

GUIDELINE – CONCILIATION PROCESS

The Police Act (Act) establishes that all admissible complaints must be submitted to conciliation, with the exception, however, of those which, for reasons of public interest, involve serious events, such as death, serious injuries, criminal offences, repeat offences or allegations of discriminatory conduct.

This process, which is intended to resolve complaints against one or more police officers through a consensual settlement, has proved highly effective, to the satisfaction of all parties involved.

Conciliation is also ordered following the Commissioner's decision to grant an application for review and, with the agreement of the parties, during or at the end of an investigation.

Values of conciliators

- **Efficiency**

From the moment the Commissioner submits a complaint for conciliation, conciliators have 45 days to complete their work. Conciliators will contact the parties as soon as possible, to quickly initiate the process, with a view to explaining the conciliation procedure and scheduling the meeting to be held in accordance with the Act.

However, for valid reasons, Commissioners may authorize an extension of the time and set the terms and conditions thereof.

- **Credibility**

Conciliators treat both parties with professionalism, respect, and fairness throughout the process. They also ensure rigorous follow-up of their files, answer the questions of the parties, and clarify the expectations and objectives of the conciliation process.

- **Impartiality**

When handling a file, conciliators are constantly careful not to take any action or to make any statement that may cast doubt on their impartiality towards the parties, or to put undue pressure on either of them to reach a settlement. They are unbiased, fair and equitable towards all parties.

- **Confidentiality**

Information entrusted to the Commissioner and his staff must remain highly confidential, in accordance with the confidentiality agreement duly signed by each team member.

Prior to the conciliation session, each party must sign a confidentiality agreement. This agreement is the cornerstone of the conciliation process, since it guarantees the confidentiality of the discussions held by both parties. This agreement is based on section 164 of the Act, which stipulates that the answers and statements made by the parties may not be used in any other proceedings. Refusal to sign this agreement constitutes an irremediable obstacle to the holding of the conciliation session and, moreover, causes irreparable damage to the mutual trust that is essential to the success of the process.

Objective of conciliation

The conciliation procedure is an opportunity for open and respectful discussion concerning the events that are the subject of the complaint. This meeting pursues the following objectives:

- allowing you to express yourself freely and to hear the other side's point of view;
- reviewing the facts and perceptions of each of the parties;
- restoring the trust relationship between the parties;
- improving future interactions with police officers.

To this end, conciliators must establish conditions conducive to a speedy process, obtain the cooperation of the parties and attempt, using appropriate techniques, to resolve ethical complaints amicably by means of a written agreement, although an out-of-session settlement is also possible with the agreement of the parties.

Conciliation process

Unless an exceptional situation arises, conciliation is ordered after the 30-day period following the filing of the complaint within which complainants may object to the conciliation process.

Furthermore, conciliation can only be ordered once the police officer(s) involved in the complaint have been identified.

▪ General complaint

Complainants may object to conciliation on the basis that conciliation is inappropriate in their case. They must then, within 30 days of filing the complaint, submit these reasons to the Commissioner in writing.

The Commissioner may dismiss the complaint and explain his decision if he considers that the reasons provided by the complainants for refusing conciliation are not valid. The Commissioner will inform the complainants of this decision, giving them time to indicate to the conciliator whether they wish to take part in conciliation. If the complainants refuse, the Commissioner has no choice but to dismiss the complaint. He then informs the complainants of their right to have this decision reviewed by submitting new facts or elements within 15 days. The Commissioner's decision must be rendered within 10 days, and the decision is final.

If the Commissioner deems that the reasons provided are valid, the Commissioner orders an investigation.

Complainants may, at any time prior to the final decision, accept conciliation by withdrawing their objection.

- **Complaint alleging discriminatory conduct**

Complainants alleging discriminatory conduct by one or more police officers must, within 30 days of filing their complaint, inform the Commissioner in writing of their choice as to whether to participate in conciliation.

If complainants fail to communicate their choice within this 30-day period, they are presumed to have agreed to participate in conciliation.

In the event of a refusal to participate in conciliation, the Commissioner must hold an investigation.

If conciliation fails, the Commissioner must hold an investigation.

In all files involving an allegation of discrimination, conciliators must have completed training dealing with racism and discrimination.

Out-of-session settlement

Conciliators may, with the agreement of the parties and the written consent of complainants, conclude an out-of-session settlement, before or after scheduling the session. Complainants are informed that the police officers will be made aware of the allegations made, without there being a formal meeting, and that the complaint is duly recorded in our files. The decision forwarded to the parties is final and without appeal, so that the file is closed.

Conciliation proceeding

During conciliation, both complainants and police officers may be accompanied by a person of their choice. If complainants wish, they may also be accompanied by a member of the Commissioner's staff who can assist them.

The presence of plain-clothes police officers and complainants is mandatory. Conciliation proceedings take place in the presence of both parties, except where the Commissioner deems it necessary, in view of the circumstances, for the proceedings to be held remotely by a means that enables the parties to hear and see each other in real time. When the Commissioner intends to use such means, he must notify the complainants and police officers within a reasonable time prior to the beginning of the conciliation proceeding.

To reach an agreement, the conciliator may hold meetings with each of the parties.

- **Preliminary meeting with the police officer**

Conciliators explain how the session will be conducted and the objective of conciliation, outline the draft settlement, obtain the police officer's version of the facts, and submit a copy of the complaint to those present.

- **Preliminary meeting with the complainant**

Conciliators explain how the session will be conducted, clarify the objective of conciliation, outline the draft settlement, question complainants about their expectations and obtain their version of the facts.

- **Plenary session**

Conciliators explain how the session will be conducted, introduce each of the parties and explain that the objective of the meeting is to reach a settlement. Conciliators also emphasize the confidential nature of the process and remind the parties that they may discuss the matter in private at any time.

Those accompanying the parties may take part in the discussions if they respect the guidelines and behave in a respectful manner.

Conciliators ensure that “orderliness” is maintained and that the proceedings of the conciliation session are calm and respectful. Conciliators may suspend, continue separately, or terminate the proceedings, after notifying the parties, when:

- the orderliness of the session is compromised;
- its continuation is likely to be detrimental to one party;
- the conclusion of an agreement appears highly improbable;
- a public interest motive requires referral to the Commissioner.

Settlement during conciliation

Parties and conciliators sign the draft settlement. A short text may also be added at the request of complainants to reach an agreement.

The file is definitively closed if the complaint is settled. However, the complaint is kept in the complaint register at the Commissioner's office.

There must be no mention of this complaint or settlement in the police officer's file.

When conciliation fails

As soon as the conciliation procedure fails, conciliators report to the Commissioner and the file is returned to the latter's jurisdiction.

Notwithstanding the failure of an initial conciliation, when the Commissioner considers that the complaint can be settled and that both the complainants and police officers agree, the Commissioner may return the complaint to conciliation.

Furthermore, in the absence of a settlement, the Commissioner may decide to hold an investigation, although this does not prevent the resumption of the conciliation procedure if the parties agree.

If the Commissioner decides to hold an investigation, the answers and statements made by the parties during the plenary session may not be used in other proceedings.

The Commissioner may also close the file. He then informs the complainants of their right to have the decision reviewed by submitting new facts or elements within 15 days. The Commissioner's decision must be rendered within 10 days and is a final decision

However, the Commissioner must investigate in the event of a complaint alleging discriminatory conduct by one or more police officers.

October 24th, 2024