huu ay aht

ANCIENT SPIRIT, MODERN MIND

PUBLIC COMPLAINTS POLICY

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PUBLIC COMPLAINTS POLICY

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Definitions

1 In this Policy,

"assigned employee" means an individual who is delegated responsibility for the handling of a particular complaint or class of complaints under paragraph 4 of this Policy;

"Chief Councillor" has the meaning given to that term in the *Government Act*;

"complainant" means a person who makes a complaint;

"complaint" means an expression of dissatisfaction or concern regarding a policy, decision, act or omission of or the provision of a service by

(a) the Huu-ay-aht First Nations government,

(b) a government member in his or her capacity as a government member, or

(c) a government employee in his or her capacity as a government employee;

"Executive Director" means the individual appointed as Executive Director under the Huu-ay-aht First Nations *Financial Administration Act*, HFNA 7/2011,

"final report" means a report prepared under paragraph 9 of this Policy;

"*Government Act*" means the Huu-ay-aht First Nations *Government Act*, HFNA 3/2011;

"government employee" has the meaning given to that term in the *Government Act*;

"government member" has the meaning given to that term in the *Government Act*;

"Huu-ay-aht First Nations government" has the meaning given to the term government in the *Government Act*;

"Tribunal" means the tribunal established under the *Tribunal Act*;

"*Tribunal Act*" means the Huu-ay-aht First Nations *Tribunal Act*, HFNA 13/2011;

"verbal complaint" means a complaint that is made verbally and has not been reduced to writing and submitted in accordance with paragraph 5 of this Policy.

Purpose

2 The purpose of this Policy is to establish a process for the receipt, investigation and resolution of complaints, as a preliminary step to the more formal process contemplated under the *Tribunal Act*, and to ensure procedural fairness in the handling of complaints.

Scope

3 (1) This Policy applies to all complaints that fall within the jurisdiction of the Tribunal, including complaints by

(a) a Huu-ay-aht citizen,

(b) a government employee,

(c) a government member,

(d) a contractor of the Huu-ay-aht First Nations, or

(e) a member of the public.

(2) Despite subparagraph (1), if another Huu-ay-aht First Nations law or policy establishes a complaints process as a preliminary step to a Tribunal application, that law or policy prevails to the extent of any conflict with this Policy.

Roles and Responsibilities

4 (1) Except as otherwise expressly provided in this Policy, the Executive Director is responsible for the handling of all complaints and may delegate, in writing, responsibility for the handling of a particular complaint or class of complaints to another government employee, who will then be responsible for the handling of that particular complaint or class of complaints. Without limiting the foregoing, the Executive Director or the assigned employee, as applicable, must:

(a) assess, record, monitor and track the complaint;

(b) ensure that sufficient detail is recorded regarding the complaint;

(c) ensure that anyone involved in the complaint has an opportunity to be heard;

(d) ensure that the complaint is resolved within the timeframe specified in this Policy; and

(e) provide written notification of the outcome to the complainant, including the reasons for that outcome.

(2) Subject to subsection (3), where the Executive Director assigns responsibility to another government employee under subsection (1), the Executive Director retains the ultimate responsibility for ensuring that the requirements of this policy are met.

(3) Where the Executive Director declares a conflict of interest in respect of a particular complaint and assigns responsibility to another government employee under subsection (1), Executive Council will take on an oversight role and will have the ultimate responsibility for ensuring that the requirements of this policy are met.

(4) For greater certainty, where Executive Council takes on an oversight role under subsection (3), members of Executive Council will not have a conflict of interest or apparent conflict of interest within the meaning of the *Code of Conduct and Conflict of Interest Act* related to that oversight, provided Executive Council does not make any substantive decisions in relation to the resolution of the complaint.

(5) Government employees who receive a verbal complaint should, if reasonable in the circumstances, attempt to resolve the complaint at that time or direct it appropriately within the administration. If such resolution is not possible or practical, the employee should make the complainant aware of this Policy.

(6) Where a complaint is in relation to the Executive Director, Executive Council is responsible for the handling of that complaint and may appoint another government employee to assist with that complaint or category of complaints.

(7) For greater certainty, it is entirely within the discretion of the individual or body addressing the complaint to determine the nature and scope of the appropriate investigative approach and remedy.

Making a complaint

5 Complaints must be submitted in writing to the Executive Director or to the Chief Councillor, if the complaint is in relation to the Executive Director. Complaints cannot be made anonymously and must include current contact information for the complainant, including his or her mailing address and telephone number.

Timeframes

6 (1) All complaints must be acknowledged in writing by email, mail or facsimile at the email address, mailing address or facsimile number provided by the complainant within **5 days** of the complaint being received.

(2) Complainants must be provided written notification regarding the outcome of their complaint within **30 days** of the complaint being received unless an extension of time is granted by the Executive Director, Chief Councillor or Executive Council, as applicable.

(3) If the individual or body responsible for handling the complaint—believes it is necessary, he or she may grant an extension of time to reach an outcome in respect of a complaint to a **maximum of six months** following receipt of the complaint.

(4) An extension of time **beyond six months** after the complaint is received may be granted by Executive Council if it believes such extension is reasonably necessary.

(5) If an extension of time is granted, the individual or body responsible for the handling of the complaint must:

(a) provide the complainant with written notification of the status of the complaint, including the reason for the delay and expected timeline until an outcome will be reached, and

(b) continue at least once every 30 days to provide written updates on the status of the complaint until written notification of the outcome of the complaint is provided.

(6) Upon receipt of a complaint in relation to the Executive Director, the Chief Councillor must forthwith refer that complaint to Executive Council.

Investigative approach

7 A standard approach to investigating a complaint may include:

(a) a review of any relevant legislation or internal policies and procedures;

(b) gathering of necessary information, consultation with relevant persons and assurance of a thorough understanding of the issues; and

(c) establishment of facts, including analysis of any evidence for quality, corroboration or contradiction.

Remedies

8 During an investigation, consideration should be given to what remedial action may be appropriate and what systems improvements may be required, for example:

(a) an explanation;

(b) a change of decision;

(c) formal or informal dispute resolution;

(d) an apology;

(e) correction of misleading or incorrect records; or

(f) whistleblower protection.

Record of outcome

9 (1) For all complaints, the individual or body responsible for the handling of the complaint must, following completion of the investigation in relation to that complaint, prepare a written report regarding the complaint, including:

(a) a summary of the complaint;

(b) a summary of any evidence;

(c) in relation to each claim made by the complainant, a decision as to whether that claim has been substantiated;

(d) if the complaint, or any portion thereof, is found to be substantiated, details of any remedial actions that have been or should be taken;

(e) if the complaint, or any portion thereof, is found not to be substantiated, reasons for this decision; and

(f) copies of any documents relied on in making the decision.

(2) The Executive Director must ensure that:

(a) an original copy of every final report is kept at the Huu-ay-aht First Nations administrative office located in Port Alberni, BC;

(b) a copy of every report is provided to Executive Council; and

(c) a summary of all reports completed in the preceding 12 months is provided to Executive Council on an annual basis on or before August 30 of each year.

Notice of outcome

10 (1) Unless the complainant has indicated that he or she does not wish to receive further correspondence in relation to the complaint, a complainant must be provided a copy of the final report in relation to his or her complaint, together with information regarding his or her right to refer the complaint to the Tribunal for reconsideration.

(2) Where possible the complainant may be advised of the outcome of his or her complaint by telephone; however, advising a complainant of the outcome by telephone does not eliminate the requirement to provide a hard copy of the final report to the complainant.

(3) The person about whom the complaint is made is also entitled to be informed of the outcome of the complaint.

Appealing outcome

11 If a complainant considers his or her complaint to be unresolved or remains dissatisfied with the outcome reached under this Policy, they may refer their complaint to the Tribunal for reconsideration. For greater certainty, the Tribunal will determine whether or not it has jurisdiction to hear the complaint.

Policy Review

12 This Policy will be reviewed by Executive Council after one year in March, 2015 and thereafter every five years beginning in April, 2029.