

Public complaint procedures for Special Constables

June 2021



Fare Inspector and Special
Constable Complaints Office

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1. Definitions

These procedures make reference to a number of words and phrases, which for reasons of clarity and consistency have been defined below.

Agreement: means the agreement entered into between the Toronto Police Services Board and the TTC, dated May 15, 2014, as amended, setting out the requirements relating to the appointment of persons employed by the TTC as Special Constables in accordance with Section 53 of the Police Services Act.

Complainant: is the person raising concerns. There can be more than one Complainant in a Complaint.

Complaint: means a Conduct Complaint or a Policy/Service Complaint.

Conduct Complaint: means an allegation(s) by an individual relating to the actions and/or behaviour of a Special Constable. The expectations of the conduct of Special Constables are outlined in the Transit Enforcement Code of Conduct, appended to this document. As TTC employees, Special Constables are also expected to adhere to all applicable TTC policies, including but not limited to: TTC Respect and Dignity Policy; TTC Workplace Violence Policy and Program: TTC Diversity and Inclusion Policy; and TTC Employee Code of Conduct. These internal TTC policies are read together with the Transit Enforcement Code of Conduct.

FISCC Office: means the Fare Inspector and Special Constable Complaints Office. It is responsible for receiving, investigating and/or resolving of complaints involving the conduct, policies and/or services of both TTC Fare Inspectors and Special Constables. The FISCC Office is independent and located apart from the Revenue Protection Department and Special Constable Service Department work sites, and reports to a different Group – Diversity and Culture; which is independent from TTC Executives, TTC Board Commissioners and the public, and is accountable to the TTC Board.

Informal Resolution: is a voluntary process, as described in Section 10 of this procedure, that is intended to resolve complaints with the co-operation of all the parties involved and with the goal of reaching a mutually agreeable resolution. It is flexible and can encompass a range of possible appropriate outcomes, and there may be no investigation nor any investigative findings made.

Investigator: is the person responsible for conducting the Complaint investigation, and includes senior investigators, investigators and external investigators, with investigative training from TPS Professional Standard Unit or an approved equivalency, or supervised by someone who has the investigative training with TPS approval.

Parties: means the Complainant(s) and the Respondent(s).

Policy Complaint: means an allegation(s) relating to the rules, standards and/or policies of the Special Constable Program that guide how Special Constables deliver their services and/ or the Special Constable Service Department's compliance with the Agreement.

Public Complaint Procedure: (also referred to as **Procedure**): means this document which governs Complaints relating to Special Constables. It applies to any Complaints received by the TTC.

Respondent: means the Special Constable alleged to be responsible for the misconduct raised in the Conduct Complaint. There can be more than one Respondent in a Conduct Complaint.

Revenue Protection Department: is a department within the TTC that employs Fare Inspectors and oversees the TTC's revenue protection operations, including fare inspection and compliance. Revenue Protection Department includes any successor department. Complaints involving Fare Inspectors follow another process found at: www.ttc.ca

Serious Misconduct: means allegations relating to the actions and/or behaviour of a Special Constable that are considered significant and/or severe in nature as described in Section 8 of this Procedure.

Special Constable: means a person employed by the TTC who has proper authority within the meaning of TTC By-law No. 1 and who has been appointed by the Toronto Police Services Board as a Special Constable in accordance with Section 53 of the Police Services Act.

Special Constable Public Complaint Process: means the process set out in Sections 4 to 19 of this Procedure.

Special Constable Service: (formerly Transit Enforcement Unit) is the department of the TTC that employs Special Constables and is responsible for the enforcement of TTC By-law No.1 and various federal and provincial statutes. It manages the Special Constable Service Program to: (a) ensure compliance with the terms of the Agreement; (b) govern the appointment process of a Special Constable; and (c) monitor the ongoing conduct of the Special Constable.

Support Person: means a person identified by a party to a Complaint (Complainant, Respondent, or witness), as someone that they wish to accompany them during the investigation interview. For unionized employees, this can be their union representative. The support person may attend as an observer; however, the person being interviewed must answer the interview questions.

Systemic Discrimination: is defined as patterns of behaviour, policies or practices that are part of the structure of the organization, and which create or perpetuate disadvantage for a group of persons identified by a protected ground in the Ontario Human Rights Code.

Systemic Review: review which goes beyond the immediate issues raised by a given Complaint to examine the underlying causes to determine whether organizational practices and policies are perpetuating inequity, and whether those practices or policies can be improved to prevent such issues from arising in the future.

TPS: means the Toronto Police Service.

TTC: means the Toronto Transit Commission.

2. Mandate and role of the FISCC Office

All Conduct Complaints received by the TTC involving a Special Constable, or a Policy/Service Complaint involving the Special Constable Program shall be forwarded to the FISCC Office.

The FISCC Office will be responsible for reviewing, investigating and/or resolving all Conduct Complaints involving a Special Constable, or the Policy/Service Complaints relating to the Special Constable Service Department, that have been reviewed by TPS and returned to TTC for investigation and/or resolution.

The FISCC Office is an internal department within the TTC and it reaches its findings, conclusions and recommendations independent of any TTC staff from other departments, Executives, TTC Board Commissioners and the public. The FISCC Office's investigation procedures are founded on fairness, thoroughness, transparency and timeliness

The FISCC Office's goal is to provide an effective and accessible public complaints process that is fair to both the Complainant and the Special Constables and builds confidence and trust in the process by:

- 1) Ensuring the process of making a Complaint is easy to access and understand;
- 2) Investigating Complaints promptly and overseeing Complaint investigations through to conclusion;
- 3) Encouraging meaningful resolution of Complaints;
- 4) Recording outcomes of investigations and publicly reporting them to the Board when required, as well as providing the outcomes in writing to TPS.

- 5) Conducting and/or coordinating Systemic Reviews; and/or
- 6) Delivering education to the public and Special Constables in respect of the complaints process.

In fulfilling its mandate, the FISCC Office is guided by the principles of:

Accountability: may be called on to account for its decisions and actions when appropriate, and can be held responsible when it does not fulfill its mandate.

Transparency: ensuring open communication about how a Complaint will be handled and explaining the outcome of the investigation and reasons for the outcome are provided to the parties of a complaint.

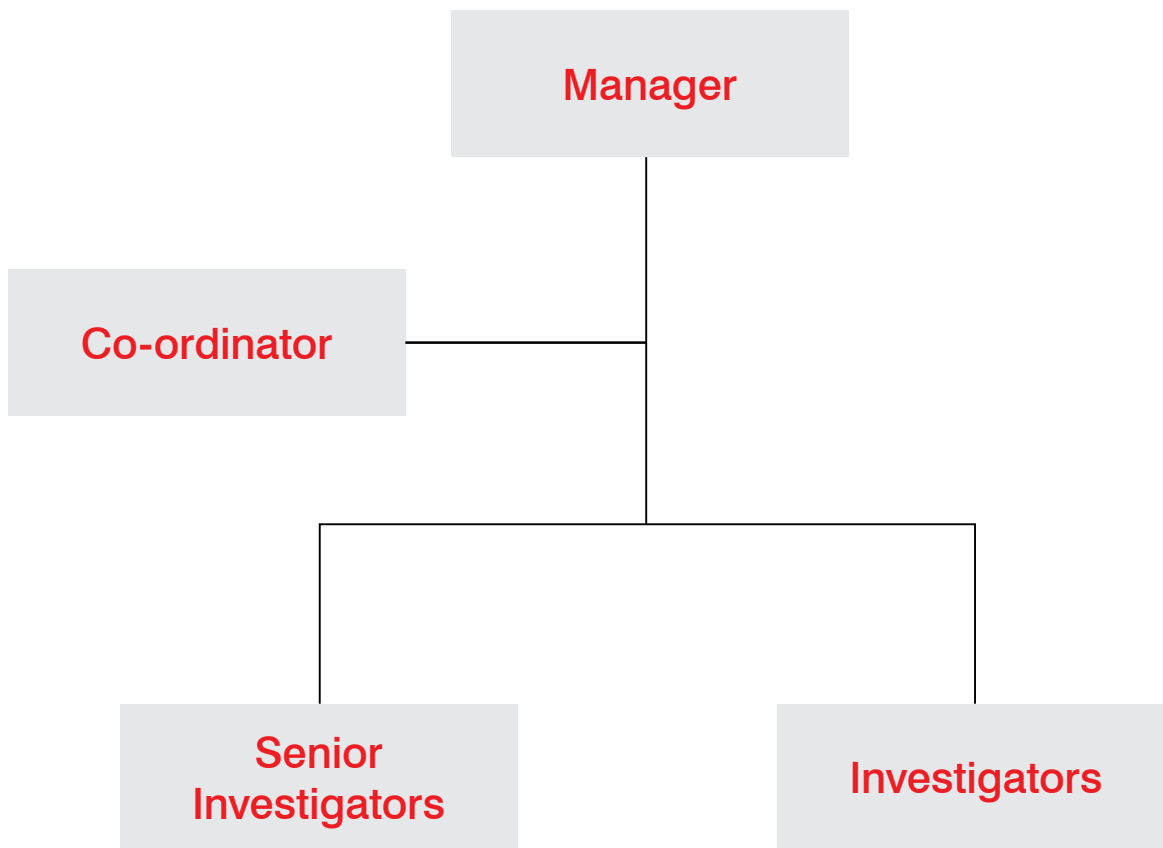
Integrity: providing professional, impartial, objective and timely handling of Complaints; respecting privacy, confidentiality, dignity, fairness; and ensuring measures are in place to protect individuals from experiencing negative treatment because a Complaint has been made or they have participated in the Complaint process.

Independence: conducting investigations fairly, thoroughly and without any influence or control by TTC Executives, management, and free from political interference.

Equity, Diversity and Inclusion: being responsive to, inclusive, and reflective of the diversity of the communities it serves, and delivering services in a fair and non-discriminatory manner, having knowledge of, and familiarity with issues of equity and systemic change, and the history of and barriers faced by Indigenous, Black and racialized communities due to racism and anti-Black racism.

Accessibility: reducing barriers to making Complaints so that open and transparent communication with the public is encouraged. This includes greater public awareness and education on the various ways complaints may be brought forward, including through the TTC's Customer Service Centre, which has longer service hours, an accessible online Complaint form and a streamlined process.

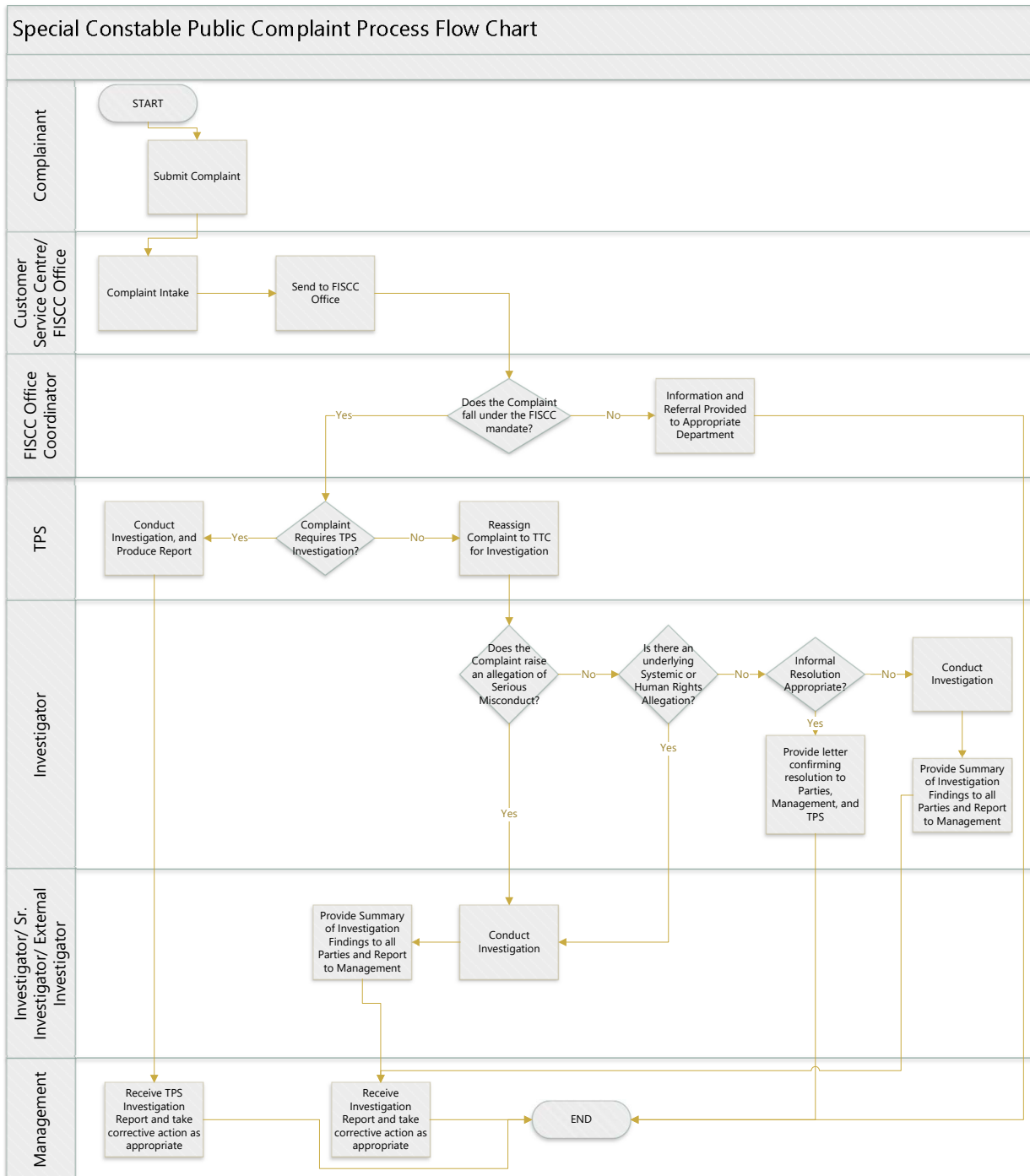
3. Organizational structure of the FISCC Office



4. Special Constable Public Complaints process

The following is the Special Constable Public Complaint Process. The FISCC Office will provide any reasonable accommodation during this process upon request. This includes, but is not limited to, providing documents and information in an accessible format or with communication support during the process.

The FISCC Office is committed to responding to each Complaint in the most equitable manner. This process does not limit, and is intended to facilitate, the FISCC Office's ability to consider the diverse and inclusive views and experiences of the public; and to take steps to resolve Complaints in the most appropriate manner to achieve substantive fairness and equity.



5. Filing a Complaint

Any person may file a Complaint. This includes persons who have been directly affected by an incident of misconduct, or have a concern with a policy or service of the Special Constable Program; have knowledge of, or evidence relating to, an incident of misconduct, and/or have witnessed an incident of misconduct relating to a Special Constable.

A Complaint may be submitted to TTC Customer Service Centre:

- **By phone:** 416-393-3030 or if calling after office hours a message can be left at 416-393-3111
- **By TTY:** 416-338-0357
- **By fax:** 416-338-0547
- **By online form:** ttc.ca/Customer_Service/Compliments_Complaints_Suggestions/index.jsp
- **By mail or in person at:**
TTC Customer Service Centre
1900 Yonge Street,
Toronto, ON M4S 1Z2

A complaint may also be filed directly through the FISCC Office by email at: FISCCInquiries@ttc.ca

Any employee of the TTC may file a Complaint against a Special Constable. However, where the substance of that Complaint is an internal workplace matter, the Complaint will be handled under the appropriate corresponding TTC policy and complaint investigation procedures.

6. Public interest and systemic issues

Matters of public interest

A Complaint may be a matter of public interest when it relates to a general public concern and may impact on the broader community, including certain groups of individuals, whole communities and customers. It may also impact the integrity, reputation or public confidence in Special Constables and/or the TTC.

In the absence of a Complaint, or in the case of an anonymous Complainant, the FISCC Office has the discretion to file its own Complaint and initiate the investigative process, following TPS' review of the Complaint, if it believes that an incident is a matter of public interest and requires further review and investigation in order to maintain public confidence in the Special Constable Service and/ or the TTC. In such an investigation, there may be no named Complainant. Public Interest complaints will be resolved and/or investigated in an appropriate manner consistent with these procedures, where possible.

The FISCC Office also has the discretion to continue a complaint investigation if the Complainant has withdrawn their Complaint or otherwise declines to participate in the investigation.

Systemic issues

There are also circumstances that may warrant a Systemic Review. With or without a complaint, the FISCC Office may review and investigate, or retain the services of an external Investigator, to investigate issues of a systemic nature, such as systemic discrimination. In such an investigation, there may be no named Respondents. The purpose of a Systemic Review is to determine whether systemic organizational failings or inequities have occurred in TTC policies or practices, to make recommendations to address those failings or inequities and to help restore and enhance public confidence in TTC's Special Constables Service.

7. Receiving a Complaint

All Conduct Complaints or Policy Complaints will be received by the TTC Customer Service Centre or by the FISCC Office directly at FISCCInquiries@ttc.ca. The Customer Service Centre's hours of service are from 7 a.m. to 10 p.m. daily, seven days a week and voice mail messages may also be left outside of business hours.

A TTC Customer Service Representative will gather and document all of the necessary details of the Complaint and forward the matter to the FISCC Office for further intake. They will also forward a copy of the Complaint to the Respondent's Manager within the Special Constable Service Department. The Customer Service Representative will also immediately request a download of the video of the incident from the TTC's Video Services, if applicable and available within the current video retention periods (i.e. 72 hours from the incident).

The TTC Customer Service Centre Representative will gather as much information as possible, including the following:

- **The Complainant name, phone number, e-mail address**, and the best method and time to be contacted.
- **When?** What date(s) and time(s) the incident(s) took place.
- **Where?** Where the incident(s) occurred? The vehicle number (the four-digit number marked on the vehicle) including the nearest intersection and the direction that the vehicle was travelling, or station name where the incident took place.
- **Who?** Which Special Constable, service or policy the Complaint is about. The name and/ or badge number of the Special Constable involved, if possible. If not, a clear physical description of the Special Constable involved, and anyone else who may have been a witness to the incident(s).
- **What?** A description in detail of what happened. If the Complaint involves a communication between a member of the public and a TTC employee, a verbatim description of the conversation. If any pictures taken or a ticket given, they will be requested as part of the Complaint.

If the Customer Service Representative determines there is more information required, they may ask additional questions.

If upon receiving the Complaint, the Customer Service Representative and/or the Investigator determines that the matter is not a Conduct Complaint or Policy Complaint involving a Special Constable, then the matter will be referred to the appropriate department at the TTC for follow-up. If the Complaint involves a Fare Inspector, the Fare Inspector Complaints Procedure shall apply.

Any Complaint received by the Customer Service Centre will be documented, even if the matter is referred to another department or division of the TTC, or if only a simple response is required.

8. Complaint intake and assessment of severity

Once a Conduct Complaint or a Policy Complaint is received by the FISCC Office, the FISCC Office will acknowledge receipt of the Complaint within two (2) business days. The Complaint will also be assigned to an Investigator for preliminary review to ensure all necessary information is included. The Investigator will contact the Complainant directly to gather additional information regarding the Complaint as required.

Forwarding Complaints to Toronto Police Service (TPS)

The Investigator must forward the Complaint to the TPS Special Constable Liaison Office for review by the TPS Professional Standards Unit, according to the Agreement.

TPS Professional Standards will review and assess whether the Complaint is a matter that TPS will retain to investigate or whether TPS will reassign it back to TTC for investigation.

Also, the TPS Board may at its sole discretion request that TPS undertake an investigation of the Complaint. If the TPS Board requests an investigation by TPS, the Complainant, the Respondent and Special Constable Service Management will be notified.

If TPS determines they will not investigate the Complaint, the Complaint will be returned to the FISCC Office to be investigated.

If the Complaint is returned to the FISCC Office, the Investigator will begin to assess the nature and severity of the Complaint as noted below in the Complaint Assessment section of this process.

Complaint Assessment

- 1) What is the Complaint about?
- 2) Who should investigate?

What is the Complaint about?

When the Complaint is returned to the TTC for investigation, the Investigator will assess the nature and severity of the Complaint. The Investigator will determine, in consideration of the relevant TTC policies, whether the allegations are of a serious nature. This assessment will depend on the circumstances of each case, and the alleged behaviour or actions of the Special Constable.

Some examples of allegations that are considered Serious Misconduct may include, but are not limited to:

- Discrimination or harassment;
- Systemic issues, including systemic discrimination;
- Unnecessary use of force;
- An act of workplace violence; or
- Corruption and/or breach of trust.

Some examples of allegations that may be considered less serious in nature may include, but are not limited to:

- Discourtesy, including allegations of rude or profane language;
- Miscommunication;
- Minor damage to property; or
- Disagreement on fare compliance.

Who should investigate?

The FISCC Office will determine the nature of the investigation required given the circumstances of the incident(s).

Where a Complaint is determined by the FISCC Office to involve allegations of Serious Misconduct, the matter will be assigned to an Investigator in the FISCC Office, or an external Investigator to investigate according to Section 11 of this Procedure. For these more complex complaints, the Manager of the FISCC Office will be responsible to assign an Investigator.

The Complainant will be notified in writing by the Investigator who will be investigating their Complaint, and the next steps regarding their Complaint. The Respondent will also be notified in writing of the Complaint and provided a summary of the allegations by the investigator, as soon as practical and prior to an investigation interview.

For all other Conduct Complaints, the Investigator will retain the matter, and will consider whether Informal Resolution is appropriate. The Investigator will consult with the Manager of the FISCC Office when making this assessment.

If Informal Resolution is appropriate, the Investigator will attempt resolution pursuant to the Informal Resolution provisions outlined in this process. The Complainant may decline Informal Resolution and request an investigation at any time.

If Informal Resolution is not appropriate, the Investigator will commence an investigation pursuant to Section 11 of this Procedure.

For a Policy Complaint, the Investigator may assess and determine appropriate to provide to Special Constable Service Management for appropriate investigation and resolution in consultation with the Investigator.

9. Retaining an external investigator

The FISCC Office may choose to retain the services of a third party, external Investigator when the circumstances of the Complaint make it appropriate. Those circumstances that will be considered in determining whether to retain a third party investigator may include, but is not limited to:

- Investigations of systemic issues, including human rights matters or Systemic Reviews;
- Matters of public interest including Complaints or incidents that cause the public to lose confidence in Special Constables and/or the TTC;
- There is a perceived or real conflict of interest;

- Complaints involving a senior level of TTC management;
- The nature of the Complaint being very complex; and/or
- The capacity of the FISCC Office.

If it is determined that an external investigation is required, the external Investigator will possess demonstrable competence and independence in investigations, and specialized expertise where the Complaint alleges discrimination or harassment on an enumerated ground prohibited by the Ontario Human Rights Code or systemic discrimination relating thereto, and they will comply with this Procedure.

10. Informal resolution

Informal Resolution is a method of resolving, where appropriate, Complaints of a less serious nature without an investigation and a determination of findings. Through the facilitation of the Investigator, it may be undertaken if:

- The Investigator assesses that the alleged misconduct is less serious in nature and a formal investigation is not required;
- The Investigator assesses that there is no history of similar Complaints against the Special Constable;
- The Complainant would prefer to have their Complaint resolved informally; and
- All the parties are agreeable.

A Complainant may decline Informal Resolution and request a formal investigation at any time.

An Informal Resolution can include, but is not limited to:

- A mediated conversation (by phone or in person if/when possible) between the Complainant and the Respondent, led by the Investigator;
- The Investigator will relay and address the Complaint to the Manager of the Special Constable Service, and the Investigator will communicate how the matter has/will be addressed to the Complainant;
- The Investigator facilitates an agreed to written resolution (i.e. apology letter).

The decision to recommend Informal Resolution depends on the circumstances of each case. Matters suitable for Informal Resolution may include, but are not limited to:

- General rudeness and/or discourteous behaviour by the Respondent;
- Disputes that may have been the result of a miscommunication or misunderstanding; or
- Matters simply requiring clarification of existing policies or procedures that may not have been clear to either party.

Matters that are typically not suitable for Informal Resolution, include but are not limited to:

- Incidents of alleged harassment or discrimination based on any enumerated ground prohibited by the Ontario Human Rights Code;

- Incidents involving an alleged unnecessary use of force including allegations of workplace violence;
- Incidents of public interest or serious misconduct; or
- Incidents involving complex or systemic issues that cannot be easily resolved.

If a matter is successfully resolved through an Informal Resolution, the Investigator will send a letter confirming the resolution to the Complainant, Respondent, the Respondent's Management and TPS. The Investigator shall monitor the Informal Resolution(s) to ensure all agreed upon resolutions are carried out.

If the Parties do not agree to attempt Informal Resolution, the matter will be investigated by the Investigator in accordance with Section 11 of this Procedure.

If after 30 days from the date the Investigator received the Complaint back from TPS, the Complaint is not resolved through an Informal Resolution and/or Informal Resolution is determined not appropriate, the Complaint will be investigated in accordance with Section 11 of this Procedure.

The Parties may withdraw from the Informal Resolution process at any time, including if they are dissatisfied with the proposed resolution, and if they do, the Complaint will be investigated in accordance with Section 11 of this Procedure.

11. Investigation

Complaint investigations will be conducted in a thorough, fair, objective and timely manner.

An investigation into a Complaint involving the conduct of a TTC Special Constable will be completed whenever possible within 60 days from the date the Complaint is assigned to the TTC, unless there are extenuating circumstances warranting a longer investigation (i.e. complex Complaint with multiple allegations or multiple witnesses; parties or witnesses unavailable due to illness, etc.).

If the Complaint investigation is not able to be completed within the 60 days as applicable for whatever reason, the FISCC Office will notify in writing the Complainant, the Respondent, the Respondent's manager and TPS, that the investigation needs to be extended, before the end of the 60 days.

During the course of the investigation, the Investigator will provide updates as appropriate to the Complainant, the Respondent, and the Respondent's manager, and the TPS Special Constable Liaison Office regarding the status of the investigation, particularly if there are any delays in the timelines due to availability of the parties or complexity of the matter (at a minimum, every 30 days).

Steps of an Investigation

An investigation conducted by any of the FISCC Office Investigators and/or external investigators will include, but not be limited to:

- A documented interview with the Complainant(s) to establish the scope of the Complaint and to review details that support a summary of the allegations in the Complaint;
- The Respondent and their manager will be notified of the Complaint, and the Respondent will be provided with a summary of the allegations in writing, from the investigator. The Respondent then has an opportunity to provide a written response to the allegations, in advance of their interview with the Investigator;

- A documented interview with the Respondent(s) to obtain their full response to the allegations;
- Documented interview(s) with any relevant witness(es) available to speak with the Investigator;
- Putting contradictory evidence to the parties and allowing them an opportunity to respond;
- Making all reasonable efforts to collect evidence from sources with relevant information and reviewing and documenting all relevant documents and evidence for the investigation;
- Any other step the Investigator deems necessary to fully and fairly investigate the Complaint;
- Notifying the Complainant(s) and the Respondent(s) of the results of the investigation and providing a summary of the reasons for the findings; and
- Providing a written investigation report to the Employee Relations Section in the TTC's Human Resources Department, Management of the Special Constable Service and TPS¹.
- Notifying the Complainant(s) and the Respondent(s) of the results of the investigation, and providing the results and a summary of the reasons for the findings in writing.

Any appropriate corrective action is the responsibility of the Special Constable Service in consultation with the Employee Relations Section in the Human Resources Department. TPS will also be advised of the appropriate corrective action taken to address the results of an Investigation. Complainants will not be provided specific details of any Corrective Action involving employees due to privacy considerations.

Standard of proof

The Investigator will make a factual finding on whether each allegation is substantiated or unsubstantiated, on a balance of probabilities.

Based on the factual findings, the Investigator will also make a determination on whether there has been a violation(s) of the Transit Enforcement Code of Conduct, and/or TTC's policies, including but not limited to, the TTC's Respect and Dignity Policy, TTC Employee Code of Conduct, TTC Diversity and Inclusion Policy, and TTC Workplace Violence Policy and Program.

12. Support Person

During the interview of the Complainant, Respondent, or Witness, the individual may attend the interview with a support person or a representative, (e.g., their union representative), as an observer.

A unionized party may have their union representative present as a support person during their communications with the Investigator. However, the person being interviewed must answer the Investigator's questions directly without interference by the support person (unless assistance is required for an accessibility reason). If the Investigator determines that the support person is interfering with the interview to the point of disruption, then the meeting may be stopped.

1) In addition to any findings of misconduct against a Special Constable following a Complaint investigation, the FISCC Office shall immediately forward to TPS, for TPS's review and action, any information it has concerning misconduct or alleged misconduct, including a breach of any provision of the Agreement whether allegedly occurring up to one year prior to the date of their appointment as a Special Constable pursuant to the Agreement and from the date of execution of the Agreement.

If a person who is being interviewed would like a support person to attend the interview, they must contact them and make those arrangements. If an interview needs to be rescheduled in order to accommodate the availability of a support person, the party must inform the Investigator immediately. Reasonable accommodations for rescheduling will be made to facilitate attendance of a support person while maintaining the timeliness of investigations. A person requesting a support person may need to arrange an alternate support person if required. An alternate support person may also be required if the Investigator deems there is a conflict of interest. Any support person including a union representative, who is privy to the investigation is bound by the same confidentiality obligations as the parties as set out in Section 14 of this Procedure.

13. Reprisal

The Respondent(s), and any employee witness(es) will co-operate with all efforts by TTC to investigate the Complaint.

No person shall be negatively treated for bringing forward a Complaint in good faith, providing information to Investigators or helping to resolve a Complaint. Reprisal may be the subject of a Complaint under this Procedure, and any TTC employee engaging in Reprisal may be subject to discipline, up to and including termination of employment.

14. Confidentiality and records

To protect the integrity of the Complaint process, confidentiality will be required. Parties and witnesses are expected to keep the matter confidential, with the exception of advising their medical practitioner, counsellor (EFAP or otherwise), their legal or union representative, and/or their support person. Those persons so advised are in turn required to keep all matters relating to the Complaint and the investigation process confidential. Parties and witnesses are not to ask individuals if they have participated in the investigation process, nor speak to anyone who may participate in the investigation process about the subject matter of the investigation or the contents of their discussions with the Investigator.

The FISCC Office will not disclose information regarding the Complaint unless the disclosure is necessary:

- To conduct the investigation;
- To protect the safety of employees, customers, the public and/or contractors;
- To administer corrective action with respect to an incident of misconduct;
- To comply with public reporting requirements to the TTC Board;
- It is a matter that is determined by the TTC to be of public interest; or
- Where required by law.

If it is determined that an employee has breached confidentiality during or after an investigation and/or Informal Resolution, they may be subject to discipline, up to and including termination of employment.

All documents related to a Complaint, including the written complaint, witness statements, investigation notes and other documents relating to the Complaint, will be securely maintained by the FISCC Office and/or the External Investigator. No documentation related to a complaint will be placed in an employee's personnel file, except for any discipline documents, which will be kept in accordance with the respective Collective Agreement, if applicable.

15. Conflict of interest

To protect the independence and integrity of the investigation, Investigators will avoid any real or perceived conflicts of interest, including those that may arise with TTC staff or any other TTC department. Investigators will reach their findings, conclusions and recommendations independent of, and without influence from, any staff from any TTC departments, including management and Executives. Should a conflict of interest arise, it will be addressed immediately by declaring it to the Manager of the FISCC Office.

16. Time limitation period

After a Complaint has been forwarded to TPS for review and returned to TTC, the FISCC Office may choose not to address a Complaint if it is made more than one year after the incident occurred, or more than one year after the last incident in a chain of events, unless the FISCC Office is satisfied that the delay was incurred in good faith. If a Complaint is reported after one year from the last incident, the Complainant will be provided an opportunity to explain the reason for the delay for the FISCC Office's consideration.

The provisions of this procedure in no way affect the right of any person to exercise their rights under any applicable law, including the Ontario Human Rights Code, within the time limits specified by that legislation.

17. Human Rights Tribunal of Ontario (HRTO)

Any person may file a Complaint directly with the HRTO. If the person files a Complaint with the HRTO, the FISCC Office may choose to suspend any Complaint investigation process under this Procedure pending final determination by the HRTO. All Complaints filed with the HRTO shall be managed by the TTC Legal Department and TTC Human Rights and Investigations Department.

18. Option to contact Ombudsman Toronto

If the Complainant or Respondent believes the TTC has failed to comply with this Public Complaints Procedure, or is dissatisfied with an outcome of a Complaint, the Complainant or Respondent may contact the Office of the Ombudsman of the City of Toronto (www.ombudsmantoronto.ca).

Appendix A

Toronto Transit Commission Special Constable Service

Code of Conduct¹

Established May 23, 2014, amended March 2021

Special Constable Service mission statement:

The Special Constable Service is committed to working in partnership with TTC employees and the community to support the TTC's vision of a transit system that makes Toronto proud. The Special Constable Service is responsible for assisting the TTC in protecting the integrity of the transit system and performing security functions in order to ensure that the TTC properties and assets are protected and the transit system remain a safe and reliable form of transportation.

- 1) In this code of conduct,

“record” means any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy of the record.

“Special Constable Service” (formerly Transit Enforcement Unit) is the department of the TTC that employs Special Constables and is responsible for the enforcement of TTC By-law No.1 and various federal and provincial statutes. It manages the Special Constable Service Program to: (a) ensure compliance with the terms of the Agreement; (b) govern the appointment process of a Special Constable; and (c) monitor the ongoing conduct of the Special Constable.

“on duty” means the time period commencing from when a Special Constable Service Member reports to work up until the time the employee leaves work, and shall include lunch and break times. On duty also includes the time period in which an employee is required to be at work, or is in attendance in a working session at a conference or seminar as a representative of the TTC and further includes anytime that the Transit Enforcement Member is in a TTC-issued uniform.

“Special Constable” (formerly Transit Enforcement Officer) means a person employed by the TTC who is a “proper authority” within the meaning of TTC By-law No. 1 and who has been appointed by a Police Services Board, and approved by the Minister, as a special constable in accordance with Section 53 of the Police Services Act, with powers and duties as set out in the appointment.

“Special Constable Service Member” means any member/employee of the Special Constable Service, including but not limited to a Special Constable Officer.

¹This document has been updated to reflect new department name of Special Constable Service, and to include gender inclusive language.

- 2) (1) A Head of the Special Constable Service or a Special Constable Service Member commits misconduct if they engage in,

(a) Discreditable Conduct, in that they,

- (i) fails to treat or protect persons equitably without discrimination with respect to services provided by the Special Constable Service based on any of the prohibited grounds as set out in section 1 of the Ontario Human Rights Code.
- (ii) engages in improper or oppressive conduct towards another employee,
- (iii) uses profane, abusive or insulting language to any law enforcement officer or TTC employee,
- (iv) uses profane, abusive or insulting language or is otherwise uncivil to a member of the public,
- (v) wilfully or negligently makes any false complaint or statement,
- (vi) assaults any other person,
- (vii) withholds or suppresses a complaint or report against a member of the Special Constable Service or about the policies of or services provided by the Special Constable Service of which the officer is a member,
- (viii) fails to report that they have charged with a criminal offence,
- (ix) is guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction,
- (x) contravenes any provision of any agreement with a Police Service Board, including but not limited to any agreement which provides for the appointment of Special Constable status, or
- (xi) acts in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the TTC;

(b) Insubordination, in that they,

- (i) is insubordinate by word, act or demeanour, or
- (ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;

(c) Neglect of Duty, in that they,

- (i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as, a member of the Special Constable Service,
- (ii) fails to comply with any provision of an agreement with any Police Service Board, including any agreement, which provides for the appointment of Special Constable status, related to Conduct and Duties of a Special Constable Service,
- (iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty without due permission or sufficient cause,
- (iv) by carelessness or neglect permits a prisoner to escape,
- (v) fails to report a matter that it is their duty to report,
- (vi) fails to report anything that they know concerning a criminal or other charge, or fails to disclose any evidence that they, or any person within his or her knowledge, can give for or against any prisoner or defendant,

- (vii) omits to make any necessary entry in a record,
- (viii) is absent without leave from or late for work, without reasonable excuse, or
- (ix) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;

(d) Deceit, in that they,

- (i) knowingly makes or signs a false statement in a record,
- (ii) knowingly submits a record that is misleading or false,
- (iii) willfully or negligently provides a false, misleading or inaccurate statement, or
- (iv) without lawful excuse, destroys a record or alters or erases an entry in a record;

(e) Breach of Confidence, in that they,

- (i) divulges any matter, which it is their duty to keep secret or confidential,
- (ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of the warrant or service of the summons,
- (iii) without proper authority, communicates to the media or to any unauthorized person any matter connected with the Special Constable Service, the TTC or any police service,
- (iv) without proper authority, shows to any person not a Special Constable Service Member or to any unauthorized Special Constable Service Member any record that is the property of the TPS or the TTC, or
- (v) without proper authority, shows to any person not a member of a police force or to any unauthorized member of any police force any record that is the property of that or another police force or the TTC;

(f) Corrupt Practice, in that they,

- (i) offers or takes a bribe,
- (ii) fails to account for or to make a prompt, true return of money or property
- (iii) received in an official capacity,
- (iv) directly or indirectly solicits or receives a gratuity or present without the consent of the Head of the Special Constable Service, or
- (v) improperly uses their position as a Special Constable Service Member for private advantage or for personal gain. Personal gain includes gain for oneself or any friend or family member;

(g) Unlawful or Unnecessary Exercise of Authority, in that they,

- (i) without good and sufficient cause makes an unlawful or unnecessary arrest, or
- (ii) uses any unnecessary force against a person contacted in the execution of their duty;

(h) Damage to Clothing or Equipment, in that they,

- (i) willfully or carelessly causes loss or damage to any article of clothing or equipment, or to any record or other property of,
 - (A) the TTC, or
 - (B) of any police force with which the TTC has an agreement for Special Constable Status, or
- (ii) fails to report loss or damage, however caused, as soon as practicable;

(i) Consuming Drugs or Alcohol in a Manner Prejudicial to Duty, in that they,

- (i) violates the TTC Fitness For Duty Policy.

(j) Misrepresentation, in that they,

- (i) identifies or represents themselves, in any way, to be a police officer,
- (ii) wears a uniform that does not display "Special Constable" if applicable.

- 3) The TTC Head of the Special Constable Service or any Special Constable Service Member commits misconduct if they conspires, abets or is knowingly an accessory to any misconduct described in this Code of Conduct.
- 4) The TTC Head of the Special Constable Service or any Special Constable Service Member shall also comply with all other TTC Corporate Policies and Procedures and any Departmental Policies and Procedures, including but not limited to Conditions of Employment and Conflict of Interest. These Corporate Policies and Procedures and Departmental Policies and Procedures may be amended from time to time.
- 5) The TTC Head of the Special Constable Service or any Special Constable Officer commits misconduct by violating the Code of Conduct and shall be subject to action by the Toronto Police Services Board up to and including suspension and/or termination of Special Constable status. The TTC shall immediately forward to the Board, for the Board's review and action, any information the TTC receives or has in its possession concerning misconduct or alleged misconduct, including a breach of any provision of any Agreement by the Head of the Special Constable Service or any other Special Constable whether allegedly committed before or after the date of their appointment as a Special Constable, occurring up to one year prior to the date of their or appointment as a Special Constable with Special Constable status pursuant to any Agreement and from the date of execution of any Agreement forward, which has not resulted in a Complaints investigation by either TPS or the TTC in accordance with any Agreement.
- 6) In addition to any suspension and/or termination of Special Constable status in accordance with Section 5 of this Code of Conduct, the TTC Head of the Special Constable Service or any other Special Constable Service Member who commits misconduct by violating this Code of Conduct may be subject to TTC disciplinary action up to and including dismissal