
To: All Municipal Police Chief Constables

And to: All Professional Standards Officers

From: Stan T. Lowe, Police Complaint Commissioner

Date: January 23rd, 2013

Re: Division 4 – Appointment of Mediators

BACKGROUND

Division 4 of the *Police Act* sets out the provisions for resolving police complaints through mediation. Section 158(1) states:

If, at any time before an investigating officer's final investigation report respecting an investigation into a complaint concerning the conduct of a member or former member is filed with the discipline authority, the complaint appears to the discipline authority to be such that, under the guidelines, the matter is suitable for resolution by mediation, the discipline authority may request the police complaint commissioner to approve of an attempt at mediation under this Division.

Earlier, the OPCC issued a Guideline with respect to the procedures to be followed when resolving complaints under Division 4. At that time, we had engaged the services of Mediate BC to act as the administrator for appointing a mediator from a roster of approved mediators. We have since reviewed this procedure and determined that as it is the individual mediator who carries with him or her the professionalism, neutrality and impartiality to the process, this added administrative step was no longer necessary and, in fact, may have hindered departments from utilizing this option more often. The newly revised Guideline has moved the responsibility of selecting and appointing a mediator directly onto to Chief Constables, or their delegates, granting departments greater flexibility and control over the process.

The purpose of this Information Bulletin is to clarify the revised procedures to be followed by Chief Constables, or their delegates, when appointing a mediator.

RECOMMENDED PROCESS

1. Upon receipt of a request from a Discipline Authority to attempt a mediated resolution to a complaint, the Police Complaint Commissioner (PCC) will review the file to determine whether the allegations meet the criteria as set out in the Guideline.
2. Once the PCC has approved a complaint to proceed with a mediation attempt, the OPCC will send the signed Notice of Approval to Attempt Resolution Through Mediation to:
 - the Chief Constable (or DA),
 - the PSS Investigator
 - the Member, including a copy of the Mediating Police Complaint information brochure (delivery through the PSS investigator)
 - the Complainant (with covering letter)
3. Upon receipt of the signed Notice of Approval to Attempt Resolution Through Mediation, the PSS Investigator / DA / Chief Constable is to promptly appoint a mediator from the list of approved Police Act Complaint Mediators. [See attached list - Appendix #1]
4. Should the appointed mediator find they have a conflict (actual or perceived) with any of the parties to the complaint, they are to immediately report to the PSS Investigator / DA / Chief Constable and a new mediator appointed.
5. Once the mediator has agreed to conduct the mediation, the PSS Investigator / DA / Chief Constable is to provide the mediator with a letter (cc'd to the PSS Investigator - if required and to the OPCC) that:
 - confirms the appointment,
 - provides contact information for:
 - i. the Complainant,
 - ii. the PSS Investigator (if required)
 - iii. the OPCC Dispute Resolution Program Manager
 - and enclose a copy of the Notice of Approval to Attempt Resolution Through Mediation
[See suggested format - Appendix #2]
6. The Discipline Authority must direct the member(s) to attend as and when required by the mediator. [Appendix #3]
7. The mediator is to contact the PSS Investigator to obtain pertinent details and information regarding the complaint. The PSS Investigator is to provide the mediator with any assistance required during the mediation process.

8. The mediator will have 40 business days to conduct the mediation. If an extension is required, an application is to be submitted to the OPCC setting out the reasons for the delay.
9. Should the appointed mediator find they have a conflict (actual or perceived) with any of the parties to the complaint, they are to immediately report to the PSS Investigator / DA / Chief Constable and a new mediator appointed.
10. Reporting requirements will remain as set out in Division 4 of the *Police Act*.

If you have any questions or concerns, please contact myself or the Deputy

A handwritten signature in black ink, appearing to read 'Stan T. Lowe', with a long horizontal flourish extending to the right.

Commissioner. Stan T. Lowe,
Police Complaint Commissioner

Roy Johnson

The Neutral Zone Consulting Services Inc.	412 – 788 Beatty St. Vancouver, BC	(604) 656-2135	rjohnson@theneutralzone.ca
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Richard Singer

Singer Consulting	4840 Duncliff Rd Richmond, BC	(604) 275-7570	singerconsulting@shaw.ca
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Michael Lomax

Milton Johnson	202 – 895 Fort St. Victoria, BC	(250) 385-5523	mjlomax@mediator.bc.ca
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Jean Greatbatch

Jean Greatbatch Arbitration & Dispute Resolution Services	300 – 1275 W6 th Av Vancouver, BC	(604) 551-6775 Asst (604) 331- 4454	jean_greatbatch@telus.net
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Colleen Cattell

Fitzpatrick & Co.	299 24 th St. West Van, BC	(604) 687-8033	colleen@fitzpatrickmediation.com
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Arlene Henry

Arlene H. Henry Law Corporation	7360 Toba Place Vancouver, BC	(604) 451-4072	ahhlaw@telus.net
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Kat Purvis-Bellamano

Ambitus Consulting	1076 Valewood Trail Victoria, BC	(250) 383-4412	kat@disputeresolution.bc.ca
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Jamie Chicanot

ADR Education	2092 Marne St Victoria, BC	(250) 370-9129	jchicanot@adreducation.ca
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Wayne Plenert

Peacebuilder Mediation	1601 Loran Drive Dawson Creek, BC	(250) 782-7900	wplenert@peacebuildermediation.com
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DEPARTMENT
LETTERHEAD

Current Date
Name of Mediator
Address
Address

Dear *Name of Mediator*:

Re: Complaint of *Name of Complainant*
OPCC File #####-#### / DA File ##-#####

Further to our earlier telephone conversation, this is to confirm that you have been appointed as the mediator with respect to the above-noted *Police Act* complaint. Please find enclosed a copy of the signed Notice of Approval to Attempt Resolution through Mediation.

The contact information for *Name of Complainant* (Complainant) is:

Complainant's Full
Name Address
Address
Tel /
Email

Contact information for *Name of PSS Investigator* (Investigator) is:

Phone
Email

Contact Information for *Name of OPCC Analyst* (OPCC Analyst) is:

Phone
Email

Please contact *Name of PSS Investigator* to obtain details relating to *Name of Complainant's* complaint and contact details for *Name of Member(s)* (Member).

Thank you for agreeing to conduct this mediation.
Yours truly,
DA / Chief Constable
Enclosure

c. *Name of
Analyst,
OPCC
Analyst
Name of
Investigator,*

PSS
Investigator

Department
Letterhead

ORDER TO ATTEND MEDIATION
(Pursuant to s.158(2)(b) of the *Police Act*)

Date: *[date]*
OPCC File No. *****-*
**** DA File No. ***-*

TO: *Name of Officer & PIN*
(Member)

This is to notify you that the Police Complaint Commissioner has approved the above-noted Police Act complaint to proceed to mediation. Accordingly, you are hereby ordered to attend at the time and place as directed by the Mediator, and thereafter as required. The Mediator will be in contact with you shortly to determine your available dates and times.

Unless circumstances demand otherwise, members attending a mediation session should be in civilian attire and unarmed. If carrying his or her service firearm is required, that firearm must remain concealed throughout the session.

Further, please be advised that should you fail to attend a session as directed, you may face additional *Police Act* proceedings for that failure to attend.

[Name],
Discipline Authority
c. Office of the Police Complaint Commissioner

