



# COMPLAINT PROTOCOL

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## **COMPLAINTS**

Any individual who identifies or witnesses behaviour or an activity by a sitting Member of Council or Staff that appears to be in contravention of:

- a) the Code of Conduct;
- b) established policies and procedures of the Township;
- c) appropriate legislation; or
- d) is unethical on its face;

may pursue the matter through one of the procedures detailed below.

## **DIRECTLY**

The Complainant may address the prohibited behaviour or activity through direct contact with the Member of Council or Staff, as follows:

- a) Advise the Member that the behaviour or activity appears to contravene the Code of Conduct, established policies and procedures, legislation, or is unethical;
- b) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
- c) Document the incidents including dates, times, locations, other persons present, and any other relevant information; and
- d) Consider the need to pursue the matter in accordance with another complaint procedure.

Individuals are encouraged to pursue this complaint procedure as the first means of remedying behaviour or an activity that they believe violates the Code of Conduct, established policies or procedures, legislation, or is unethical on its face. However, this process is not a precondition or prerequisite to pursuing an informal or formal complaint procedure.

## **INFORMAL COMPLAINT PROCEDURE**

The Complainant may contact the Township of Malahide via email, telephone or over the counter to lodge an informal complaint or concern, requesting the prohibited behaviour or activity be addressed by Management or Council. A Member of Staff shall document the concern or complaint using a Complaint Form. A concern or complaint must include the following information:

- a) The full name of the individual lodging the complaint;
- b) Contact information of the individual lodging the complaint; and
- c) Details of the concern or complaint including reasonable and probable grounds for the allegation, the date and location of the prohibited behaviour or activity, and the names of any other persons who may have been involved in or witnessed the prohibited behaviour or activity.

The following procedure shall be followed upon receipt of an informal complaint:

1. The concern or complaint shall be forwarded within 24 hours of receipt to the appropriate Department Head to review the matter.
2. The Department Head shall review the matter within one business day and shall contact the Complainant to acknowledge receipt of the complaint and to discuss any further questions either the Department Head or the Complainant may have.
3. The Department Head shall investigate the allegation and shall determine a suitable course of action to resolve the matter.
4. The Department Head shall report to the Complainant and the Member as to the findings and the resolution within thirty (30) days of receipt of the complaint.
5. The Department Head shall document the actions taken and the resolution of the issue on the Complaint Form.
6. The completed report and the Complaint Form shall be forwarded to the Chief Administrative Officer/Clerk and shall be filed pursuant to the Township's record retention policies.
7. If the Department Head is unable to resolve the issue, the matter shall be referred to the Chief Administrative Officer/Clerk for further review and action.
8. If the Complainant is not satisfied with the resolution, he or she may consider filing a formal complaint or filing a complaint with the Provincial Ombudsman's office.

## **FORMAL COMPLAINT PROCEDURE**

The Complainant may file a formal complaint in accordance with the following conditions:

- a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual.
- b) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct, established policies and procedures, legislation, or has been unethical in their actions.
- c) If the Complainant is a Member of Council or Staff, their identity shall not be protected if the Provincial Ombudsman finds that the complaint was not made in good faith.
- d) The Council may also file a complaint and/or request an investigation of any of its membership by public motion.

The following procedure shall be followed upon receipt of a formal complaint:

1. The complaint shall be filed with the Chief Administrative Officer/Clerk who shall determine if the matter is, on its face, a complaint with respect to non-compliance and not covered by other legislation or other Council policies as described in subsection 2.
2. If the complaint is not, on its face, a complaint with respect to non-compliance or the complaint is covered by other legislation or complaint procedure under another Council policy, the Chief Administrative Officer/Clerk shall advise the complainant in writing. Other legislation or policies may include:
  - a) Criminal Code of Canada
  - b) Municipal Conflict of Interest Act
  - c) Municipal Freedom of Information and Protection of Privacy Act
  - d) Other Policies
  - e) Lack of Jurisdiction
  - f) Matter is already pending.
3. The Chief Administrative Officer/Clerk shall report to Council annually. In his/her report to Council, he/she shall report on all formal complaints received and on the disposition (including complaints deemed not to be within the jurisdiction of the Township).
4. If the Chief Administrative Officer/Clerk is of the opinion that the referral of a matter to him or her is frivolous, vexatious, or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Chief Administrative

Officer/Clerk shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation.

5. Following receipt and review of a formal complaint, or at any time during the investigation, where the Chief Administrative Officer/Clerk believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the Complainant and the Member agree, efforts may be pursued to achieve an informal resolution.
6. The Chief Administrative Officer/Clerk shall provide the complaint and supporting information to the Member whose conduct is in question with a request for a written response to the allegation be provided within ten (10) business days.
7. If necessary, after reviewing the submitted materials, the Chief Administrative Officer/Clerk may speak to anyone, access and examine any other documents or electronic materials, and may enter the Township location relevant to the complaint for the purpose of investigation and potential resolution.
8. The Chief Administrative Officer/Clerk shall retain all records related to the complaint and investigation.
9. The Chief Administrative Officer/Clerk shall report to the Complainant and the Member as to the findings and the resolution within thirty (30) days of receipt of the complaint. If the investigation process takes more than thirty (30) days, the Chief Administrative Officer/Clerk shall provide an interim report and advise the parties of the date the final report will be available.
10. Where the complaint is sustained in whole or in part, the Chief Administrative Officer/Clerk shall report to Council, outlining the findings, the terms of any settlement, and/or any recommended corrective action. A copy of the report shall be given to the Complainant and the Member.
11. Where the complaint is not sustained, the Chief Administrative Officer/Clerk shall not report to Council the result of the investigation except as part of an annual report.
12. If the Chief Administrative Officer/Clerk determines that there has been no contravention of the Code of Conduct, established policies and procedures, or legislation, or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the

Chief Administrative Officer/Clerk may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*.

13. The Chief Administrative Officer/Clerk and every person acting under his or her jurisdiction shall preserve confidentiality, where appropriate, and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol. At the time of the Chief Administrative Officer/Clerk's report to the Council, the identity of the person who is the subject of the complaint shall not be treated as confidential information if the Chief Administrative Officer/Clerk finds that a breach has occurred.
14. If the Complainant is not satisfied with the resolution, he or she may consider filing a complaint with the Provincial Ombudsman's office.