

Huu-ay-aht First Nations

Report to Executive Council

Title – (Complaints)Citizen Inquiry Management Policy

Type of Decision – Approval

Submitted by: Charlie Clappis

Issue

Currently the Huu-ay-aht Government is working on the Tribunal recommendations from 2012. This policy is related to the following recommendation.

Tribunal Recommendation #6 –Executive Council will take steps to ensure that the appropriate administrative policies are in place to reduce potential for harassment in the workplace and the Chief Councillor and the Executive Director will ensure that such policies are adhered to.

Background

Through the last year and a half there have been many discussions at the Executive Council meetings related to dealing with citizen inquiries/complaints and how the government can process them in an efficient and effective manner. This has been an ongoing issue and played a key role in the tribunal findings. I believe until the Huu-ay-aht government adopts policy that will give itself the tools to deal with citizen inquiries this will continue to be an issue. Executive Council also has been discussing how to be proactive and to work on preventable measures when at all possible.

I strongly believe that a *Citizen Inquiry Management Policy* would achieve this. Without a Peace Officer in the foreseeable future administration staff will be responsible for issuing the compliance notices to our Citizens. This will be a contentious situation and *Appendix B* of the policy: Complaint management toolkit would be great tool to assist with these situations.

Discussion

There is a sample policy attached to this briefing note that gives an example what the final policy could look like. This document is only meant to work from and is not attended to be a final copy.

Purpose: Citizen Inquiry Management Policy aims to ensure procedural fairness in handling of complaints, standardize complaint investigation practices and establish mechanisms to track the number and types of complaints received by the government.

January 2013

Options

Option #1 -Do nothing

Option #2- Accept the policy with or without amendments

Option #3- Accept the Concept

Implications

There are financial implications on the appropriate reviews of the document. There will be a need to draft the 7 appendices that are mentioned in the policy. I believe after this initial work the eventual administrative time would balance out with efficiency of the policy.

This policy could save future tribunal hearings which could amount in large savings.

Recommendation

Option # 2

Decision



Citizen Inquiry Management Policy

CITIZEN INQUIRY MANAGEMENT POLICY

Purpose

The Citizen Inquiry Management Policy aims to ensure procedural fairness in handling of complaints and inquiries, standardise complaint investigation practices and establish mechanisms to track the number and types of complaints received by the Government.

Scope

The Government's definition of a complaint is:

An expression of dissatisfaction or concern regarding the provision of a service, policy or a decision or action by the Huv-ay-aht First Nation Administration or Executive Council.

A large number of issues that meet this definition of a complaint are routinely raised verbally with public officers during the course of their duties. In the interest of efficiency, if these issues are able to be resolved to the complainant's satisfaction and in a timely manner, they are not required to be entered into the Complaints Management File.

Roles and responsibilities

Complainant

The person making the complaint. This may include: a citizen; contractor or employee.

Determining Officer

The Executive Director appoints the Determining Officer, who is then responsible for authorising the outcome of a complaint. The determining officer is responsible for—

- assessing, recording, monitoring and tracking complaints concerning their area of responsibility using the complaints management system;
- ensuring that sufficient detail is recorded in the complaints management register;
- investigating, determining and assigning the investigation to officers under their control;
- keeping complainants informed of the progress of complaints;
- ensuring that complaints are resolved within specified timeframes;
- providing written notification of outcomes to complainants, including the reason/s for those outcomes;
- co-ordinating and conducting reviews of "Level 1" and "Level 2" complaints which were investigated and determined by an assigned officer.
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Receiving Officer

The officer who initially receives a complaint. Where possible, front-line officers receiving verbal complaints should attempt to resolve a verbal complaint at this point. Tips for frontline officers to deal effectively with complainants can be found in the : *Complaints Management Toolkit*.

Reviewing officer

The officer assigned by the department director, or delegate, to conduct a review of a complaint outcome, if the outcome has been appealed by the complainant. The reviewing officer should not be the same officer involved in the initial investigation of the complaint.

Process

There are 5 phases involved in managing a complaint made:

1. Receiving a complaint and a written acknowledgment
2. Assessing a complaint
3. Actions taken to address a complaint
4. Outcome and system improvement
5. Monitoring effectiveness and reporting

1. Receiving a complaint

1.1 Method of contact

Complaints may be received by the department via any mode of communication in order to express dissatisfaction. Contact can be made by :Written Complaint

1.2 Documenting the issue

When a complainant wishes to elevate an issue that has not previously been provided in writing and is unable to obtain assistance to do so, the receiving officer must document the issue, in writing, preferably by using the complaint form. Where possible the complainant should verify that all information has been recorded accurately and all issues sufficiently documented.

Refer Appendix A— Complaint Form

2. Assessing a complaint

Effective management of a complainant by frontline staff in the initial stages of a complaint being made is critical in achieving a rapid resolution to a complainant's concerns, and may prevent a complaint being escalated.

Refer Appendix B— Complaints Management Process Checklist

2.1 Determining complaint category

When assessing a complaint, a determination will be made as to whether the complaint will be assigned a Level 1, 2 or 3 category. This assessment will determine how the complaint will be managed.

Level 1 Complaint

- may relate to a single issue;
- involves minimal risk to the complainant, department or engaged service provider;
- will not require a detailed investigation; and
- will be suitable for local resolution.

Level 1 complaints would usually be managed at the local level.

Level 2 Complaint

- may relate to one or more issues;
- involves a low degree of risk to the complainant, department or engaged service provider;
- may require a more detailed investigation; and
- should involve consultation as to whether it will be suitable for local resolution.

Level 2 complaints would usually be managed by the Determining Officer, or delegate.

If assessed as Level 1 or Level 2, the determining officer may—

- assign the investigation and determination of the matter to an appropriate officer;
- assign the investigation of the complaint to an appropriate officer, with the determining officer approving the outcome of the complaint; or
- investigate, and determine the outcome of the complaint.

Level 3 Complaint

- may involve a serious or significant risk to the complainant, department or engaged service provider;
- will involve a formal investigation; and
- is not suitable for local resolution.

Level 3 complaints must be handled by the Senior Officer, or delegate. The senior officer may assign the investigation to an appropriate officer, however, the senior officer must sign off on the outcome of the complaint.

2.2 Determining the Complaints Management Timeframe

2.21 Acknowledgement

All complaints must be acknowledged in writing, either by sending an email or posting a letter, within **5 working days** of the complaint being received by the department or assistant (Refer section 3.1 Acknowledging the complaint).

2.22 Resolution

The timeframe that applies to resolving a complaint will depend on an assessment of:

- the urgency of the issue and the impact if the complaint is not resolved quickly
- the likelihood that the complaint can be quickly resolved
- the complexity of the issue.

Complainants must receive written acknowledgement and advice about the outcome of their complaint within required timeframes.

The following timeframes must be applied:

- for complaints that have been assessed as either Level 1 or Level 2, a **30 working day timeframe** applies from when the complaint was first received.
- for complaints that have been assessed as Level 3, a **60 working day timeframe** applies from when the complaint was received by the department.

2.23 Timeframe extensions

If the complaint is unable to be finalised within the required timeframe, an extension letter must be sent to the complainant as soon as possible advising them and providing them with an expected finalisation timeframe.

The determining officer must take all reasonable measures to ensure timeframes are met prior to sending an extension letter to the complainant.

If an expected finalisation timeframe is unable to be provided, the determining officer must endeavour to provide an outcome within 30 working days of the date of the extension letter.

The Information Rights Unit will monitor the timeframes for the resolution of complaints to ensure they are strictly adhered to.

2.24 Trivial complaints

Caution should be exercised when determining if a complaint is trivial, vexatious, frivolous or made in bad faith. A senior manager should be consulted before a final determination is made.

There are some factors to be considered that may indicate if a complaint is trivial, frivolous, vexatious or has been made in bad faith. These factors include:

- constant complaints from the same complainant against one person or body about the same issue;
- a complainant seeking to revisit the same issue after an initial investigation and subsequent review when no new evidence or material is provided;
- a complainant making repetitive complaints and then withdrawing them;
- using complaints about another person as an attempt to divert the agency's attention from the complainant's own situation;
- making a complaint based on false statements of fact;
- a complainant making ongoing complaints on an issue which has previously been determined to be trivial, frivolous or made in bad faith.

Assessment may determine that the complaint lodged requires no further action because it was assessed to be vexatious or frivolous in nature. In this instance officers will document the following information in the complaints management register:

- the assessment undertaken and findings from the assessment;

- a recommendation to the line manager for endorsement that no further action is required following endorsement;
- notify the complainant/s in writing of the outcomes of the assessment, advising that no further action will be taken and that the complaint is closed, for instance, the complainant may be advised that the complaint lacked sufficient grounds, or that the complaint had been previously lodged and managed;

2.25 Anonymous complaints

Anonymous complaints will be accepted and recorded within the complaints management register. However, there will be limitations as to how thoroughly an anonymous complaint can be investigated.

3. Actions taken to address a complaint

3.1 Acknowledging the Complaint

A complaint is required to be acknowledged, in writing, either by letter or email, within 5 business days of the complaint being received.

Refer Appendix C— Acknowledgment letter template

3.2 Investigative approach

A standard approach to investigating a complaint may include:

- a review of any relevant legislation or internal policies and procedures;
- gathering of necessary information, consultation with relevant persons and assurance of a thorough understanding of the issues;
- observance of natural justice;
- establishment of facts, including analysis of any evidence for quality, corroboration or contradiction;
- consideration of relevant policies and procedures and assessment criteria;
- consideration of the merits of the original decision making process, if relevant.

Refer to Appendix D— Review Matrix

3.3 Review Documentation

For Level 3 complaints, the assigned officer must detail in a brief (for example a Complaints Review Record) for the determining officer how his or her recommendation was arrived at.

This may include reference to:

- the documents used to inform the decision (these should be attached)
- a background
- how the conclusion was determined.

This will provide a record of the process applied to inform the review decision. This also provides a record should the complaint be subject to an external review

All documentation should be recorded in the Complaints Management Register, and placed on file after the complaint review has been finalised (Refer 6.0 Retention of records).

Refer Appendix E- Complaints Review Record

3.4 Adherence to Complaints Management Timeframes

Directors must ensure that assigned officers comply with timeframes for complaint responses. If timeframes are to be exceeded the reasons must be documented, an extension approved by a business area manager, and revised timeframes registered in the Citizen Inquiry Management Register.

The complainant must be contacted and advised of the revised timeframes for the response and reasons for the extension. Confirmation of the revised timeframes should be provided in writing.

Refer to Appendix F— extension letter template

3.5 Recording complaints

Departments are required to record complaint details within the Citizen Inquiry Management Register, in accordance with the Citizen Inquiry Management Policy. This includes:

- All complaints which fall within the definition of ‘complaint’ and are made in writing, as set out in this procedure (refer to the definition of a complaint under Scope);
- All complaints that are received in writing, regardless of whether a verbal outcome is reached;
- Any complaints that Divisions are asked to respond to on behalf of the Minister or Director-General, provided they fall within the scope of the complaints management process;
- Complaints made by prisoners and offenders that relate to an allegation of discrimination;
- All complaint outcomes.

4.0 Appealing a decision or outcome

4.1 Internal review

A complainant can appeal the outcome of their Level 3 complaint, if they consider the outcome to be unsatisfactory.

Reviews of Level 1 and Level 2 complaints may be undertaken at the discretion of a senior officer.

A prisoner who has made a complaint, which is then assessed as either a Level 1 or Level 2 and had their complaint outcome decided by a General Manager, may not seek an internal review of that decision.

An offender under a community-based order who has made a complaint, which is then assessed as either a Level 1 or Level 2 and had their complaint outcome decided by a Regional Manager, may not seek an internal review of that decision.

A request for a review of a decision must be made in writing by the complainant and received by the department within 28 days from the date of the outcome advice. The request for review should clearly detail the grounds that the complainant would like their decision to be reviewed.

If a request for review is received outside the 28 day timeframe, it is at the discretion of the reviewing officer whether to accept the request. If the decision is made not to accept the request because it is outside the required timeframe, the complainant must be advised of this decision in writing.

A review will be undertaken by an officer not involved in the management of the initial complaint. The reviewing officer must be at the same or higher level as the determining officer.

When conducting a review, the reviewing officer must —

- review the original decision together with the reason/s for that decision;

- consider the complainant's submission;
- obtain as necessary and consider any additional information that may be relevant to the matter;
- make a determination; and
- provide a review outcome, in writing, to the complainant including the reason/s for the decision.

4.2 Appealing a decision- external review

If a complainant considers their complaint to be unresolved or remains dissatisfied with the outcome reached by the department, they may refer their complaint to the Executive Council.

5.0 Outcome and systems improvement

Following completion of the investigation into the complaint, the review findings are to be documented and a response to the complainant forwarded by the assigned officer.

The response to the complainant should detail the findings of the review. It should clearly document each point of the complaint, the details of issues identified during the review, and whether or not the complaint has been substantiated.

If the complaint has been found to be substantiated, details of any remedial actions that are to be taken should be provided. If the complaint has not been upheld, justification for this decision must be provided to the complainant.

A copy of the response should be retained on the complaint file, and relevant details recorded in the Complaints Management File.

Where possible the complainant can be advised of the outcome via telephone, if possible. Telephone contact however does not eliminate the requirement to provide a written outcome.

If the complainant has advised they do not wish to receive further correspondence, the outcomes should be documented in the Complaints Management File, however an outcome letter is not required to be sent the complainant.

All details in relation to the management of a complaint must be recorded in the Complaints Management File.

Refer to Appendix G— Outcome letter template

5.1 Remedies

During the review process, consideration should be given to what remedy and systems improvement may be required.

Remedial action that may be appropriate and reasonable to remedy errors and deficiencies in service include (for example):

- an explanation
- a change of decision
- formal or informal dispute resolution
- an apology
- correction of misleading or incorrect records
- protection of complainants and whistleblowers.

5.2 System improvements

When developing system improvement recommendations, consideration should be given to the extent the action will:

- prevent the recurrence of similar complaints
- promote the continuous improvement of departmental services.

System improvements can include:

- policy and procedure review
- practice review
- staff training and other professional developmental activity.

6.0 Monitoring Effectiveness and Reporting

Recording of complaints information enables departmental reporting requirements to be met, and will allow for identification of any trends or system issues that may inform improvements to products and services delivered.

The reporting function is performed by the Information Rights Unit.

Quarterly analysis of complaints data to identify and address any systemic issues, including improvements to products and services, policies and procedures, and staff training needs will be undertaken by the Information Rights Unit.

The report will include:

- the number, types and outcomes of complaints received, broken down by Divisions
- the time taken to resolve complaints and the number of complaints that were not resolved within the required timeframe
- complaint issues and trends that identify business improvement opportunities.

7.0 Retention of records

The complaints management file is the primary tool for the electronic collection of data, however, accurate records relating to complaints must be maintained within each respective area of responsibility.

Appendices

Appendix A— Complaint Form

Appendix B— Complaint Management Process Checklist

Appendix C— Acknowledgment letter template

Appendix D— Review Matrix

Appendix E— Complaints Review Record

Appendix F— Extension letter template

Appendix G— Outcome letter template