



TRANSIT POLICE

INTERNAL DISCIPLINE RULES

Effective Date: November 15, 2005

Revised Date: October 28, 2011, January 21, 2013, February 17, 2017

Reviewed Date:

Review Frequency: 2 Years

Office of Primary Responsibility: Deputy Chief Officer - Administrative Services

POLICY

The Transit Police has established rules and procedures regarding the determination of and notification to the Office of the Police Complaint Commissioner (OPCC) of internal disciplinary matters and their subsequent processing and investigation. This policy ensures that the Transit Police complies with requirements of the *Police Act* and the OPCC.

[See also: Transit Police policy [AC140 – Complaints](#)]

Definitions

(Terms and definitions in this policy have the same meaning as in the *Police Act*.)

Designated Constables – The Transit Police police officers appointed by the South Coast British Columbia Transportation Authority Police Board (Police Board) and employed by the Employer.

Discipline – Includes, but is not restricted to, those provisions as set out in s. 126 of the *Police Act* and the *South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation*, including revocation of appointment.

Employer – TransLink Security Management Limited, a subsidiary of the South Coast British Columbia Transportation Authority.

Internal Discipline Authority – Means:

1. in relation to an internal discipline matter concerning the conduct or department of a Member who is a Designated Constable, the Chief Officer or a delegate of the Chief Officer if the Chief Officer makes such delegation pursuant to s. 176 of the *Police Act*; and
2. in relation to an internal discipline matter concerning the conduct or department of a Member who is the Chief Officer or a Deputy Chief Officer, the Chair of the Police Board.

Internal Discipline Matter – A matter concerning the conduct or department of a Member that is not the subject of an admissible complaint or an investigation under Division 3

[Process Respecting Alleged Misconduct] of the *Police Act*; and does not directly involve or affect the public.

Member – A Transit Police Designated Constable, the Chief Officer or a Deputy Chief Officer of the Transit Police against whom a complaint has been made with respect to an internal discipline matter.

Police Act – The BC *Police Act* [RSBC 1996], c. 367, and the regulations thereto, including the *South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation*, as amended from time to time.

Police Board – The South Coast British Columbia Transportation Authority Police Board.

Transit Police – The South Coast British Columbia Transportation Authority Police Service.

Authority

1. The Police Board is responsible for the appointment of persons considered suitable as Designated Constables. The Police Board may revoke such appointments, suspend such appointments, attach conditions to such appointments, or make recommendations to the entity that is the Employer concerning the discontinuance of pay and allowances of Designated Constables.
2. Transit Police Internal Discipline Rules comply with the *Police Act* and, in the event of any inconsistency between these rules and the *Police Act*, the *Police Act* will govern.

General

3. Transit Police Internal Discipline Rules apply to Internal Discipline Matters as per sections 76(1) and 174 to 176 of the *Police Act*. These rules also apply to matters of discipline, suitability and competence which are brought to the attention of the Internal Discipline Authority in the absence of a specific complaint.
4. Transit Police Internal Discipline Rules are not applicable to routine matters of employer/employee relations including, but not limited to, the documentation of performance issues.

PROCEDURES

5. If a matter comes to the attention of the Internal Discipline Authority that may fall within the definition of an Internal Discipline Matter, the Internal Discipline Authority will presumptively deal with the matter as a disciplinary breach of trust, and notify and seek direction from the Office of the Police Complaints Commissioner (OPCC) in relation to the matter. If the Internal Discipline Authority believes that the matter is an Internal Discipline Matter, the Internal Discipline Authority will request the OPCC's permission that the matter be handled as such.

6. Assuming that the OPCC agrees that the matter be handled as an Internal Discipline Matter under Part 11, Division 6 of the *Police Act*, the Internal Discipline Authority will order an investigation be undertaken into the matter.

Internal Discipline Investigation

7. If the Internal Discipline Authority considers that the matter to be investigated is of a minor nature, the Internal Discipline Authority may assign the Member's supervisor to conduct the investigation. In all other cases, the Internal Discipline Authority will assign an investigator, with the appropriate knowledge, skills and abilities for the specific matter, who is:
 - (1) equal to or higher in rank than the Member and a person not involved in the matter being investigated; or
 - (2) a civilian (internal or external to the Transit Police) and not a person involved in the matter being investigated.

The Internal Discipline Authority may assign an investigator from another police force.

8. The investigator will advise the Member in writing that an investigation has been commenced unless the Internal Discipline Authority determines that notice may hinder the investigation.
9. Once notice is provided, a Member who is covered by a collective agreement may request that a union representative be present at interview(s) with the Member during the investigative process.
10. The investigator must provide the Member with a reasonable opportunity to respond to the allegation(s) prior to the completion of the investigation.
11. Upon completion of the investigation, the investigator will provide an investigation report to the Internal Discipline Authority which may include recommendations concerning corrective, disciplinary measures or other actions to be taken by the Internal Discipline Authority.
12. The investigator will also be required to comply with any reporting expectations issued within Information Bulletins from the OPCC.

Discipline Authority Actions

13. After the Internal Discipline Authority has determined that the investigation report is complete, the Internal Discipline Authority will make a copy of the investigation report available to the Member. Portions of the investigation report may be redacted as permissible and required under the *Freedom of Information and Protection of Privacy Act (FOIPPA)*.
14. If the Internal Discipline Authority is considering imposing corrective, disciplinary measures or other action in relation to the Member, the Internal Discipline Authority will provide the Member with a reasonable opportunity to respond to the information and recommendations made in the investigation report.

15. After reviewing the completed investigation report and any response provided by the Member, the Internal Discipline Authority will determine whether corrective and/or disciplinary measures should be imposed and what other decisions, if any, will be made concerning the Member.

Application of the Freedom of Information and Protection of Privacy Act to Internal Discipline Matters

16. All Internal Discipline Matters are initiated, investigated and concluded pursuant to Part 11, Division 6, of the *Police Act*. Accordingly, s. 182 of the *Police Act* applies to all related information.

Collective Agreement

17. The following provisions, ss. 18 to 23, apply to Members who are covered by a collective agreement.
18. If the Member is covered by a collective agreement, the provisions of the collective agreement will apply to that Member, but only to the extent such provisions do not conflict with the *Police Act*.
19. The Transit Police internal discipline process will be governed by the *Police Act*, the collective agreement, the provisions of the *Labour Relations Code* of British Columbia and the jurisprudence thereunder, and the principles expressed and implied in arbitral case law in the Province of British Columbia.
20. Suspensions during the course of an investigation:
 - (1) if, during the investigation of a matter, the Internal Discipline Authority forms the opinion that the Member's appointment may be revoked, the Internal Discipline Authority may suspend the Member;
 - (2) the Internal Discipline Authority may recommend to the Employer whether the suspension will be with or without pay; and
 - (3) the Internal Discipline Authority may terminate the suspension at any time.
21. The Internal Discipline Authority will notify the union representing the Member that one of their Members has been disciplined or a change in the Member's appointment status has been implemented under these rules.

Grievances re Members Covered by a Collective Agreement

22. The union representing a Member controls the filing and conduct of the grievance and arbitration process pursuant to the relevant collective agreement insofar as the grievor is concerned.
23. The appeal of any arbitration will be governed by the appropriate provisions of the *Labour Relations Code*.

McNeil Consideration

24. If discipline is imposed on the Member as a result of the Internal Discipline Matter, Members will refer to Transit Police policy chapter [AC200 – McNeil](#) and comply with applicable disclosure requirements within the policy [pursuant to *R. v. McNeil* (“McNeil”)].

Service Record of Discipline

25. After a finding of misconduct in an Internal Discipline Matter, the Transit Police will follow [Transit Police policy chapter AC110 – Service Record of Discipline](#) regarding creating of a record of any discipline and or corrective measures imposed on the Member, and any expungement provisions applicable to the record.

Guidelines

26. The Chief Officer may establish Transit Police business guidelines to assist in staff understanding and implementing these Transit Police Internal Discipline Rules.

Key References

BC *Police Act* [RSBC 1996], c. 367

Collective Agreement

Labour Relations Code of British Columbia

South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation [BC Reg. 484 2004 as amended December 7, 2016]

Office of the Police Complaint Commissioner Information Bulletin #12 – Amended, July 6, 2016

West Vancouver Police Department v. British Columbia (Information and Privacy Commissioner), 2016 BCSC 934