

ADMINISTRATIVE APPEAL PANEL

Terms of Reference & Procedures

October 2018

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Section 1: PURPOSE

- 1.1 An **Administrative Appeal Panel** is established to consider an appeal submitted by an **appellant** that is related to the application of the Service Complaint Policy or Service Complaint Procedures.

Section 2: COMPOSITION

- 2.1 An **Administrative Appeal Panel** shall be composed of:
- a) the Executive Director; and
 - b) two (2) directors from departments not involved or implicated in the matter being considered

Section 3: DUTIES AND RESPONSIBILITIES

- 3.1 **Administrative Appeal Panel** members are responsible to perform the following duties:
- a) be actively aware of the Service Complaint Policy and Service Complaint Procedures;
 - b) consider an appeal submitted by an **appellant** that is related to the application of the Service Complaint Policy or Service Complaint Procedures;
 - c) determine whether or not an appeal has merit;
 - d) make a decision on an appeal that has been deemed to have merit; and
 - e) write a synopsis of the decision made and include the reason for the decision.

Section 4: ROLE OF COUNCIL

- 4.1 Council has no role with regard to the Administrative Appeal Panel.

Section 5: DEFINITIONS

Appeal	means a request for reconsideration of a decision made, or action taken, by the original recipient (appeal respondent) of a Service Complaint
Appeal Respondent	means the original recipient of a Service Complaint who is the subject of an appeal and is responsible to actively participate in the appeal process, as required by the Administrative Appeal Panel
Appellant	means the original complainant of a Service Complaint who is dissatisfied with how the Service Complaint Policy or Service Complaint Procedures were applied
Complaint Respondent	means the original respondent of a Service Complaint; this employee could potentially be impacted by the appeal decision

Section 6: PREPARING AN APPLICATION FOR APPEAL

- 6.1 A complainant to a Service Complaint who wishes to submit an appeal must fill out an Application for Appeal form (**attached as Appendix “A”**). Throughout the appeal process, this individual is referred to as the **appellant**.
- 6.2 The application for appeal requires **appellants** to:
- provide their contact information;
 - indicate what their appeal is in reference to;
 - provide the date they received notification of the decision being appealed;
 - provide specific details and evidence to support the request for reconsideration;
 - describe what they hope will happen as result of the appeal; and
 - sign the appeal application.

NOTE: The review of a Service Complaint with merit is conducted by an appointed reviewer and is not subject to appeal. Decisions made prior to or after the review of a Service Complaint are appealable.

- 6.3 Any other information to be considered by the Administrative Appeal Panel in their decision on the appeal must be attached to the application for appeal.
- 6.4 The information described in subsection 6.2 and 6.3 shall be considered the appeal package.

Section 7: SUBMITTING AN APPLICATION FOR APPEAL

- 7.1 The appeal package must be submitted to the Office of the Executive Director **within thirty (30) calendar days** of the date they received documented notification regarding the matter which is the subject of the appeal.

Section 8: RECEIVING AN APPLICATION FOR APPEAL

- 8.1 **Within 5 business days** of receiving the appeal package, the Executive Director will:
- send an acknowledgement letter to the **appellant** to:
 - state that the appeal was received;
 - provide the date the appeal was received;
 - inform them that the Executive Director’s first step will be to convene an **Administrative Appeal Panel** to consider the appeal, with the first task being to determine whether or not the appeal has merit; and
 - provide the deadline for the **Administrative Appeal Panel** to send a response on merit to the appellant
 - send a copy of the original appeal along with a notification letter to the **appeal respondent** to:

- i. inform them that an appeal has been received;
 - ii. provide the date the appeal was received;
 - iii. inform them that the Executive Director's first step will be to convene an **Administrative Appeal Panel** to consider the appeal, with the first task being to determine whether or not the appeal has merit; and
 - iv. provide the deadline for the **Administrative Appeal Panel** to send a response on merit to the **appeal respondent**.
- c) send a notification letter to the **complaint respondent** to:
 - i. inform them that an appeal has been received regarding the original Service Complaint that they were the respondent to;
 - ii. provide the date the appeal was received;
 - iii. inform them that the Executive Director's first step will be to convene an **Administrative Appeal Panel** to consider the appeal, with the first task being to determine whether or not the appeal has merit; and
 - iv. provide the deadline for the **Administrative Appeal Panel** to send a response on merit to the **complaint respondent**.
- d) designate two directors from departments not involved or implicated in the matter being considered, to serve as members of an Administrative Appeal Panel, on a case by case basis; and
- e) notify the two designated directors by e-mail that there is a need for an **Administrative Appeal Panel** to be convened and provide them with a copy of the appeal package and the date and time of the first meeting.

Section 9: DETERMINING MERIT

- 9.1 The **Administrative Appeal Panel** will determine whether or not the appeal has merit, taking into consideration the following:
- a) whether or not the subject matter of the appeal is related to the application of the Service Complaint Policy or Service Complaint Procedures;
 - b) whether or not the content of the appeal package appears to be made in good faith; and
 - c) whether or not the appeal submission deadline has been met.

NOTE: For 9.1 (b), made in good faith means submitted with honest intentions to have a Service Complaint Appeal considered. Submitted in bad faith would include, but is not limited to, those whose main intent is to cause distress or harass (vexatious), or those that lack seriousness (frivolous).

- 9.2 Where an appeal has been deemed to have merit, further inquiry into the subject matter of the appeal is warranted. The **Administrative Appeal Panel** members will send separate letters to the **appellant**, the **appeal respondent**, and the **complaint**

respondent to inform each of them of the determination on merit and what the next step will be.

- 9.3 Where an appeal has been deemed to not have merit, the **Administrative Appeal Panel** members will send separate letters to the **appellant**, the **appeal respondent**, and the **complaint respondent** to inform each of them of the determination on merit and the result of the appeal.
- 9.4 The **Administrative Appeal Panel** members will inform the **appellant**, the **appeal respondent**, and the **complaint respondent** of the determination on the appeal's merit **within ten (10) business days** of receipt of the appeal package.

Section 10: DECIDING ON AN APPEAL WITH MERIT

- 10.1 Where an appeal has been deemed to have merit, the **Administrative Appeal Panel** members will schedule a meeting to make a decision on the appeal.
- 10.2 This meeting will be scheduled to take place generally **within ten (10) business days** of the date the determination on the appeal's merit was made.
- 10.3 In deciding on the appeal, the following shall be taken into consideration:
- a) Was the Service Complaint Policy followed?
 - b) Were the Service Complaint Procedures followed?
 - c) Was a valid reason given when a Service Complaint was deemed to not have merit?
 - d) Was remedy or redress provided to resolve a Service Complaint with merit?
 - e) Did the remedy or redress provided address the identified issue(s) within the Service Complaint?
 - f) Was there action identified that would prevent the incident that was the subject of the Service Complaint from recurring?
- 10.4 The decision of the **Administrative Appeal Panel** will be to:
- a) require that the **appeal respondent's** department/program reconsider the Service Complaint that was originally submitted by the **appellant**, as the complainant to the Service Complaint;
- OR
- b) affirm the original decision made by the **appeal respondent**.
- 10.5 The **Administrative Appeal Panel** members will send separate letters to the **appellant**, the **appeal respondent**, and the **complaint respondent** to inform each of them of the decision on the appeal with reasons provided, **within five (5) business days** of making the decision.

Section 11: RECONSIDERATION OF ORIGINAL SERVICE COMPLAINT

- 11.1 Where it is deemed that the original Service Complaint should be reconsidered, the **Administrative Appeal Panel** members will send notification of the appeal decision, along with copies of the original Service Complaint and the appeal package, to the **appeal respondent's** department/program for reconsideration, **within five (5) business days** of deciding that reconsideration is required.
- 11.2 The **appeal respondent's** department/program will reconsider the original Service Complaint, taking into account the reasons why the **Administrative Appeal Panel** has required that it be reconsidered.
- 11.3 The reconsideration shall be completed **within ten (10) business days** of receiving notice of the decision.
- 11.4 The **appeal respondent's** department/program will send separate letters to the **appellant, the appeal respondent, the complaint respondent,** and the **Administrative Appeal Panel** to inform each of them of the new decision and the actions being taken as a result of the reconsideration **within five (5) business days** of the completion of the reconsideration.

Section 12: ADMINISTRATIVE APPEAL PANEL DECISIONS

- 12.1 Matters requiring a decision of an **Administrative Appeal Panel** shall be discussed at a duly convened meeting and decisions will be made by consensus.
- 12.2 Every **Administrative Appeal Panel** is responsible to write a synopsis for each decision made, with reasons provided. These synopses will be filed at the Executive Director's office.
- 12.3 Decisions made by an **Administrative Appeal Panel** are final.

Section 13: CONFIDENTIALITY

- 13.1 **Administrative Appeal Panel** members shall consider appeals, determine the merit of appeals, and make decisions on appeals in a confidential manner.

Section 14: AMENDMENTS

- 14.1 This document will be reviewed by the Executive Director or his/her designate every three (3) years, or as otherwise determined by the Executive Director, from time to time.
- 14.2 This document may be amended under the authority of the Executive Director with an effective date specified, and once authorized, an amended version shall replace the prior version.