



POLICY AND PROCEDURE CONSERVATION OFFICER SERVICE

Title:	Complaints
Effective:	March 13, 2015
Revised	<ul style="list-style-type: none">• January 14, 2016• October 6, 2017
Staff Affected	All Staff

CONTENTS

1.0	Purpose.....	2
2.0	Definitions.....	2
3.0	Misconduct Complaint.....	3
	3.1 General Requirements	3
	3.2 Complaint Process	6
4.0	Service or Policy Complaint.....	13
	4.1 General Requirements	13
	4.2 Complaint Process.....	13
5.0	Appendices.....	15

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 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 or policy complaint, as defined in this policy.
3. **Discipline authority** means the person responsible for managing a misconduct complaint. The discipline authority determines if there is evidence of misconduct and, if appropriate, what disciplinary or corrective measures should be imposed.
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 Conservation Officer Service ("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 or information otherwise obtained concerning the conduct of a conservation officer ("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. **Responsible official** means the person appointed to manage a service or policy complaint.
8. **Service 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.
9. **Vexatious complaint** means a complaint which is made without reasonable or sufficient grounds and with the intention to harass, annoy or mislead.

3.0 MISCONDUCT COMPLAINT

3.1 General Requirements

3.1.1 Discipline Authority

1. The discipline authority is the excluded COS manager with line authority over the respondent officer(s).
 - a. Typically, the Inspector will act as the discipline authority but it may be the Deputy Chief or Chief Conservation Officer, depending on the officer(s) and/or ranks involved.
2. If a misconduct complaint concerns the Chief Conservation Officer, the discipline authority will be the Assistant Deputy Minister or the Deputy Minister, as appropriate.
3. The Deputy Chief or Chief Conservation Officer may remove and replace the discipline authority, with cause, excluding those circumstances outlined in item 2 above. The appointment of a new disciplinary authority will be in writing.

3.1.2 Making a Complaint

1. A misconduct complaint may be submitted to the COS in person or by email, phone, fax or mail.
 - a. While complainants are encouraged to use the [COS Complaint Form](#), it is not required.
2. A complaint may be made by any person who is directly affected by or who witnesses officer misconduct.
3. A complaint may be filed by an individual known to and acting on behalf of a person described in item #2 above, if that person
 - b. consents to the complaint being made on their behalf, or
 - c. because of age or a mental or physical condition, is incapable of giving consent.
4. A complaint may be made by a third-party complainant if that individual is in possession of compelling evidence suggesting officer misconduct.

3.1.3 Timeline

1. A misconduct complaint must be made within 12 months of the alleged incident.
 - a. 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 they believe it to be in the public interest and/or the best interests of the COS.
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.

3.1.4 Complainant Rights

1. A complainant who provides valid contact information will
 - a. be kept informed of the status of their complaint; and
 - b. at the conclusion of the complaint process, receive a written decision from the discipline authority.
2. If a misconduct complaint is accepted, a complainant who provides valid contact information will also be provided an opportunity to
 - a. participate in an informal resolution process (as applicable); and
 - b. indicate what they believe would be an appropriate remedy in the circumstances.

3.1.5 Withdrawal of a Complaint

1. A complainant may withdraw their misconduct complaint at any time by submitting a request to the discipline authority.
 - a. A withdrawal request may only be cancelled within 2 weeks of its submission.
2. Even if withdrawn, the discipline authority may initiate a complaint investigation if they believe it to be in the public interest and/or the best interests of the COS. In this situation the complainant has abandoned the rights set out in section 3.1.4 above.

3.1.6 Informal Resolution

1. The goal of informal resolution is to find a mutually agreeable solution to a misconduct complaint. 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 relatively 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. 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.
4. Informal resolution is available at any time in the complaint process prior to submission of the Investigation Report (Appendix 9) to the discipline authority.
5. 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.
6. If there are multiple complainants and/or respondent officers, informal resolution is available to those participants who are willing.

7. If a misconduct complaint is unsuitable for informal resolution, or the informal resolution process is unsuccessful, a complaint investigation will be initiated.

3.1.7 Appeals

1. A complainant may appeal a discipline authority's decision that an allegation was unsubstantiated.
2. A complainant may not appeal
 - a. the dismissal of a complaint, or
 - b. any corrective or disciplinary measures imposed.
3. An appeal must include
 - a. the decision being appealed,
 - b. the reason(s) for the appeal, and
 - c. supporting information, if available.
4. An appeal must be submitted within 30 days of receipt of the discipline authority's written decision.
 - a. The time limit for submitting an appeal may be extended by the review official if they believe it to be in the public interest or the best interests of the COS.
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 appeal a discipline authority's decision by filing a grievance in accordance with the Public Service (Master) Agreement.

3.1.8 Excluded Complaints

1. This policy does not apply to the misconduct complaints described below.
2. A complaint against a conservation officer acting in their capacity as a special provincial constable will be managed in accordance with COS Policy, Complaints Against Conservation Officers Acting as Special Provincial Constables.
3. A complaint against 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](#), will be forwarded to the most appropriate manager with line authority over that individual.

3.2 Complaint Process

3.2.1 Complaint Intake

1. COS staff will assist a complainant with the submission of a misconduct complaint, as required.
2. If assistance is provided with filling out a [COS Complaint Form](#), COS staff will ensure
 - a. the complainant is in agreement with its contents, and
 - b. the nature and extent of their assistance is properly documented.
3. If a complaint is resolved at the time that it is received (e.g., advice or information provided), the discipline authority may authorize this outcome as an informal resolution.
 - a. A signed [Informal Resolution Agreement](#) (Appendix 5) is not required in these instances. However, the complainant's satisfaction with the outcome must be properly documented.
4. A complaint will be forwarded to the discipline authority as soon as practicable.
 - a. If a complaint is received in letter format, including email, forward the complaint as is. Do not re-enter the information in a complaint form.
5. COS staff will take all reasonable steps to maintain the confidentiality of a misconduct complaint.

3.2.2 Complaint Review

1. The discipline authority will make a preliminary determination to accept or dismiss a misconduct complaint. A misconduct complaint will be accepted if it
 - a. contains at least one allegation that, if proven true, would satisfy the [definition](#) of a misconduct complaint;
 - b. was submitted by an eligible person (see section 3.1.2);
 - c. was received within the [prescribed time limit](#) (as appropriate); and
 - d. involves a current employee.
2. If a complaint does not satisfy the above criteria, or the allegations are frivolous or vexatious, the discipline authority may dismiss the complaint.
3. The discipline authority will send an email to their supervising member of COS Executive which
 - a. summarizes the complaint,
 - b. indicates the complaint was accepted or dismissed, and
 - c. includes an attachment of the original complaint (e.g., the completed COS Complaint Form).
4. If the complaint includes credible **allegations of an offence**, the discipline authority will defer email notification, as described in item # 3 above, and immediately notify the Chief Conservation Officer by telephone. Depending on the circumstances, the discipline authority may also be required to notify the law enforcement agency of jurisdiction.
5. COS Executive must confirm if a misconduct complaint will be accepted or dismissed before the complaint process proceeds further.

3.2.3 Complaint Tracking

1. All misconduct complaints (accepted or dismissed) will be tracked.
2. The discipline authority will ensure the complaint process is properly documented, including the complaint timeline and key decisions and actions.
3. Following a review of the complaint, the discipline authority will open the “COS_Restricted_PSI” file folder on the COS shared drive (O:) and:
 - a. open the Professional Standards Investigations Tracking Log (“tracking log”) and complete all applicable fields;
 - b. create a file folder (“PSI File”) labelled with the PSI number assigned in the tracking log;
 - c. save all relevant documents to the PSI File; and
 - d. ensure file naming within PSI File is consistent and clearly identifies the contents of each file.

3.2.4 Notice of Dismissal

1. If a misconduct complaint is dismissed the discipline authority will send a Notice of Dismissal (Appendix 4) to the complainant. A Notice of Dismissal will be sent within 2 weeks of receiving the complaint and will include
 - a. a summary of the allegations;
 - b. reasons for the dismissal; and
 - c. indication that an appeal/review is not available under the COS Complaints Policy and no further action will be taken.
2. A copy of the Notice of Dismissal will be sent to the respondent officer and their direct supervisor (as appropriate).

3.2.5 Notice of Acceptance

1. If a misconduct complaint is accepted the discipline authority will send a Notice of Acceptance (Appendix 2) to the complainant. A Notice of Acceptance will be sent within 2 weeks of receiving the complaint and will include
 - a. a summary of the allegations;
 - b. the specific allegation(s) to be accepted / dismissed (as applicable); and
 - c. an outline of the next steps in the complaint process, including discussion of informal resolution or a complaint investigation.
2. Following notification of the complainant, the discipline authority will send a Notice of Complaint (Appendix 3) to the respondent officer(s) and a copy to their direct supervisor and COS Executive. A Notice of Complaint will include:
 - a. a summary of the allegations;
 - b. the specific allegation(s) to be accepted / dismissed (as applicable);
 - c. an outline of the next steps in the complaint process, including discussion of informal resolution or a complaint investigation; and
 - d. if a complaint investigation, a respondent officer’s right to receive advice and support from their union or, if excluded, from a support person of their choice.

3. On written authorization from, and for a term specified by the Chief Conservation Officer, the discipline authority 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.

3.2.6 Informal Resolution

1. If informal resolution is feasible, the discipline authority will contact the parties directly to:
 - a. discuss the collaborative, problem-solving approach, and
 - b. confirm their consent.
2. If a complainant and respondent officer both consent, the discipline authority 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
 - i. individually (e.g., providing information face-to-face, by telephone or by written correspondence);
 - ii. together (e.g., audio/video conferencing or a face-to-face meeting); or
 - iii. by some combination of the above two approaches.
3. While the informal resolution process will be properly documented, any discussions that do occur will not be audio or video recorded.
4. If the parties agree to an informal resolution, the discipline authority will use the Informal Resolution Agreement (Appendix 5) to document
 - a. the issues involved,
 - b. the specific terms of the agreement, and
 - c. the signed consent of the parties.
5. If consent for the Informal Resolution Agreement is not revoked within 2 weeks of the signing date, the outcome is
 - a. documented in a Confirmation of Informal Resolution (Appendix 6), and
 - b. considered final and binding and the complaint closed.
6. If informal resolution is unsuccessful, the matter will proceed (or continue) with a complaint investigation. The discipline authority will
 - a. notify the parties using the Cancellation of Informal Resolution (Appendix 7); and
 - b. ensure information collected during the informal resolution process is not transferred to the investigation.

3.2.7 Complaint Investigation

1. The discipline authority must not act as an investigator.

Discipline Authority - Key Responsibilities

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. the respondent officer's rights;
 - e. monitoring and reporting requirements; and
 - f. 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 will
 - a. 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. If the parties subsequently agree to participate in an informal resolution process, after a complaint investigation has been initiated, temporarily suspend the investigation.
 - 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 be transferred to the investigation.
6. Ensure the complainant and the respondent officer(s) are kept informed of the status of the investigation, as appropriate.

Investigator - Key Responsibilities

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 duties.
2. Document your investigation in a continuation report.
3. Ensure the terms of reference for your investigation are clearly understood.
4. Take all reasonable steps to
 - a. obtain all factual information pertinent to the 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).

5. Store all file material in the
 - a. PSI File, if you are an excluded employee; or
 - b. SharePoint PSI File, if you are an included employee.
6. Keep the discipline authority informed of the progress of the investigation.
7. 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.
8. 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.
9. If an included employee waives their right to union representation, ensure a Waiver of Representation (Appendix 8) is completed.
10. At the conclusion of your investigation submit an Investigation Report (Appendix 9) to the discipline authority.

Conservation Officer - Key Responsibilities

1. An officer is required to cooperate fully with all lawful and reasonable employer directions under this policy. This may include, but is 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.

3.2.8 Notice of Decision

1. If a temporary SharePoint PSI File was created, the discipline authority will ensure
 - a. all of the file material is moved to the corresponding PSI File; and
 - b. the SharePoint PSI File is deleted, including from the PSI SharePoint's "Recycle Bin".
2. On receiving a copy of the Investigation Report, the discipline authority may
 - a. have the matter further investigated, if the Investigation Report appears incomplete or flawed; and/or
 - b. review any other relevant records, if not made available to the investigator (e.g. performance appraisals, previous discipline, training records, emails, etc.).
3. Once a decision is made, the discipline authority will prepare a Notice of Decision (Appendix 10).
 - a. The Notice of Decision will explain the reasons for a decision about whether an officer committed misconduct (i.e., the substantial and key issues upon which the decision turns).
 - b. The Notice of Decision will not disclose to the complainant the specifics of any disciplinary or corrective measures, if imposed. The purpose of the letter is to advise whether or not the complaint was found to have any merit and if so, what actions (in general terms) the COS is taking to remedy the situation and/or prevent a recurrence. Some exceptions may apply (e.g., a decision includes a component which directly impacts upon the complainant, including a letter of apology).
4. The Notice of Decision will be copied 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.
5. Should a misconduct complaint be substantiated, any disciplinary or corrective measures imposed will be in accordance with applicable human resource policies and the Public Service (Master) Agreement.
6. The discipline authority will monitor the implementation of any disciplinary or corrective measures imposed.

3.2.9 Appeal and Review

1. If a valid appeal is submitted, the [review official](#) will
 - 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 an independent and appropriately qualified person; and
 - g. document their decision, with reasons, in a Conclusion of Proceedings (Appeal) (Appendix 11) letter.
2. The Conclusion of Proceedings (Appeal) will be copied 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.

4.0 SERVICE OR POLICY COMPLAINT

1. If a service or policy complaint involves alleged or possible misconduct, it will be managed in accordance with section 3 of this policy.

4.1 General Requirements

4.1.1 Making a Complaint

1. A service or policy complaint may be submitted to the COS in person or by email, phone, fax or mail.
 - a. While complainants are encouraged to use the [COS Complaint Form](#), it is not required.
2. Any person may make a service or policy complaint.

4.1.2 Timeline

1. A service or policy complaint will be managed expeditiously and should be resolved no later than 30 days after it has been received.

4.1.3 Complainant Rights

1. A complainant who provides valid contact information will
 - a. be kept informed of the status of their complaint; and
 - b. at the conclusion of the complaint process, receive a written decision from the responsible official.

4.1.4 Appeals

1. The decision of the responsible official respecting a service or policy complaint cannot be appealed.

4.2 Complaint Process

4.2.1 Complaint Intake

1. COS staff will assist a complainant with the submission of a service or policy complaint, as required.
2. If assistance is provided with filling out a [COS Complaint Form](#), COS staff will ensure
 - a. the complainant is in agreement with its contents, and
 - b. the nature and extent of their assistance is properly documented.
3. A complaint will be forwarded to the Deputy Chief Conservation Officer with direct responsibility for the subject matter of the complaint.
 - a. If a complaint is received in letter format, including email, forward the complaint as is. Do not re-enter the information in a complaint form.
4. The Deputy Chief Conservation Officer will act as, or appoint the [responsible official](#) for the complaint.

4.2.2 Complaint Tracking

1. All service or policy complaints (accepted or dismissed) will be tracked.
2. The responsible official will ensure the complaint process is properly documented, including the complaint timeline and key decisions and actions.
3. On receiving a copy of the complaint, the responsible official will open the “COS_Restricted_PSI” file folder on the COS shared drive (O:) and:
 - a. open the Service or Policy Complaint Tracking Log (“tracking log”) and complete all applicable fields;
 - b. create a file folder labelled with the file number assigned in the tracking log;
 - c. save all relevant documents to the file folder; and
 - d. ensure file naming within file folder is consistent and clearly identifies the contents of each file.

4.2.3 Complaint Investigation

1. The responsible official will do one or more of the following:
 - a. if the complaint does not appear to be sensitive or complicated in nature, contact the complainant directly and attempt to resolve the matter informally (e.g., advice or information provided);
 - b. initiate further research concerning the complaint;
 - c. initiate an investigation into the complaint;
 - d. dismiss the complaint, with reasons;
 - e. take any other course of action considered necessary to respond adequately to the complaint.
2. If further actions are to be taken, and the timeline for resolving the complaint extended, the responsible official will advise the complainant of same.
3. Once a determination is made, the responsible official will provide the complainant a written response, including (as applicable):
 - a. an explanation for the agency’s actions, including COS or other relevant policy;
 - b. a summary of the results of any investigation or research initiated because of the complaint (as applicable); and
 - c. next steps, which may entail no further action; or considering, proposing or implementing policy changes to prevent recurrence and/or improve performance and accountability.
4. A copy of the written decision will be provided to the Deputy Chief Conservation Officer (as appropriate).

5.0 APPENDICES

1. The following complaint forms are saved in the “Personnel” folder in the COS Forms Library on the COS SharePoint
2. Appendices 2 to 11 apply to misconduct complaints only.

Appendix 1: COS Complaint Form

Appendix 2: Notice of Acceptance - Complainant

Appendix 3: Notice of Complaint - Officer

Appendix 4: Notice of Dismissal

Appendix 5: Informal Resolution Agreement

Appendix 6: Confirmation of Informal Resolution

Appendix 7: Cancellation of Informal Resolution

Appendix 8: Waiver of Representation

Appendix 9: Investigation Report

Appendix 10: Notice of Decision – Misconduct Complaint

Appendix 11: Conclusion of Proceedings (Appeal)