

**BY-LAW NO. 08
A BY-LAW RESPECTING
COMPLAINTS AGAINST THE
CHIEF OR DEPUTY CHIEF OF POLICE**

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Related BPS Procedures

- [Procedure #163](#) – Unsatisfactory Work Performance, Personnel Documentation & Suspension/Termination from Duty

1.0 Preamble

- 1.1 WHEREAS subsection 31(1) of the ***Police Services Act*** provides that a Board is responsible for the provision of Police Services and for Law Enforcement and Crime Prevention in the Municipality and shall:
- 1.1.1 Generally determine after consultation with the Chief of Police, objectives and priorities with respect to the Police Service in the Municipality;
 - 1.1.2 Establish priorities for the effective management of the Police Service, and
 - 1.1.3 Direct the Chief of Police and monitor their performance.
- 1.2 AND whereas subsection 31(6) of the ***Police Services Act*** provides that the Board may, by By-Law, make rules for the effective management of the Police Service.
- 1.3 AND whereas ***O. Reg. 3/99*** prescribes standards for adequacy and effectiveness of Police Services.

2.0 Definitions

- 2.1 **Board** – shall mean the Barrie Police Services Board.
- 2.2 **BPS** – the acronym for the Barrie Police Service.
- 2.3 **Chief** – shall mean the Chief of Police.
- 2.4 **Deputy** – shall mean the Deputy Chief of Police.
- 2.5 **OIPRD** – the acronym for the Ontario Independent Police Review Director.
- 2.6 **PSA** – the acronym for the *Police Services Act*.

3.0 Policy

- 3.1 It is the policy of the Board that:
 - 3.1.1 The Board will review the complaint and if, in the Board's opinion, the conduct complaint of may constitute a specified offence, misconduct or unsatisfactory work performance, the Board will ask the OIPRD to investigate the complaint.
 - 3.1.2 In the case of an investigation by the OIPRD, the Board will pay the costs of the investigation.
 - 3.1.3 Following the investigation, unless the OIPRD determines the complaint to be unsubstantiated, the Board may hold a hearing into the matter, refer the matter to the Ontario Civilian Police Commission to hear the matter, or attempt to resolve the matter informally in specified circumstances.
 - 3.1.4 Information resolution may be used if, on a review of the written report by the OIPRD, the Board is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature and if the Chief or Deputy and the Complainant consent to the proposed resolution.
 - 3.1.5 The Board will expunge an entry made into the Chief or Deputy's employment record two (2) years after it was made, if, during that time, no other entries concerning misconduct or unsatisfactory work performance have been made.

4.0 Complaints by the Board

- 4.1 The Board may make a complaint under Section 77(1) of the *PSA* about the conduct of the Chief or Deputy and shall review the complaint.
- 4.2 The Board when making a complaint as per **Section 4.1** is not a complainant for the purposes of this part.
- 4.3 Upon making a complaint about the conduct of the Chief or the Deputy, the Board shall promptly give notice of the substance of the complaint to the Chief or the Deputy unless, in the Board's opinion, to do so might prejudice an investigation into the matter.

- 4.4 If at the conclusion of the review, the Board is of the opinion that the Chief or Deputy's conduct may constitute an offence under a law of Canada or of a Province or Territory, or misconduct as defined in Section 80 **PSA** or unsatisfactory work performance, the Board shall ask the Commission to assign a Chief of another Police Service to cause the complaint to be investigated promptly and the investigation to be reported on in a written report at the Board's expense.

5.0 Exception to Six-Month Limitation Period

- 5.1 Section 83(17) **PSA** imposes a limitation period that prohibits a notice of hearing to be served if more than six (6) months has elapsed since the day on which:
- 5.1.1 The day in which the conduct complaint was retained by the OIPRD.
 - 5.1.2 The day on which the Board received the complaint about the conduct of the Chief or the Deputy Chief by the OIPRD, or
 - 5.1.3 Where the complaint was made by the Board, the day on which the facts on which the complaint is based first came to the attention of the Board.

6.0 Unsubstantiated Complaints

- 6.1 If at the conclusion of the investigation conducted by another Police Service the Chief of Police of the other Police Service is of the opinion that the complaint is unsubstantiated, that Chief of Police shall report the opinion in writing to the Board and the Board shall take no action in response to the complaint and shall notify the Chief or the Deputy who is the subject of the complaint in writing of the decision, together with a copy of the written report.
- 6.2 In the case of a complaint against the Chief or Deputy, the OIPRD may direct the Board to deal with the complaint as the OIPRD specifies, assign the conduct of a hearing in respect of a complaint to the Commission or take or require to be taken by the Board any other action with respect to the complaint that they consider necessary in the circumstances.

7.0 Matter Referred to the Board

- 7.1 If at the conclusion of the investigation conducted by another Police Service, the Chief of Police of the other Police Service believes on reasonable grounds that the conduct of the Chief or Deputy under investigation constitutes misconduct or unsatisfactory work performance, they shall refer the matter, together with the written report, to the Board.

8.0 Board or Commission to Hold Hearing

- 8.1 The Board shall hold a hearing in to the matter referred to it as per **Section 7.0** or may refer the matter to the Commission to hold the hearing unless an Information Resolution is sought as per **Section 9.0**.

9.0 Informal Resolution

- 9.1 If on review of the written report the Board is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the Board may resolve the matter informally without holding a hearing if the Chief or Deputy consents to the proposed resolution.

10.0 Disposition without a Hearing

- 10.1 If an informal resolution of the matter is attempted but not achieved, the following rules apply:
- 10.1.1 The Board shall provide the Chief or Deputy with reasonable information concerning the matter and shall give them an opportunity to reply, orally or in writing.
 - 10.1.2 Subject to **subsection 10.2**, the Board may impose on the Chief or Deputy any of the following penalties or a combination thereof:
 - 10.1.2.1 Suspend them without pay for a period not exceeding 30 days or 240 hours.
 - 10.1.2.2 Direct them to forfeit not more than three (3) days or 24 hours pay.
 - 10.1.2.3 Direct them to forfeit not more than 20 days or 160 hours off.
 - 10.1.2.4 Reprimand them.
 - 10.1.2.5 Direct them to undergo specified counselling, treatment or training, and/or
 - 10.1.2.6 Direct them to participate in a specified program or activity.
 - 10.1.3 The Board shall ensure an entry concerning the matter, the penalty imposed or action taken and the Chief or Deputy's reply is placed into their Personnel File.
 - 10.1.4 Any entry made in the Chief or Deputy's Personnel File shall be expunged from the record two (2) years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made.
- 10.2 If the Chief or Deputy refuses to accept the penalty imposed or action taken, the Board shall not impose a penalty or take any other action or cause any entry to be made in their employment record, but shall hold a hearing or refer the matter to the Commission to hold a hearing.
- 10.3 Nothing in this section affects agreements between the Board and the Chief or Deputy that permit penalties or actions other than those permitted by this section, if the Chief or Deputy in question consents, without a hearing.

11.0 Internal Complaints may be Directed

- 11.1 The Commission may, in respect of a complaint made by the Board, at any stage in the complaints process direct the Board to deal with the complaint as it specifies or assign the review or investigation of the complaint or the conduct of a hearing in respect of the complaint to a Police Service other than BPS.

11.2 If the Commission directs that a complaint is to be dealt with as specified, the Board shall promptly so deal with the complaint.

12.0 Costs

12.1 If the Commission assigns the review or investigation of a complaint or the conduct of a hearing in respect of a complaint to another Police Service, BPS shall pay the costs of the review, investigation or hearing incurred by the Police Service to which the matter is assigned.

Dated this _____ day of _____, 20____.

Board Chair

Board Administrator