

CDICR- Citizen Complaint Process Committee Meeting
January 13th, 2021. Minutes

Present: Joan Lancourt, Mike Offner, Arthur Conquest, Irving Allen, Robert Volk, Eloise Lawrence,
Sandy Batchelder, Deborah Brown
Staff: Ann Braga, Lloyd Gellineau

Minutes for 11/10/ 2020 11/23/2020, and 12/30/2020 were approved.

The Committee reviewed the question of how someone files a complaint.

There was discussion regarding how a complaint is determined to be appropriate for the CCP, what information needs to be included in a complaint, and how does the CCP Board provide notice of a complaint to the persons involved in the complaint and to the public.

It was suggested the Chief Diversity Officer (CDO), or designee from the Office of the Diversity, Inclusion and Community Relations (ODICR), would be the initial contact for people wanting to have a complaint processed through the CCP. The CDO, would make recommendations to the complainant regarding a course of action. The CDO would make a record of the complaint. It was noted that a person filing a complaint did not need to have a written complaint; it could be received orally. The CDO will record the complaint, even if the complainant decides not to participate in the CCP process. It was also discussed that the CDO would not be the only option for complainants to gain access to the CCP. There could be an option that the CCPC receive a complaint directly.

It was noted that the initial filing of a complaint could take several forms online, in person and by mail. Regardless of how a complaint is received, it was important that the complainant had contact with a person within a reasonable amount of time. There was a suggestion that perhaps the CDO and a member of the CCPC together meet with a complainant.

The initial meeting with a complainant would involve the CDO providing basic information about the process. Proceeding meetings would include a member of the CCPC (an on-call member?), the CDO and the complainant. These meetings would allow the complainant to expand on the complaint and to allow the CDO and CCPC member to provide advice on how to proceed with the complaint.

It was also note that written write-ups for oral complaints should be reviewed by the complainant. The complainant should be allowed to modify the write-up.

There was discussion regarding screening complaints. There was concern that having the CDO determine what is an appropriate case or not may lead to false negatives that would lead to a complainant not receiving appropriate handling of the complaint. It was suggested that the CDO can offer advice on how to proceed with a complaint, but should not prevent a complainant from using the CCP.

There was a discussion about the complaint form. It was noted that the forms from the various municipalities studied were similar. The forms asked for names and contact information of parties involved in the complaint, witnesses with contact information, and a description of the incident.

There was a discussion on issuing notice to parties involved in a complaint. It was noted that all cases reviewed by the CCP would need to have public notice. There was a discussion of whether individuals involved with a case needed to be legally served notification. The consensus was legal notice was not necessary and should not be part of the process.

There was a discussion on confidentiality, in particular cases where the complaint is against a Town employee. The question was raised if a Town employee was the subject of a complaint initiated by a non-town person(s), would the employee be protected by confidentiality. Ann noted that everything related to the fitness or qualification of an individual for a public position was protected by confidentiality. The HR process would be able to share that an investigation occurred, and could share the findings of that investigation, and that disciplinary action was taken. It was noted that the HR process is bound by confidentiality.

The CCP process would not be bound by confidentiality. It was also noted that excluding confidentiality in the process could be problematic as it could lead to defamation claims. It was thought that a mechanism needs to be put into effect to limit the risk of the process leading to defamation claims.

It was suggested that confidentiality considerations would be case-based, and determined prior to public notice of a case. Individuals filing complaints should be made aware that if the complaint were to be reviewed within the CCP that it would be made public. Arthur noted that a complaint he filed against Town employees was made known to the public; one of the complaints received a public hearing.

Arthur stressed the importance that complaints received by the ODICR and the CDICR needed to be recorded, even if complainants do not want to have cases reviewed through the CCP. In addition, that the record of data should be aggregated and reported out to the CDICR on a regular basis.

The CCPC began discussing initial hearing procedures, the investigatory process, and the reporting of investigation findings.

The question was posed whether the CCP committee would conduct the initial investigation, process the complaint, and then report the findings back to the CDICR with recommendations or would the Committee only conduct the initial investigation. The CDICR would then complete the other stages of the CCP.

There was discussion on whether the CCP should be a function of the CDICR, or should it be under an independent committee, or other entity within Brookline. Where it should be housed would depend on the expertise necessary to implement the process. There was consensus that the entity charged with implementing the CCP will be a committee within the CDICR.

There was discussion about expertise and the importance of having individuals with legal experience within the entity that would be implementing the CCP. It was noted that people can be trained on the process, and that it was not necessary to have lawyers to implement the process. Deborah said she will provide the CCPC with some information regarding complaint processes. Meeting adjourned.