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AC42

**INTERNAL DISCIPLINE RULES**

AC42

Effective Date: 14 December 2011  
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**POLICY**

1. The Internal Discipline Rules apply to matters concerning the conduct or deportment of a member that:
  - a) is not the subject of an admissible complaint or an investigation under Division 3 of the *B.C. Police Act*, (“Act”); and
  - b) does not directly involve or affect the public.

**REASON FOR POLICY**

2. To comply with the provisions of the Act.
3. To have full affect and authority with approval of the Office of the Complaint Commissioner (“O.P.C.C”) and the Delta Police Board (“Board”).
4. To indicate the manner in which internal complaints are processed.
5. Internal Discipline in relation to police staff will be processed in accordance with Policy **AC40 – Restoring Performance Standards**.

**RELATED POLICIES**

AC44 – McNeil Disclosure  
AC43 – Service Records of Discipline

**DEFINITIONS**

6. For the purposes of this policy, the following definitions shall apply:



“**Police Act**” means the *B.C. Police Act*, R.S.B.C. 1996, c. 367, as amended from time to time.

“**Board**” means the Delta Police Board.

“**Department**” means the Delta Police Department.

“**Internal Discipline Authority**” within the Department means:

- i) in relation to an internal discipline matter concerning the conduct or deportment of a member, the Chief Constable or a delegate of the Chief Constable if the Chief Constable makes such a delegation pursuant to s. 176 of the *Police Act*; and
- ii) the Chair of the Delta Police Board, in relation to an internal discipline matter concerning the conduct or deportment of a member who is the Chief Constable or a Deputy Chief Constable.

“**Internal Discipline Matters**” means a matter, concerning the conduct or deportment of a member, that is not the subject of an admissible complaint or an investigation under Division 3 (Process Respecting Alleged Misconduct) of the *Police Act*, and does not directly involve or affect the public.

“**Member**” means a person appointed as municipal constable or as a special municipal constable and employed by the Board, in accordance with the *Police Act*.

“**Misconduct**” means a public trust offence or conduct that constitutes an offence or a disciplinary breach, in accordance with Section 77 of the *Police Act*.

“**O.P.C.C.**” means the Office of the Police Complaint Commissioner.

## **PROCEDURES**

7. If an Internal Discipline Matter comes to the attention of the Internal Discipline Authority, he or she may direct that the matter be investigated.



- Such an investigation may include an assessment of a member's competence or suitability to perform police duties in relation to the rank or position held, or in relation to employment by the Board.
8. The Internal Discipline Authority will inform the O.P.C.C. of the investigation of any matter that may fall within the definition of Internal Discipline Matter. If it is unclear whether the matter is, in fact, an Internal Discipline Matter or may constitute a disciplinary breach of public trust, the Internal Discipline Authority will presumptively deal with the matter as a disciplinary breach of public trust, notify the O.P.C.C., and consult with the O.P.C.C. in relation to the matter.
  9. The Internal Discipline Authority may assign the investigation of an Internal Discipline Matter to an external police agency for investigation, but may not delegate any of his or her powers or duties as Internal Discipline Authority, except to a Deputy Chief Constable or senior officer within the Department.
  10. The Internal Discipline Authority shall assign an investigator who is:
    - a) equal to or of higher rank than the member; and
    - b) not involved in the matter or connected to the member under investigation.
  11. The investigator will inform the member in writing of the complaint and initiation of the investigation, unless it is determined that doing so may hinder the investigation.
  12. The investigator may seek to resolve the matter informally and a written account of any such steps, actions and the outcome must be provided to the Internal Discipline Authority.
  13. Upon receiving notice of a complaint and the initiation of an investigation, a member may request that a union representative be present during investigative interview(s) with the member.
  14. All members shall fully cooperate with an investigator conducting an investigation into an Internal Discipline Matter, which shall include:
    - a) attending for an interview, as often as the investigator considers necessary, at a place specified by the investigator;



- b) answering questions in respect of matters relevant to the investigation, as required;
- c) providing a written statement in respect of matters under investigation, as required;
- d) unless the Discipline Authority grants an extension under Subsection e), comply with a request for an interview within 5 business days after it is made; and
- e) if special circumstances exist, an Internal Discipline Authority may grant an extension for the period within which the member must comply with a request for an interview.

**Exemption of *Police Act* Internal Discipline Matters records from application of the *Freedom of Information and Protection of Privacy Act***

- 15. All Internal Discipline Matters are initiated, investigated and concluded by the Internal Discipline Authority, pursuant to Part 11, Division 6, of the *Police Act*.
- 16. Section 182 of the *Police Act* falls within, and applies to Part 11 of the *Police Act*. Accordingly, records of Internal Discipline Matters are deemed exempt from application of the *Freedom of Information and Protection of Privacy Act*, as specified in section 182.

**Internal Discipline Authority Actions**

- 17. Upon completion of an investigation of an Internal Discipline Matter, the investigator will provide an investigation report to the Internal Discipline Authority. The Internal Discipline Authority will then determine whether the investigation is complete or requires further investigation.
- 18. The Internal Discipline Authority shall determine, based on the completed investigation report, whether disciplinary or corrective measures will be imposed, or other steps taken.
- 19. If the Internal Discipline Authority determines that no disciplinary or corrective measures will be imposed, or other steps taken, the Internal



- Discipline Authority will provide any member who was the subject of the investigation and any complainants, with concluding reports.
20. If the Internal Discipline Authority determines that it is appropriate to impose disciplinary or corrective measures against, or to take other steps impacting a member under investigation, the member will be:
    - a) advised in writing;
    - b) provided with the information in the investigation report on which the Internal Discipline Authority's determination was made; and
    - c) given a reasonable opportunity to make a submission in response.
  21. The Internal Discipline Authority shall give consideration to a member's submission and then determine whether disciplinary or corrective measures will be imposed or other steps taken, and thereafter provide concluding reports to any member who was the subject of the investigation and to any complainants.
  22. The disciplinary and corrective measures for Internal Disciplinary Matters may be in accordance with, but are not limited to the measures contained in section 126 of the *Police Act*.
  23. The Internal Discipline Authority will notify the O.P.C.C. of any recommendations on disciplinary or corrective measures and the final decision reached, and provide any additional information or records that the O.P.C.C. requests, in accordance with the *Police Act*.
  24. The operative periods in section 180 of the *Police Act* will apply to records of Internal Discipline Matters.
  25. The McNeil Disclosure provisions will apply to records of Internal Discipline Matters in keeping with Policy **AC44 – McNeil Disclosure Policy**.
  26. The Service Records of Discipline provisions will apply to Internal Discipline Matter records in keeping with Policy **AC43 - Service Records of Discipline**.
  27. If disciplinary or corrective measures are imposed, the Member will update their Conduct Disclosure Form A to indicate the date that the discipline



was received (date of status change) and that they have a substantiated complaint on their Disciplinary Record.

### **Subject Conditions**

28. These Rules are subject to: the *Police Act*; the Collective Agreement, where applicable; provisions of the *Labour Relations Code of British Columbia* and jurisprudence thereunder; and principles established in arbitral case law in the Province of British Columbia.

### ***Suspensions during the Course of the Investigation***

29. If, during the course of an investigation the Internal Discipline Authority considers that the member under investigation may be dismissed, the Internal Discipline Authority may suspend the member.
30. The Internal Discipline Authority shall determine whether the suspension shall be with or without pay. The Police Board shall be engaged in cases where consideration is being given to suspend a member without pay.
31. The Internal Discipline Authority may terminate the suspension at any time.
32. The Internal Discipline Authority shall notify the union representing a member that the member has received disciplinary or corrective measures, and of any change in the member's employment status, if imposed under these rules. The member will not be identified to the union unless he or she gives permission to do so.

### ***Grievances***

33. The union representing a member retains authority for the filing and conduct of the grievance and arbitration process pursuant to the Collective Agreement, insofar as the grievor is concerned and arising from the relevant Internal Disciplinary Matter.
34. The appeal of any arbitration will be governed by the appropriate provisions of the *Labour Relations Code of British Columbia*.