



Corporate Report

Clerk's Files

Originator's Files

AUDIT COMMITTEE
MAR 17 2008

DATE: March 6, 2008

TO: Chair and Members of Audit Committee
Meeting Date: March 17, 2008

FROM: Brenda R. Breault, CMA, MBA
Commissioner of Corporate Services and Treasurer

SUBJECT: **Proposed Corporate Policy: "Code of Conduct and Complaint Procedure for Security Staff"**

RECOMMENDATION: That Code of Conduct and Complaint Procedure for Security Staff be approved as outlined in the report dated March 6, 2008 from the Commissioner of Corporate Services and Treasurer.

BACKGROUND: The *Occupier's Liability Act* imposes upon the City a duty of care to protect City property as well as staff and citizens while on City property. Citizens and staff have a right to feel safe while using City facilities, including community centres and transit services, and it is the role of Corporate Security Staff to provide for their safety and protection.

Provincial legislation provides the authority for Corporate Security Staff's powers. Under the *Trespass to Property Act* Corporate Security Officers may arrest without warrant any person who fails to leave City property when directed, enters the property where entry is prohibited, or engages in a prohibited activity on the property.

As peace officers under the *Public Works Protection Act*, Security Staff have the authority to identify individuals entering public buildings, refuse permission to enter and/or arrest any person who refuses to comply with the direction of the Security Officer.

As Municipal Law Enforcement Officers appointed by Council, Security Staff act to enforce municipal by-laws including those with respect to parks, transit, cemeteries, marinas, and golf courses.

While Security Staff are governed by all City policies and procedures which outline the City's expectations of staff in conducting their duties, including the Standard of Behaviour, Conflict of Interest, Respectful Workplace and Fraud and Theft policies, given their visibility in the community and the special nature of their work, it is appropriate to augment these policies with a distinct Code of Conduct for Security Staff to govern their behaviour and articulate the City's expectations for their actions in the performance of their duties.

Given the nature of Corporate Security Staff's interaction with the public and the potential for complaints that may arise, the Policy will help ensure Security maintains a high standard of behaviour and that a fair and transparent process is in place which the public can rely on in the event that a complaint is made. The Policy also incorporates a process to track formal complaints made against Security Staff and outlines the process to be followed in addressing these complaints.

The Policy in many way mirrors the *Private Security and Investigative Services Act, 2005* which came into force on August 27, 2007. Legal staff are currently considering whether the Act applies to municipal security staff. The Act requires employers who employ 'security guards' and 'private investigators' to register with the Ministry and to ensure that security guards and private investigators are licensed. The Regulations to the Act establish a code of conduct for licensees and a complaints procedure is provided. The form of complaint provided under the Act was adopted by staff as the template for the form of complaint to be used under the Code of Conduct Policy (Appendix 1).

COMMENTS:

The purpose of the draft Code of Conduct Policy is to outline the City's expectations for conduct of Corporate Security Staff in performance of their duties and to provide a complaints resolution process for complaints by the public regarding the conduct of Security Staff.

Code of Conduct

The Code of Conduct for Security Staff is being proposed in addition

to the existing corporate policies which govern the conduct of all City staff.

The Code of Conduct applies to all Security Staff, including all full-time, part-time, contractual, permanent or temporary, union or non-union staff and Transit Enforcement Officers. It provides a standard of behaviour by which Security Staff must abide by at all times but is particularly relevant when dealing with members of the public. It makes certain that when officers are in the field as representatives of the City of Mississauga that they conduct themselves with a high level of professionalism and integrity.

In the event that Security Staff member is found to have acted contrary to the Code of Conduct, the Policy provides that appropriate action, which may include disciplinary action up to and including termination of employment or the imposition of an assessment period will be taken.

Complaints Procedure

The Complaints Procedure that is established by the draft Policy provides the public with an open and transparent process by which complaints against Security Staff may be submitted. While it is preferable that issues regarding the conduct of Security Staff are resolved at the point of contact or through discussions with the Manager of Corporate Security and Operations (the "Manager"), a formal complaints procedure is provided in the event that a complainant wishes to pursue this course of action.

The Policy requires that complaints must be written and submitted to the Office of the City Clerk via mail or in person. A standard Complaints Form will be available for use from the City's website. Where complaints are submitted more than 90 days after an incident, it is up to the discretion of the Director of Facilities and Property Management (the "Director") as to whether they will be accepted. The complaints form requires that details of the complaint be provided and be signed by the complainant or, in the case of a minor, by the person's parent or legal guardian. All complaint forms are forwarded by Clerks to the Commissioner of Corporate Services (the "Commissioner") and the Director.

The Director, in consultation with Human Resources, will assign an investigator to each complaint. The choice of investigator will depend on the circumstances of each complaint. The investigator will conduct a thorough investigation of each incident including interviewing the complainant and staff, and will provide a written report on the findings and recommendations to the Manager, Director and Commissioner who will then, in consultation with Human Resources, take any necessary action.

The complainant will be advised in writing by the Director as to whether the investigation revealed a contravention of City policy and whether corrective action had been taken. Details of any disciplinary action will not be released to the complainant.

FINANCIAL IMPACT: Not applicable.

CONCLUSION: Given the nature of Corporate Security's regular interaction with the public, the development of a Code of Conduct for guiding Security Staff's behaviour is appropriate. Security Staff play an important role and as such should conduct themselves in a manner that is in keeping with their function. In instances where members of the public wish to file a formal complaint regarding the conduct of Security Staff, the Policy provides a standardized complaints resolution procedure. Such standardized procedure ensures that the public is given an effective means by which complaints may be filed, investigated and assessed.

The Policy is in keeping with the recently proclaimed *Private Security and Investigative Services Act, 2005*.

ATTACHMENTS: Appendix 1: Code of Conduct and Complaints Procedure for Security Staff



Brenda R. Breault, CMA, MBA
Commissioner of Corporate Services and Treasurer

Prepared By: Jamie Hillis, Manager, Security & Operations

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TAB: HUMAN RESOURCES
 SECTION: EMPLOYEE CONDUCT
 SUBJECT: CODE OF CONDUCT AND COMPLAINT PROCEDURE
 FOR SECURITY STAFF

POLICY STATEMENT All Security Staff are required to adhere to the Code of Conduct outlined in this policy, and any complaints from the public regarding the conduct of Security Staff will be addressed according to this policy.

PURPOSE The purpose of this policy is to establish both a Code of Conduct and a complaints resolution procedure for complaints by the public regarding the conduct of Security Staff.

SCOPE The City of Mississauga's Corporate Policy and Procedure -- Standard of Behaviour outlines the City's expectations of all staff in conducting their duties. It permits individual departments or divisions to establish additional or more specific guidelines, based on the nature of the work performed. This policy is to be regarded as supplementary to Corporate Policy and Procedure -- Standard of Behaviour.

All Security Staff are required to adhere to the Code of Conduct, and to other City of Mississauga policies and procedures regarding employee conduct including, but not limited to:

- Standard of Behaviour
- Conflict of Interest
- Respectful Workplace
- Fraud and Theft

Definition

For the purposes of this policy:

- "Security Staff" means any person employed by Corporate Security, on either a full-time or part-time, contractual, permanent or temporary, union or non-union basis, including Transit Enforcement Officers.

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CODE OF CONDUCT

The City of Mississauga expects Security Staff to:

- a) act with honesty and integrity;
- b) respect and use all property and equipment in accordance with the conditions of his or her employment;
- c) comply with all federal, provincial and municipal laws and regulations;
- d) treat all persons equally, without discrimination based on a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability;
- e) refrain from using profane, abusive or insulting language or actions that are otherwise uncivil to any member of the public;
- f) refrain from exercising unnecessary force;
- g) refrain from behaviour that is either prohibited or not authorized by law;
- h) respect the privacy of others by treating all information received while working as Security Staff as confidential, except where disclosure is required as part of such work or by law; and
- i) co-operate with police where it is required by law.

Furthermore, the City expects that no Security Staff will:

- a) be unfit for duty, while working, through consumption of alcohol or drugs;
- b) conspire with another person or aid or abet another person in a breach of this Code of Conduct;
- c) wilfully or negligently make a false statement or complaint against another person; or
- d) misrepresent to any person the type, class or conditions of his or her employment (this does not apply to an individual who is concealing his or her identity as Security Staff in order to carry out his or her duties).

Appropriate action, which may include disciplinary action up to and including termination of employment, or the imposition of an assessment period, will be taken to address unacceptable behaviour.

COMPLAINT PROCEDURE

The City of Mississauga will receive complaints from the public related to a breach of the Code of Conduct, or to any of the City's policies and procedures related to employee conduct by Security

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	<p>Staff.</p> <p>Issues raised by members of the public regarding Security Staff conduct should be resolved at the point of contact if possible; if not, the complainant has the option to discuss the issue with the Manager of Corporate Security and Operations (the Manager) before a formal written complaint is made. In situations where the complainant requests an investigation into the situation and/or disciplinary action to be taken, a written formal complaint must be submitted using the City of Mississauga Public Complaints – Security Staff form.</p>
Complaints in Writing	Written complaints against Security Staff must be submitted to the Office of the City Clerk via mail or in person. The Clerk, or designated staff, is responsible for receiving the complaint, creating and maintaining a record of the date of receipt for the complaint, and monitoring the number of complaints received.
Details of Complaint	The complaint should provide details of when and where the incident occurred, who was involved and provide a description of what happened. All complaints must be signed by the complainant or, in the case of a complaint made on behalf of a person under 18 years of age, by the person's parent or legal guardian.
Complaints Not Considered	Complaints should be made as soon as possible following the incident. Complaints filed 90 days or more after the incident may not be accepted, unless agreed to by the Director of Facilities and Property Management (the Director).
Investigation of Complaint	<p>All complaint forms with the details of the complaint will be forwarded to the Commissioner of Corporate Services and Treasurer (the Commissioner) and the Director.</p> <p>The Director will review the complaint with the Manager, Security & Operations (the Manager). If the complaint is deemed to be frivolous or vexatious it will not be pursued and the Director will advise the complainant of their decision. Otherwise, the Director, in consultation with Human Resources, will assign an investigator suitable to the circumstances of each complaint.</p>

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The investigation will be made in the context of existing City of Mississauga policies and procedures, accepted practices, and relevant legislation in place at the time of the incident. The investigator will interview the complainant and the Security Staff, as well as any other witnesses to determine whether any of the City's policies regarding employee conduct have been breached. The investigator will provide a written report on the findings and recommendations and forward this to the Manager, Director, and Commissioner.

The Manager and the Director, in consultation with Human Resources, will then take any necessary action, which may include disciplinary action and/or the imposition of an assessment period. (Refer to Corporate Policy and Procedure – Standard of Behaviour for more information on disciplinary action and assessment periods.)

The Director, or designate, will advise the complainant, or, in the case of a minor, his or her guardian, in writing, that the investigation into the complaint either revealed a contravention of the City's policies regarding conduct and appropriate corrective action has been taken, or revealed that no contravention took place, and the matter is closed. Details of any disciplinary action taken will not be released to the complainant.

The Director will also advise the Clerk's office that the complaint process is complete and the date the file was closed.

Deadline for Complaint Resolution

Every effort will be made to investigate and respond to complaints within 30 days of receipt of the written complaint by the City Clerk. If the complaint is not resolved within 30 days the Director will advise the complainant, or, in the case of a minor, his or her guardian, in writing, of the status of the investigation and the expected time frame for a response. In cases where the complaint cannot be resolved within 30 days, the Director will endeavour to have the complaint resolved no later than 60 days following receipt of the complaint.

REFERENCE:

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CONTACT:

For more information, contact the Manager, Security and Operations, Facilities and Property Management, Corporate Services Department.