



**POLICY AND PROCEDURE  
CONSERVATION OFFICER SERVICE**

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<b>Title:</b>	Complaints
<b>Effective:</b>	March 13, 2015
<b>Staff Affected</b>	All Staff

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## **1.0 PURPOSE**

1. The purpose of this policy is to facilitate an accessible complaint process and to ensure that a complaint is resolved in a fair and timely manner.
2. This policy is also intended to inform the public of the agency's complaint process, including
  - a. how to make a complaint,
  - b. situations where informal resolution may be an option,
  - c. complaint investigations, and
  - d. how a decision may be appealed.

## **2.0 REFERENCES**

1. [Public Service Act](#)
2. [Public Service \(Master\) Agreement](#)
3. [Terms and Conditions of Employment for Excluded Employees](#)
4. BC Public Service Agency [Human Resources Policies](#)

## **3.0 DEFINITIONS**

1. **Complainant** means
  - a. a person who makes a complaint,
  - b. a person on whose behalf a complaint is made, or
  - c. a person making a complaint on another's behalf, if permitted to do so.
2. **Complaint** includes a misconduct complaint or a service and/or policy complaint as defined in this policy.
3. **Frivolous complaint** includes a complaint which is trivial, where the conduct complained of is of little weight or importance, or a complaint which lacks an air of reality.
4. **Investigator** means the person(s) assigned by the discipline authority to conduct a formal investigation into the circumstances of a complaint. An investigator may be a government employee, including a member of the COS, or an individual outside of government employed or retained by the COS for this purpose. The investigator must have no connection to the complaint.
5. **Misconduct complaint** means a complaint concerning the conduct of a conservation officer that is alleged to constitute a
  - a. "disciplinary default", as set out in COS Policy, [Code of Professional Conduct](#), or
  - b. failure to comply with the [Standards of Conduct for Public Service Employees](#).
6. **Respondent officer** means the conservation officer who is the subject of a misconduct complaint.

7. **Service and/or policy complaint** means a complaint regarding the quality of the organization's service to the community or its administrative or operational policies and procedures.
8. **Vexatious complaint** means a complaint which is made without reasonable or sufficient grounds and with the intention to harass, annoy or mislead.

## **4.0 GENERAL PROVISIONS**

### **4.1 Discipline Authority**

1. The discipline authority is responsible for managing the complaint process, including
  - a. acceptance or dismissal of a complaint;
  - b. determining whether a complaint has been substantiated or not;
  - c. for a substantiated misconduct complaint, imposing any corrective or disciplinary measures; and
  - d. for an accepted service and/or policy complaint, identifying whether organizational changes (e.g., changes in policy, training, supervision, etc.) should be considered.
2. For a service and/or policy complaint, discipline authority is delegated to the member of COS Executive with direct responsibility for the subject matter of the complaint.
3. For a misconduct complaint, discipline authority is delegated to the excluded COS manager with line authority over the respondent officer
  - a. If a misconduct complaint concerns the Chief Conservation Officer, the discipline authority will be the Assistant Deputy Minister ("ADM") or the Deputy Minister ("DM"), as appropriate
4. The Chief Conservation Officer may reassign discipline authority where appropriate.
  - a. Reassignment will be in writing.

### **4.2 Who Can Make a Complaint**

#### *4.2.1 Misconduct Complaint*

1. A complaint may be made by any person who is directly affected by or who witnesses conservation officer ("officer") misconduct.
2. A complaint may be filed by an individual known to and acting on behalf of a person described in item (1) above, if that person
  - a. consents to the complaint being made on their behalf, or
  - b. because of age or a mental or physical condition, is incapable of giving consent.
3. A complaint may be made by a third-party complainant if that individual is in possession of compelling evidence suggesting officer misconduct.

#### 4.2.2 *Service and/or Policy Complaint*

1. A member of the public may make a service and/or policy complaint.

#### 4.3 **Complaints Excluded from this Policy**

1. This policy does not cover complaints concerning:
  - a. a conservation officer acting in their capacity as a Special Provincial Constable, which will be managed in accordance with COS Policy, [Complaints Against Conservation Officers Acting as Special Provincial Constables](#);
  - b. an individual acting in their capacity as an auxiliary or special conservation officer, pursuant to a designation under [section 106 \(3\) \(b\) of the Environmental Management Act](#);
    - i. a complaint of this type will be forwarded for resolution to the most appropriate manager with line authority over the individual; and, where applicable, managed in accordance with the relevant agreement governing the designation of that individual;
  - c. the provision of services by the Emergency Coordination Centre, Emergency Management BC, contracted to administer the Conservation Officer Service 24/7 toll-free hotline.

#### 4.4 **How to Make a Complaint**

1. A complaint may be submitted to the COS by any means of communication.
  - a. While complainants are encouraged to use the [COS Complaint Form](#), it is not required.

#### 4.5 **Time Limits**

1. A misconduct complaint must be made within 12 months of the alleged incident. If the complaint involves several separate incidents, on different dates, it must be made within 12 months of the last alleged incident.
2. The time limit for making a complaint may be extended by the discipline authority if it is in the public interest and/or the best interests of the COS to do so.
3. While there is no prescribed time limit for resolving a complaint, each complaint will be managed expeditiously and should be resolved no later than 6 months after it has been received. The exact duration will vary depending on the severity and complexity of the allegations.
  - a. The complaint process may be significantly shorter if the parties agree to an informal resolution.
4. If the circumstances of the complaint have also given rise to legal proceedings (i.e. criminal, regulatory and/or civil), a COS investigation of the complaint may be temporarily suspended by the discipline authority until the proceedings are concluded.

#### 4.6 Complainant Rights

1. A complainant who provides valid contact information will be provided
  - a. regular updates on the status of their complaint; and
  - b. at the conclusion of the process, a copy of the discipline authority's written decision.
2. If a misconduct complaint is accepted, a complainant as described in item (1) above is also entitled to an opportunity to
  - a. participate in an informal resolution process, where appropriate;
  - b. indicate what they believe would be a reasonable and appropriate remedy in the circumstances; and
  - c. where there are reasonable grounds, appeal the discipline authority's decision.

#### 4.7 Withdrawal of a Complaint

1. A complainant may withdraw their complaint at any time by submitting a request to the discipline authority.
  - a. The withdrawal may only be revoked within 2 weeks of its submission.
2. Even if a misconduct complaint is withdrawn, the discipline authority may have the complaint investigated if the discipline authority deems it is in the public interest or the best interests of the COS to do so.
  - a. In these situations, the complainant has abandoned the rights set out in section 4.6.

#### 4.8 Informal Resolution

1. The goal of informal resolution is to find a mutually agreeable solution to a misconduct complaint. Since many complaints involve communication problems or misunderstandings that can be resolved by discussion, the focus is on dialogue, education and, where applicable, repairing any harm done.
2. Informal resolution is only available for a misconduct complaint that is less serious and uncomplicated in nature. It is not available for complaints that
  - a. allege serious physical, emotional or psychological harm or financial loss to the complainant;
  - b. allege violation of the complainant's dignity or privacy, or rights recognized by law; or
  - c. in any other way appear to require a formal investigation in order to maintain public confidence in the COS.
3. Where an accepted complaint is not suitable for informal resolution, or the informal resolution process was unsuccessful, a complaint investigation will be initiated.
4. Informal resolution is a voluntary process and will only be considered valid if
  - a. the affected parties consent to the process, and
  - b. it has been authorized by the discipline authority.
5. Informal resolution is available at any time in the complaint process prior to submission of the [Investigation Report](#) to the discipline authority.

6. A complainant may appoint a person of their choice to act as support during the informal resolution process. The role of the support person is to help ensure the complainant's voice is heard.
7. If there are multiple complainants and/or respondent officers, informal resolution is available to those participants who are willing.

#### **4.9 Complaint Investigation**

1. A complaint investigation will be
  - a. proportionate to the seriousness of the allegation(s) and any likely outcome, including improvements in individual and/or organizational performance;
  - b. thoroughly documented, including a full rationale for decisions and action(s) taken.
2. Should a misconduct complaint be substantiated, any corrective action taken or discipline imposed will be in accordance with applicable BC Public Service policy and the Public Service (Master) Agreement.

#### **4.10 Appeals**

1. A complainant may only appeal a discipline authority's decision that an allegation was unsubstantiated.
2. The following decisions cannot be appealed
  - a. dismissal of a complaint,
  - b. the corrective action taken or discipline imposed for a substantiated misconduct complaint, or
  - c. a determination respecting a service and/or policy complaint.
3. An appeal must be submitted within 30 days of receipt of the discipline authority's written decision.
  - a. An appeal may be accepted notwithstanding expiry of this 30-day period if it is in the public interest or the best interests of the COS to do so.
4. An appeal must reference the initial complaint and clearly indicate which part of the discipline authority's decision is objectionable and why.
5. The Chief Conservation Officer will act as the review official for an appeal, or reassign this duty to an independent and appropriately qualified individual.
  - a. The review official's decision is final.
6. A respondent officer, if a member of the BCGEU, may only appeal a discipline authority's decision by filing a grievance in accordance with the Public Service (Master) Agreement.

#### 4.11 Annual Reporting

1. The Superintendent, Program Support, will
  - a. ensure there is an annual review of all complaints received in a calendar year, and
  - b. by no later than March 31, submit a summary report to the Chief Conservation Officer on the effectiveness of COS complaints handling and recommendations for improvement, if appropriate.

### **5.0 PROCEDURES**

Unless expressly indicated otherwise, the requirements listed below apply to the discipline authority.

#### 5.1 Complaint Intake

##### 5.1.1 All Staff

1. Assist a complainant with the submission of their complaint, as appropriate.
2. If you assist with filling out a [COS Complaint Form](#), ensure
  - a. the complainant is in agreement with the final contents of the form, and
  - b. you have documented the nature and extent of your assistance.
3. Sometimes, a complaint may be resolved by the individual receiving the complaint at the time that it is received, perhaps without involvement of the respondent officer or the discipline authority. Where appropriate, the discipline authority may authorize this outcome as an informal resolution.
  - a. A signed [Informal Resolution Agreement](#) is not required in these instances. However, a complainant's satisfaction with this type of outcome must be documented, preferably on the COS Complaint Form.
4. As soon as practicable, forward the complaint to the discipline authority by mail or electronically.
  - a. If a complaint is received in letter format, forward the complaint as is. Do not re-enter the information in a complaint form.
5. **Keep a misconduct complaint confidential.** Do not disclose the information to any other person unless authorized by the discipline authority.

##### 5.1.2 Discipline Authority

1. Upon receipt of a complaint, conduct a preliminary assessment to determine if the complaint will be accepted or dismissed. A complaint will be accepted if it
  - b. contains at least one allegation that, if proven true, would satisfy the definition of complaint;
  - c. was submitted by an eligible person;
  - d. is not an excluded complaint;
  - e. was received within the prescribed time limit (if applicable); and
  - f. concerns a current employee, if a misconduct complaint.

Note: If a complaint was submitted on behalf of a person who was directly affected by or who witnessed officer misconduct, as per section 4.2, additional efforts may be required to ensure the complaint is genuine and not frivolous or vexatious.

2. If a complaint does not satisfy the above criteria, or the allegations are frivolous or vexatious, the complaint may be dismissed without investigation.
3. Complete a [COS Complaint Form](#) if one has not yet been created.
4. Send email notification to your supervising member of COS Executive which
  - a. summarizes the complaint,
  - b. indicates you have accepted or dismissed the complaint, and
  - c. includes a copy of the completed COS Complaint Form.
5. If a misconduct complaint includes credible **allegations of an offence** against a provincial or federal statute, defer email notification (as described in item (4) above) and immediately notify the Chief Conservation Officer by telephone.
  - a. Unless directed otherwise, also notify the law enforcement agency of jurisdiction, which may include your local police agency and the [Independent Investigations Office](#).
6. Do not proceed with the complaint process until there is agreement from COS Executive on acceptance or dismissal of the complaint.

## 5.2 Complaint Tracking

1. For misconduct complaints (accepted or dismissed),
  - a. open the “Professional Standards Investigation Tracking Log” (“tracking log”) and complete all applicable fields;
  - b. create a PSI file folder (“PSI File”) in [file://crowbar/s40065/COS\\_Restricted\\_PSI](file://crowbar/s40065/COS_Restricted_PSI), labelled with the PSI number assigned in the tracking log;
  - c. save all file material to the PSI File; and
  - d. ensure file naming within this sub-folder is consistent and clearly identifies the contents of each file.
2. For service and/or policy complaints, ensure the COS Complaint Form and related correspondence is tracked in the government’s web-based correspondence tracking system, also known as “CLIFF”.

## 5.3 Notification of Dismissal

1. If you determine a complaint will be dismissed, within 2 weeks of receiving the complaint send a [Notice of Dismissal](#) letter to the complainant which includes
  - a. a summary of the allegations;
  - b. your decision, with reasons; and
  - c. indication your decision has been approved by COS Executive and a review is not available under the COS Complaints Policy.
2. If a misconduct complaint, send a copy of the “Dismissal Letter” to the respondent officer and their direct supervisor.



3. Following update of the electronic file, no further action is required.

#### **5.4 Notification of Acceptance**

1. If you determine a complaint will be accepted, within 2 weeks of receiving the complaint send a [Notice of Acceptance](#) letter to the complainant which includes
  - a. a summary of the allegations;
  - b. your decision to accept the complaint, clearly noting which specific allegation(s) will be accepted and which will be dismissed, as applicable; and
  - c. an outline of the next steps in the complaint process, including discussion of informal resolution, initiation of a complaint investigation, or review of a policy or service complaint.
2. If a [misconduct complaint](#), and following notification of the complainant as per item (1) above, send a [Notice of Complaint](#) to the respondent officer, with a copy to their direct supervisor and COS Executive. Notification of a respondent officer must include:
  - a. a summary of the allegations;
  - b. your decision to accept the complaint, clearly noting which specific allegation(s) will be accepted and which will be dismissed, as applicable; and
  - c. an outline of the next steps in the complaint process, including discussion of informal resolution or initiation of a complaint investigation.
3. On written authorization from, and for a term specified by the Chief Conservation Officer, you may withhold the following from a respondent officer
  - a. the name of a complainant, or
  - b. the "Notice of Complaint" entirely, where such notice might prejudice a complaint investigation.

#### **5.5 Service and/or Policy Complaint - Investigation**

1. Conduct a thorough review of the complaint, having the matter researched and/or investigated further, as required.
2. Within 30 days of concluding your review
  - a. document your decision, with reasons, in a [Notice of Decision - Service or Policy Complaint](#),
  - b. provide a copy of the decision to the complainant and Chief Conservation Officer, and
  - c. ensure this correspondence is tracked in CLIFF.

#### **5.6 Misconduct Complaint - Informal Resolution**

1. If you determine informal resolution is a viable option to address a misconduct complaint, contact the parties directly, and as soon as reasonably practicable after notification of acceptance, to:
  - a. explain the benefits of a collaborative, problem-solving approach, and
  - b. confirm their consent.

2. Where a complainant and respondent officer both consent to the informal resolution process, you may act as the facilitator or assign the responsibility to an independent and appropriately qualified third party.
  - a. A facilitator may use any reasonable and mutually agreed-upon means to attempt a resolution, which may include working with the parties individually (e.g., providing information face-to-face, by telephone or by written correspondence), together (e.g., audio/video conferencing or a face-to-face meeting), or a combination of both.
3. While the informal resolution process must be properly documented, ensure any discussions that do occur are not audio or video recorded.
4. If the parties agree to a resolution, use an [Informal Resolution Agreement](#) to document
  - a. the issues involved,
  - b. the specific terms of the agreement, and
  - c. the signed consent of the parties.
5. If the parties to the “Informal Resolution Agreement” do not revoke their consent within 2 weeks of the signing date, the outcome is
  - a. documented in a [Confirmation of Informal Resolution](#), and
  - b. will be considered final and binding and the complaint closed.
6. Where the informal resolution process is unsuccessful (e.g., a party revokes their consent), the matter proceeds (or continues) with an investigation. In these instances, you must ensure
  - a. the reasons for this development are documented in a [Cancellation of Informal Resolution](#);
  - b. the appointed investigator has no prior involvement with the complaint, including the informal resolution process; and
  - c. any materials or information presented during the informal resolution process are not transferred to the investigation.

## **5.7 Misconduct Complaint - Investigation**

### *5.7.1 Discipline authority*

1. Appoint, in writing, an independent investigator who
  - a. has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
  - b. does not work under the supervision of the person being investigated; and
  - c. will not otherwise reasonably give rise to a concern of bias.
2. If you anticipate a large and complex investigation, you may assign more than one investigator.
3. In consultation with the investigator(s), establish terms of reference for the investigation. While terms of reference will vary, depending on the nature of the complaint, consider
  - a. purpose and scope,
  - b. an investigative plan and timeline,
  - c. confidentiality and disclosure issues,
  - d. monitoring and reporting requirements, and
  - e. any other special requirement unique to the complaint.

4. If the investigator is a member of the BCGEU, have Support Services create a temporary file folder on the secure PSI SharePoint (“SharePoint PSI File”) to serve as the investigator(s) case file. The SharePoint PSI File
  - a. will be labelled only with the “PSI Number” assigned in the tracking log; and
  - b. restrict access (“library permissions”) to the discipline authority and the investigator(s).
5. Where an investigation has been commenced and the parties subsequently agree to participate in informal resolution, suspend the investigation pending the outcome of this process.
  - a. Nothing obtained during the investigation may be transferred to the informal resolution process.
  - b. An investigator assigned to the complaint investigation may not participate in or be privy to the informal resolution process.
  - c. If the complaint is resolved through informal resolution, the investigation materials will be destroyed.
  - d. If the informal resolution process is unsuccessful, the discipline authority may re-activate the investigation. However, nothing which was surfaced or presented during the informal resolution process may transferred to the investigation.
6. Ensure the complainant and the respondent officer are regularly updated on the progress of the investigation.

#### 5.7.2 Investigator

1. Report directly to the discipline authority for the duration of the investigation.
  - a. Unless otherwise directed, completion of the investigation will take priority over other COS responsibilities.
2. Ensure the terms of reference for your investigation are documented and clearly understood.
3. Take all reasonably practicable steps to
  - a. obtain all factual information pertinent to a complaint;
  - b. protect the confidentiality and privacy of the persons involved, subject to the requirements of a fair and lawful investigation; and
  - c. provide the complainant an opportunity to submit recommendations, with reasons, on what they feel would be appropriate corrective or disciplinary measures.

Note: Persons interviewed during the course of the investigation cannot be assured that strict confidentiality will be maintained (i.e. legal privilege typically does not apply).

4. Store all file material in the specific folder created for the investigation.
5. Regularly advise the discipline authority of the progress of the investigation.
6. Consult the discipline authority if issues arise respecting employee rights.
  - a. Immediately notify the discipline authority, by telephone, of any information that suggests a respondent officer should be temporarily reassigned or placed on a leave of absence with pay, pending completion of the investigation.

7. Provide the respondent officer a minimum of 48 hours' notice before conducting an interview, and ensure they understand
  - a. the totality of the allegations against them (complete disclosure of the investigative file to the officer is not required);
  - b. the interview will be audio recorded (and possibly audio and video recorded); and
  - c. their right to union representation, if an included employee, or their right to have a support person attend if an excluded employee.
8. At the conclusion of your investigation, submit an [Investigation Report](#) to the discipline authority.

### 5.7.3 Officer

1. A conservation officer will cooperate fully with all lawful and reasonable employer directions under this policy, which may include but are not necessarily limited to, a request from an investigator to:
  - a. answer questions in respect of matters relevant to the investigation and attend at a place specified by the investigator to answer those questions; and
  - b. provide the investigator with a written statement in respect of matters relevant to the investigation.
2. Unless otherwise authorized, a conservation officer must maintain confidentiality with respect to any aspect of an investigation, including the fact of being questioned or asked to provide a written statement as described in item (1) above.

## 5.8 Misconduct Complaint - Discipline Authority's Decision

1. If you determine it necessary to making a fully informed decision, following review of the "Investigation Report",
  - a. have the matter further investigated, where the "Investigation Report" appears incomplete or flawed; and/or
  - b. review any other relevant records which were not made available to the investigator (e.g. performance appraisals, previous discipline, training records, emails, etc.).
2. Once you have made a determination respecting the complaint, prepare a [Notice of Decision - Misconduct Complaint](#) letter.
  - a. It is critical that you explain the reasons for a decision and those reasons deal with the substantial and key issues upon which a decision turns.
  - b. Whether or not discipline or corrective measures are imposed on an officer, and the details of those measures, are not disclosed to the complainant. The purpose of the letter is to advise whether or not the complaint was found to have any merit and if so, advise if the COS is taking action to remedy the situation and/or prevent a recurrence. The only exception is where a decision includes a component which directly impacts upon the complainant (e.g., where the complainant is to receive a letter of apology).

3. Provide a copy of your decision letter to
  - a. the complainant, including information on how to appeal,
  - b. the respondent officer(s) and their direct supervisor(s),
  - c. the lead investigator,
  - d. the Chief Conservation Officer, and
  - e. the PSI File.
4. If a temporary SharePoint PSI File was created on the PSI SharePoint, have Support Services
  - a. move all of the file material to the corresponding PSI File, on [file://crowbar/s40065/COS\\_Restricted\\_PSI](file://crowbar/s40065/COS_Restricted_PSI), and
  - b. delete the SharePoint PSI File, including from the PSI SharePoint's "Recycle Bin".
5. Monitor implementation of any corrective action taken or discipline imposed.

## **5.9 Appeal and Review**

### *5.9.1 Review Official*

1. Upon receipt of an appeal,
  - a. review the complaint file;
  - b. assess the nature and quality of the investigation;
  - c. assess how the complaint was managed ;
  - d. assess the appropriateness of the discipline authority's decision;
  - e. provide the discipline authority on opportunity to comment on the appeal;
  - f. if warranted, have the matter further investigated by a person who has no significant relationship with the affected parties or previous involvement with the complaint; and
  - g. document your decision, with reasons, in a [Conclusion of Proceedings \(Appeal\)](#) letter.
3. Provide a copy of your letter to
  - a. the complainant,
  - b. the respondent officer(s) and their direct supervisor(s),
  - c. the discipline authority,
  - d. the Chief Conservation Officer, if applicable, and
  - e. the PSI File.

## **6.0 APPENDICES**

### **Appendix 1: Forms and Templates**

The following documents are saved in the [Personnel folder](#) in the COS Forms Library under “Complaints”.

1. COS Complaint Form
2. Notice of Acceptance - Complainant
3. Notice of Complaint - Officer
4. Notice of Dismissal
5. Informal Resolution Agreement
6. Confirmation of Informal Resolution
7. Cancellation of Informal Resolution
8. Investigation Report
9. Notice of Decision – Misconduct Complaint
10. Notice of Decision – Service or Policy Complaint
11. Conclusion of Proceedings (Appeal)