaints investigation, informal resolution, and disciplinary processes and make recommendations to the Commission as it deems necessary and/or advisable;

8. monitor public perceptions as they relate to the complaint investigation and disciplinary processes and identify measures which may help to enhance public knowledge and understanding of these processes; and,
9. review and make recommendations to the Commission with respect to requests by the Chief of Police to extend the time limits as set out in the *Police Service Regulation*.

**(REVISED)**

<b>Effective:</b> April 16, 2009	<b>Revised:</b> October 22, 2009
<b>Repealed:</b>	April 19, 2012
	May 16, 2013
	September 15, 2015

#### **5.2.4 PROFESSIONAL STANDARDS COMMITTEE TERMS OF REFERENCE**

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##### **MANDATE:**

1. The purpose of the Edmonton Police Commission (“Commission”) Professional Standards Committee (“Committee”) is to monitor and oversee the public complaint process. While the Edmonton Police Service (“Service”) is responsible for investigating complaints, the Committee and the Public Complaint Director (“PCD”) ensure investigations are thorough, fair to all parties, and are conducted in accordance with laws and policies.

##### **COMPOSITION AND OPERATIONS:**

1. The Committee shall have a minimum of three members appointed by the Commission, with one member designated as Chair.
2. The Committee shall meet every second month unless there is agreement by the Committee members that a meeting is not required.
3. The Committee can consider scheduling additional meetings in order to fulfill their mandate and to be able to make recommendations to the Commission in a timely manner.
4. The Executive Director and PCD shall attend meetings as required to act as administrative support to the Committee and are not voting members.

##### **DUTIES AND RESPONSIBILITIES:**

1. Review all Service policies, procedures, and processes regarding the public complaint process to ensure that all complaints or expressions of concern made against the Service or its members are dealt with in a fair, equitable and timely manner.
2. Ensure that the complaint processes implemented by the Service are transparent for all parties involved and are compliant with the *Police Act* and *Police Service Regulation*.

3. Ensure that the investigative and disciplinary processes put in place by the Service are fully and properly implemented by the Professional Standards Branch (“PSB”) or any other branches or areas within the Service that may be charged with the responsibility of dealing with complaints.
4. Monitor the complaint process and conduct regular audits of complaint files as necessary or deemed appropriate.
5. Recommend or report on audit outcomes and its review of the complaint investigation, informal resolution, and disciplinary processes and make recommendations to the Commission as it deems necessary or advisable.
6. Monitor the progress of any investigation or informal resolution process initiated or implemented by or on behalf of the PSB and identify opportunities to improve how complaints are handled by or on behalf of the PSB including, but not limited to, identifying potential alternative dispute resolution processes and their possible uses.
7. Review the reasons for any delays in the investigative process and the manner in which complaints are resolved.
8. Review and make recommendations to the Commission with respect to requests by the Chief of Police to extend the time limits as set out in the *Police Service Regulation*.
9. Monitor public perceptions as they relate to the complaint investigation and disciplinary processes and identify measures which may help to enhance public knowledge and understanding of these processes.
10. **Suggestion only:** Produce an annual report for EPC’s consideration detailing trends, issues, and benchmark comparisons to other similar jurisdictions. The intent of this report is to provide a high level strategic perspective of complaints made against the EPS to understand trends, issues, strengths and weaknesses and the need, if any, to revise EPC processes and oversight mechanisms. **(This guideline is currently under development – requires further clarification)**

**ACCOUNTABILITY:**

1. The Committee shall review the terms of reference for this committee at a minimum once every three years and make recommendations for changes to the Commission if required.
2. The Committee shall keep records of its meetings and the Chair of the Committee shall provide reports to the Commission on the matters discussed and any recommendations for decision.

**References:**

1. *Police Act, RSA 2000, c P-17*
2. *Police Service Regulation, AR 356/1990*



<b>Effective:</b> April 18, 2013	<b>Revised:</b> September 17, 2015
<b>Repealed:</b>	

(Current)

### **1.2.7 RETROACTIVE EXTENSION REQUESTS**

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The *Police Service Regulation* provides the Edmonton Police Commission with the authority to extend the time limit for the Chief of Police to charge a police officer with misconduct. The Commission may extend the time limit even if the time limit has passed.

Where the Chief of Police requests a retroactive extension of the time limit for a significant period of time (more than three months) the Commission will notify the complainant(s) and the affected officer(s) and provide them with an opportunity to make submissions to the Commission. The Executive Director, with the assistance of the Public Complaint Director and legal counsel (as required), shall coordinate the exchange of submissions between the Chief, complainant(s), and affected officer(s) and bring the matter before the Commission for decision. Generally, submissions will be in writing. Requests to make in person submissions shall be brought forward to the Commission for decision.

The Commission shall provide the complainant(s), affected officer(s) and Chief of Police with a written decision. A copy of the Commission's decision shall be included in the next scheduled Commission meeting materials.

**(NEW)**

<b>Effective:</b>	<b>Revised:</b>
<b>Repealed:</b>	

### **1.2.8 FRIVOLOUS, VEXATIOUS AND BAD FAITH COMPLAINTS**

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Section 43(7) of the *Police Act* allows the Chief of Police (“Chief”) to recommend to the Edmonton Police Commission (“Commission”) that it dismiss a complaint that appears to be clearly frivolous, vexatious or made in bad faith.

#### **Definitions:**

**Frivolous:** When a complaint is either clearly devoid of substance, lacking in factual basis, absent an air of reality, lacking in proper seriousness, or without importance.

**Vexatious:** When a complaint is clearly repetitious of one or more previous complaints that all share substantially the same theme and have already been determined. Attempts to abuse or misuse the complaint process even if legally justified to do so. Vexatious complaints include without limitation, any one or more of the following:

- (a) persistently bringing complaints to determine an issue that has already been determined by a competent body;
- (b) persistently bringing complaints that cannot succeed or that have no reasonable expectation of success;
- (c) persistently bringing complaints for improper purposes;
- (d) inappropriately using previously raised grounds and issues in subsequent complaints.

**Bad Faith:** When a complaint is made dishonestly or for an improper purpose.

#### **Procedures:**

1. Once the Chief has determined that a complaint appears to be clearly frivolous, vexatious or made in bad faith, a letter will be provided to the Commission recommending that the complaint be dismissed pursuant to section 43(8) of the *Police Act* and including the reasons why the Chief believes the complaint should be dismissed. The Chief will also provide a copy of the investigative record of the complaint with documentation

supporting why the complaint should be dismissed for being one or more of frivolous, vexatious, or made in bad faith.

2. The Commission's Public Complaint Director ("PCD") will review the recommendation and supporting material to ensure all applicable documentation is included. The PCD will then bring the materials before the Commission to decide whether to uphold the recommendation made by the Chief.
3. The Commission will approve or deny the recommendation of the Chief to dismiss the complaint and, in doing so, will provide reasons. The Commission may seek further information or clarification from the Chief before coming to a decision.
4. If the recommendation is approved, the Commission will provide a written decision to the complainant which includes the reasons for the dismissal of the complaint. The written decision will also inform the complainant of their right to request the Law Enforcement Review Board to review the Commission's decision pursuant to section 43(12) of the *Police Act*. A copy of this written decision will also be provided to the Chief.
5. If the recommendation is denied, the Commission will provide a written decision to the Chief which includes the reasons for the denial and a direction that the Chief continue to deal with the complaint in accordance with Part 5 of the *Police Act*. A copy of this written decision will not be provided to the complainant.
6. Once the Commission has denied the Chief's recommendation, the Chief may submit a subsequent recommendation to dismiss the same complaint as frivolous, vexatious or made in bad faith should further investigation support another such recommendation.
7. In the case of a section 46 complaint about the Chief that is deemed frivolous, vexatious, or made in bad faith, the Commission will follow policy 1.2.5 – Complaints Against The Chief.

**References:**

1. *Police Act, RSA 2000, c P-17*
2. *EPC Policy 1.2.5 – Complaints Against The Chief*