

New Brunswick Police Commission

Annual Report
2017–2018



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Annual Report 2017-2018**

Province of New Brunswick
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Transmittal letters

From the Minister to the Lieutenant-Governor

The Honourable Jocelyne Roy Vienneau
Lieutenant-Governor of New Brunswick

May it please your Honour:

It is my privilege to submit the annual report of the New Brunswick Police Commission, Province of New Brunswick, for the fiscal year April 1, 2017, to March 31, 2018.

Respectfully submitted,



Honourable Carl Urquhart
Minister

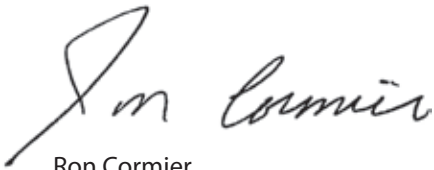
From the Chair to the Minister

Honourable Carl Urquhart
Minister of Public Safety and Solicitor General

Sir:

I am pleased to be able to present the annual report describing operations of the New Brunswick Police Commission for the fiscal year April 1, 2017, to March 31, 2018.

Respectfully submitted,



Ron Cormier
Chair

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Chair's message

I am pleased to once again provide this annual report to the people of New Brunswick on the activities of the New Brunswick Police Commission for 2017-2018.

The commission not only provides independent civilian oversight of New Brunswick's municipal and regional police forces with respect to the conduct of their police officers but ensures that the Province of New Brunswick and the nine municipalities are discharging their responsibilities for the maintenance of adequate levels of policing. This oversight may result in reviews of certain police policies and services to provide an assurance of fairness and transparency in policing, therefore, reinforcing the public's confidence and ultimately their trust in police officers.

These streams of review by the New Brunswick Police Commission resulted in 76 cases of which 30 per cent involved an examination of the services and/or policies of a police force. This pace has been consistent with preceding years; however, we are forecasting the return of some major cases as the criminal proceedings of certain matters are nearing completion thus triggering the re-activation of the *Police Act* investigations.


The commission's major challenge remains the inherent inability to forecast conduct matters and the consequences to public opinion. This results in reactive responses to issues that, had a proactive intervention been considered, would mitigate any negative perception of law enforcement. However, historical operations have often confirmed that a New Brunswick Police Commission comprised of strong individual members provides the strategic vision needed to overcome any challenges presented.

Commission meetings were held monthly, relying on a combination of in-person meetings and monthly conference calls to reduce travel costs. In October, the commission held a meeting in Woodstock which included a facilitated planning session followed by a presentation to the mayor and council to ensure they were fully briefed on the *Police Act* and the role of the commission.

The commission continues to maintain its membership in the Canadian Association of Civilian Oversight of Law Enforcement. Our acting vice-chair, Lynn Chaplin attended this year's conference held in St. John's, Newfoundland.

Our mission is "to safeguard the public interest in New Brunswick policing". It is a task we strive to achieve every day and we at the New Brunswick Police Commission believe that the public's confidence in New Brunswick police forces remains strong and continues to grow.

The success of this organization continues to be uniquely attributable to the dedication and skills of our very limited number of staff. I congratulate and thank them for a job well done.



Ron Cormier
Chair, New Brunswick Police Commission

Strategic priorities

Strategy management

The Government of New Brunswick (GNB) uses a Formal Management system built on leading business practices to develop, communicate and review strategy. This process provides the Public Service with a proven methodology to execute strategy, increase accountability and continuously drive improvement.

The development of the strategy, using the Formal Management system, starts with a strategic vision to move New Brunswick forward. This vision is anchored in five priority areas:

- **Jobs** – Creating the best environment for jobs to be generated by New Brunswickers, by businesses, by their ideas, by their entrepreneurial spirit, and by their hard work. Growth efforts will be guided by the *New Brunswick Economic Growth Plan*, which focuses on strengthening the workforce; expanding innovation capacity; increasing the agility of government; fostering public and private investment in strategic infrastructure; and growing capital investment from the private sector.
- **Education** – Improving education as guided by two 10-year plans, *Everyone at Their Best* for the anglophone sector and *Donnons à nos enfants une longueur d'avance* for the francophone sector, that identify objectives for the early learning and education system and establish clear expectations for standards and performance. The areas of focus are: ensuring children and other learners develop the competencies they need to be successful in school and life; improving both literacy and numeracy skills for all learners; and working to make post-secondary education more accessible and affordable.
- **Families** – Creating a healthier and stronger New Brunswick by focusing on seven key areas: improving access to primary and acute care; promoting wellness; supporting those with mental health challenges; fostering healthy aging and support for seniors; advancing women's equality; reducing poverty; and providing support for persons living with a disability.
- **Federal and Aboriginal Relations** – Building stronger relationships with First Nations; strengthening action on climate change; and working with the federal government to maximize federal funding, including optimizing infrastructure funding and growing the workforce through immigration.
- **Smart Province** – Providing taxpayers with better value for their money by transforming the culture of government by eliminating duplication; adopting new innovations in technology to improve services and savings; and ensuring GNB has a ready workforce that has the skills, training, support, leadership and working environments it needs to thrive.

Highlights

During the 2017-2018 fiscal year, the New Brunswick Police Commission focused on these strategic priorities through:

- Initiatives to reinforce the operational infrastructure and to improve our transparency: One initiative saw the development and formalization of a series of process maps for each of the three complaint types administered by the commission; another saw the feedback from a client survey implemented in the form of a “dashboard” showing the status of all active *Police Act* files. The deliverables of both initiatives are publicly available on our website.
- New member training: A formal ‘Familiarization Training’ program for new commission members was implemented which was fortuitous given the appointment of two new members.
- “Unfounded”: The commission continues to work in collaboration with the Department of Justice and Public Safety, chiefs of police and community groups to investigate and respond to this important public policy issue.
- Adequacy definition project: With the assistance of one of our members, staff were able to rejuvenate our adequacy definition project which was assumed by Justice and Public Safety. This project, originally undertaken in the 2015/2016 fiscal year, seeks to identify an equation that would be used by the stakeholders to properly define, with both empirical and anecdotal evidence, what is “adequate” policing. This project will serve not only New Brunswick’s law enforcement community, but may benefit all first responders across Canada.
- Cost mitigation: The commission assumed the processing of a significant *Police Act* investigation this year at the request of a chief of police; the carriage of this file was assumed with the agreement that all costs would be paid by the police force. The processing of a second significant file was also assumed with a 50/50 cost sharing agreement. Staff strive to find innovative ways to mitigate cost pressures on our limited budget.
- Operational files: Staff addressed some very unique files this year with significant impact on police operations and adequacy including a review of the working environment of one force.
- Knowledge transfer/sharing: The commission staff undertook to assist the chiefs of police and civic authorities in delivering their obligations under other acts.

Performance measures

Safeguarding the public interest	Measures
Promote increased understanding of the commission’s mandate and role with civic authorities, police officers and civilian employees, and First Nations.	Number of outreach presentations.

Safeguarding the public interest

Objective of the measure

Promote increased understanding of the commission’s mandate and role.

Measure

Number of outreach presentations.

Description of measure

An outreach presentation is delivered to stakeholders, partners, civic authorities and/or law enforcement personnel describing the New Brunswick *Police Act* and the mandate and authorities of the commission pursuant to the Act.

Overall performance

The commission delivered a presentation to the mayor and council of Woodstock and the Woodstock Police Force members and employees.

Why do we measure this?

While the commission’s responsibilities and involvement in the disciplinary overview of New Brunswick police forces is becoming better known, the authorities granted to the commission under the *Police Act* are not as well-known or understood. The commission’s mandate to examine any issue related to policing in all New Brunswick police jurisdictions (including the RCMP) is not understood by the police forces and much less by the civic authorities. A better understanding of the commission’s role by stakeholders, partners, civic authorities and law enforcement can foster greater accountability to the public’s interest. An increased number of these presentations results in an increase in the information available and a greater familiarity with the commission.

Overview of departmental operations

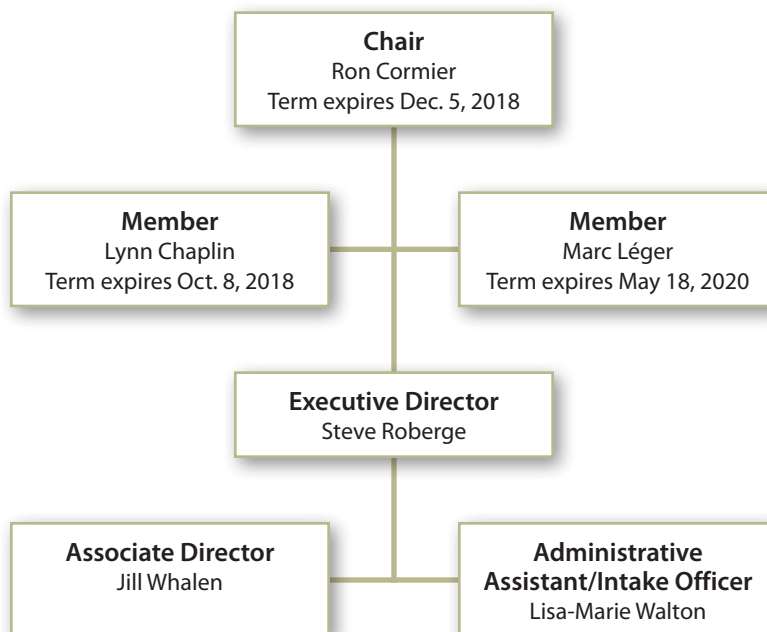
The New Brunswick Police Commission has the mission “To safeguard the public interest in New Brunswick Policing”.

The roles of the commission are:

1. the investigation and determination of complaints by any person relating to the conduct of a member of a municipal or regional police force;
2. the characterization and review of conduct, service or policy complaints relating to municipal or regional police forces;
3. the investigation and determination of any matter relating to any aspect of policing in any area of the province, either on its own motion, at the request of a board or council, or at the direction of the Minister of Justice and Public Safety;
4. the determination of the adequacy of municipal, regional and RCMP forces within the province, and whether each municipality and the province are discharging its responsibility for the maintenance of an adequate level of policing; and
5. the ensuring of consistency in disciplinary dispositions through maintenance of a repository of disciplinary and corrective measures taken in response to *Police Act* breaches.

The commission is composed of three permanent full-time employees and commission members who are volunteers receiving nominal remuneration for days they participate in commission meetings or reviews.

High-level organizational chart



Statistics

Preamble

The commission received and monitored 76 files, which consisted of Conduct, Service and Policy complaints and any combination thereof.

- A Conduct Complaint is when a complainant is alleging that the conduct of a police officer was not appropriate (example: an officer is alleged to have used excessive force while arresting a complainant). For a complaint to be considered a conduct complaint the officer must allegedly have breached one or more of the items found in s. 35 of the *Code of Professional Conduct – Police Act*.
- A Service Complaint is when the complainant is alleging that the police force or officer failed to provide them with any service or an inappropriate level of service (example: an officer is alleged to have taken a longer than reasonable amount of time to respond to a call for service).
- A Policy Complaint is when the complainant is alleging that the policy of a police force is either ineffective or non-existent (example: an officer is alleged to have conducted personal business while in uniform and no policy is in place to address this).

Breakdown of files

Thirty-four complaints were filed concerning allegations that were uniquely related to conduct; 19 complaints were filed relating to the service and/or policy of a police force; four complaints contained allegations relating to conduct as well as service and/or policy; and, 19 complaints were deemed “Other” as they were unable to be processed. Files are unable to be processed and, therefore, listed as “Other” status for the following reasons: the complaint exceeded the time limit for filing, the complaint was not within the enumerated breaches of the code, and/or the complaint was against other agencies such as the RCMP or government departments.

Conduct complaints

There were 38 complaints involving conduct filed against officers employed with municipal and regional police forces in New Brunswick. Forty-five individual officers with one or more complaints were named resulting in a total of 103 allegations against them.

Most conduct complaints in 2017-2018 alleged that the officer engaged in discreditable conduct (35 of the total 103 allegations). Discreditable conduct of a police officer includes, but is not limited to, acting in a manner while on duty which is likely to bring the reputation of the police force with which the officer is employed into disrepute, asserting or purporting to assert authority as a member of a police force while off duty or being oppressive or abusive to any person while on duty.

At the end of the fiscal year, 27 of the conduct complaints filed during the year were finalized with 11 remaining outstanding. The disposition of the finalized complaints was as follows: eight concluded with no further action being taken as there was insufficient evidence that the police officer committed a breach of the code; eight were summarily dismissed as they were deemed frivolous, vexatious or not made in good faith; four were concluded through a settlement conference; four were withdrawn by the complainant; one was resolved through informal resolution; and, two files proceeded to an arbitration hearing, however, jurisdiction was lost on the files as the officer resigned at the commencement of the arbitration hearing.

A settlement conference is an opportunity for an officer who is alleged to have breached a section of the code to respond to the alleged breach and to reach an agreement with the chief, civic authority or the commission concerning disciplinary and corrective measures.

An arbitration hearing is held when an officer has allegedly breached a section of the code and either did not present themselves to a settlement conference or when an agreement on suitable disciplinary or corrective measures could not be reached between the chief of police/

civic authority/commission and the subject officer within a reasonable period. The decision of an arbitrator at an arbitration hearing is binding for all parties involved.

- For past and present decisions, please refer to: <http://www.nbpolicemission.ca/index.php/en/decisions/arbitration-hearings>

Three complaints proceeded to an arbitration hearing during the 2017-2018 fiscal year: two of the complaints were filed during the 2017-2018 fiscal year and the other was filed during the 2015-2016 fiscal year; one officer was the subject of all three hearings.

Service and Policy complaints

In the 2017-2018 fiscal year, 19 complaints were filed relating solely to the service and/or policy of a police force and four complaints* were filed that alleged conduct as well as service and/or policy issues, for a total of 23 complaints involving service and/or policy. Fourteen of these complaints were concluded by the end of the fiscal year. Of the concluded complaints, four were resolved, seven were deemed unfounded or required no further action, and three were withdrawn by the complainant.

* With respect to the four complaints with conduct as well as service/policy allegations, the allegations and final dispositions of these files are included in the "Conduct Complaints" section for the conduct portion of the complaints and the "Service and Policy complaints" section for the service/policy portions.

Total complaints	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis	Miramichi	Saint John	Woodstock	RCMP	Total
Conduct Complaints filed	1	0	1	15	2	1	0	11	3	0	34
Combination Conduct and Service and Policy complaints filed	0	0	0	3	0	0	1	0	0	0	4
Service Complaints filed	1	1	1	10	1	1	0	3	0	0	18
Policy Complaints filed	0	0	0	1	0	0	0	0	0	0	1
Service and Policy complaints filed	0	0	0	0	0	0	0	0	0	0	0
Other	1	1	3	1	2	0	0	6	0	5	19
Total complaint files	3	2	5	30	5	2	1	20	3	5	76
Files outstanding*	0	0	1	12	3	1	0	2	0	0	19
Files carried over**	3	0	3	14	0	2	5	2	0	0	29
Files carried over and still outstanding***	2	0	1	1	0	1	1	1	0	0	7

* Files outstanding are part of the total number of files, however, were not finalized as of the end of the fiscal period of April 1, 2017 to March 31, 2018.

** Files carried over are not part of the total number of files; they are files that were not finalized at the end of previous fiscal years.

*** Files carried over and still outstanding are files carried over from previous fiscal years that were not finalized as of the end of the fiscal period of April 1, 2017 to March 31, 2018.

Conduct complaints - Allegations	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis	Miramichi	Saint John	Woodstock	Total
Conduct complaint files (including conduct portion of conduct and service and/or policy complaints)	1	0	1	18	2	1	1	11	3	38
Officers subject to <i>Police Act</i> investigation	2	0	1	24	2	1	1	11	3	45
Allegations from files concerning conduct	2	0	3	48	9	7	1	27	6	103

Conduct complaints – Breaches of the code	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis	Miramichi	Saint John	Woodstock	Total
Discreditable conduct – 35(a)	0	0	1	15	3	1	1	12	2	35
Neglect of duty – 35(b)	0	0	2	11	4	1	0	7	0	25
Deceitful behaviour – 35(c)	2	0	0	4	0	0	0	0	2	8
Improper disclosure of information – 35(d)	0	0	0	0	0	0	0	5	0	5
Corrupt practice – 35(e)	0	0	0	0	0	0	0	0	0	0
Abuse of authority – 35(f)	0	0	0	17	1	1	0	2	2	23
Improper use and care of firearms – 35(g)	0	0	0	0	0	0	0	0	0	0
Damage police force property – 35(h)	0	0	0	0	0	0	0	0	0	0
Misuse intoxicating liquor or drugs – 35(i)	0	0	0	0	0	0	0	0	0	0
Convicted of an offence – 35(j)	0	0	0	1	0	0	0	1	0	2
Insubordinate behaviour – 35(k)	0	0	0	0	1	0	0	0	0	1
Party to a breach – 35(l)	0	0	0	0	0	0	0	0	0	0
Workplace harassment – 35(m)	0	0	0	0	0	4	0	0	0	4
Total allegations	2	0	3	48	9	7	1	27	6	103
Allegations deemed frivolous/vexatious*	2	0	0	12	0	0	0	3	2	19
Allegations outstanding (alleged breaches of code determined; however, file not finalized)	0	0	0	16	9	0	0	10	0	35

* Officer resigned at commencement of arbitration hearing resulting in a loss of jurisdiction.

Conduct complaints – Final disposition of files	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis	Miramichi	Saint John	Woodstock	Total
Summary dismissal (frivolous/vexatious/not made in good faith)	1	0	0	4	0	0	0	2	1	8
Informal resolution	0	0	0	1	0	0	0	0	0	1
No further action	0	0	0	2	0	1	0	3	2	8
Settlement conference	0	0	1	2	0	0	0	1	0	4
Arbitration hearing	0	0	0	2*	0	0	0	0	0	2
Withdrawn	0	0	0	0	0	0	1	3	0	4
Loss of jurisdiction	0	0	0	0	0	0	0	0	0	0
Files outstanding	0	0	0	7	2	0	0	2	0	11
Total files	1	0	1	18	2	1	1	11	3	38
Settlement conference – previous year	0	0	1	4	0	0	1	0	0	6
Arbitration hearing – previous year	0	0	0	1*	0	0	0	0	0	1

Financial information

Fiscal year 2017-2018 witnessed continued and significant pressures upon the commission’s limited financial resources, uniquely due to increased costs incurred within the professional/ legal services category of expenditures contained in the “Other Services” expenditure group. While the fees charged by the commission’s legal representatives have not increased, the volume of legal proceedings and research exceeded the budget this fiscal year.

	Budget	Actual
Personnel services	253.2	220.0
Other services	97.3	235.8
Materials and supplies	6.1	7.6
Property and equipment	8.0	1.8
Total	364.6	465.2

Summary of staffing activity

Pursuant to section 4 of the *Civil Service Act*, the Deputy Minister of the Department of Human Resources delegates staffing to each Deputy Head for his or her respective department(s). Please find below a summary of the staffing activity for 2017-2018 for the New Brunswick Police Commission.

Number of permanent and temporary employees as of Dec. 31 of each year		
Employee type	2017	2016
Permanent	3	3
Temporary	0	0
Total	3	3

In addition to the three staff members, the commission had four members as of Dec. 31, 2017. Ms. France Levesque-Ouellette resigned her appointment on Sept. 20, 2017.

The department advertised no competitions.

Pursuant to section 33 of the *Civil Service Act*, no complaints alleging favouritism were made to the chair of the commission and no complaints were submitted to the Ombud.

Summary of legislation and legislative activity

The acts for which the department was responsible in 2017-2018 may be found at:
<http://laws.gnb.ca/en/ShowTdm/cs/P-9.2//>

Summary of Official Languages activities

The dissemination of information is always addressed by the commission in the Official Language in which the original complaint is received. Investigations and the concluding reports are undertaken in the Official Language of the complainant. However, any interviews resulting during the investigation (and any statements taken) are conducted in the Official Language of preference of the individual being interviewed.

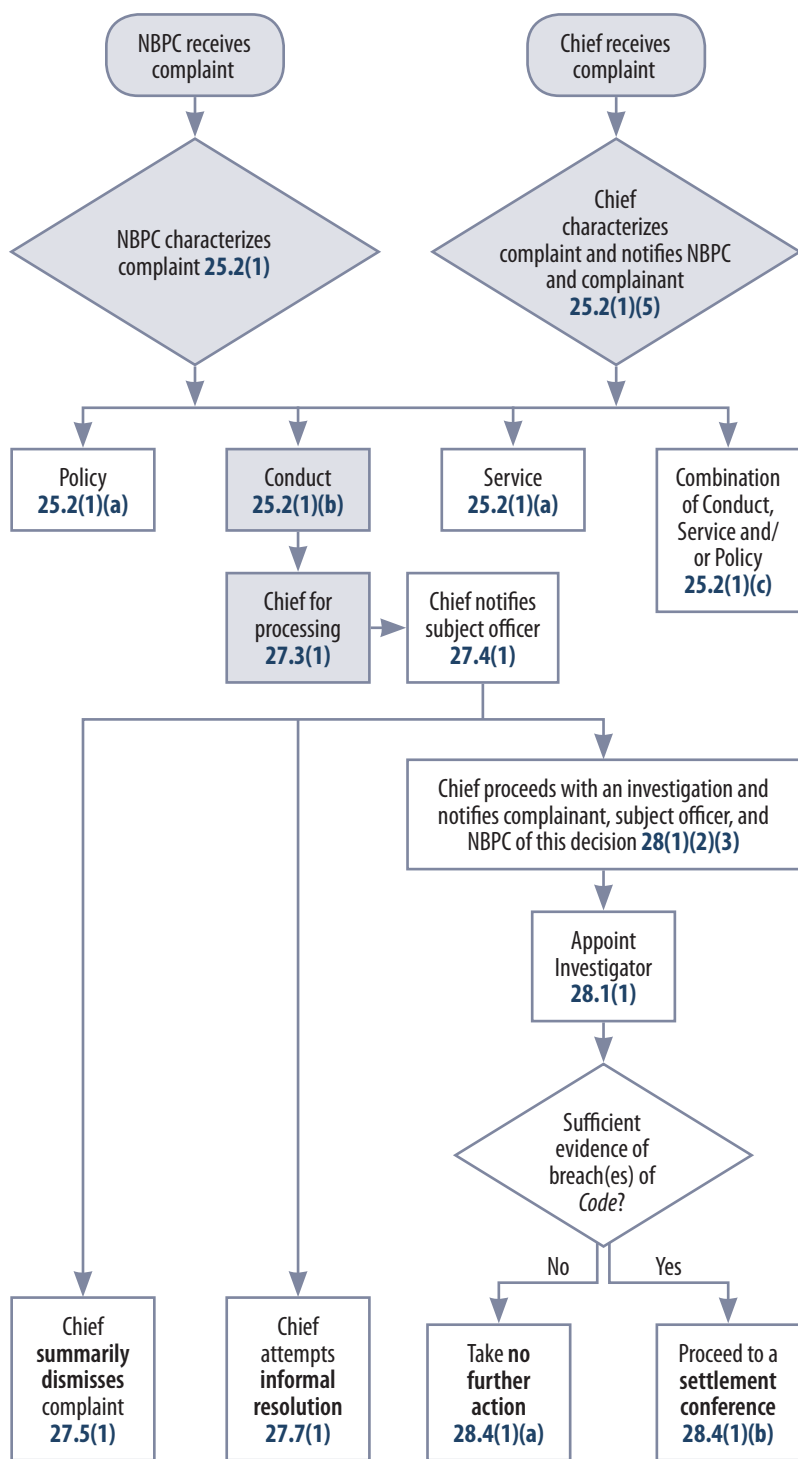
Report on the *Public Interest Disclosure Act*

As provided under section 18(1) of the *Public Interest Disclosure Act*, the chief executive shall prepare a report of any disclosures of wrongdoing that have been made to a supervisor or designated officer of the portion of the public service for which the chief executive officer is responsible. The New Brunswick Police Commission received no disclosure(s) of wrongdoing in the 2017-2018 fiscal year.

Appendix: Process maps

All sections/subsections/paragraphs referenced are from the New Brunswick *Police Act*.

Conduct Complaint against Police Officer

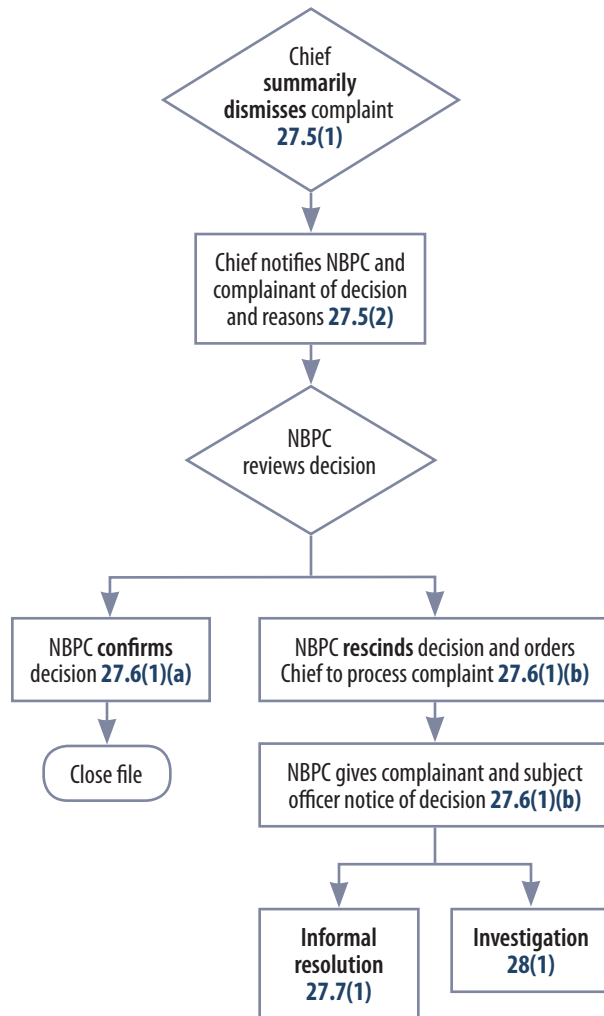


Pursuant to section 26.1(1) "... the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

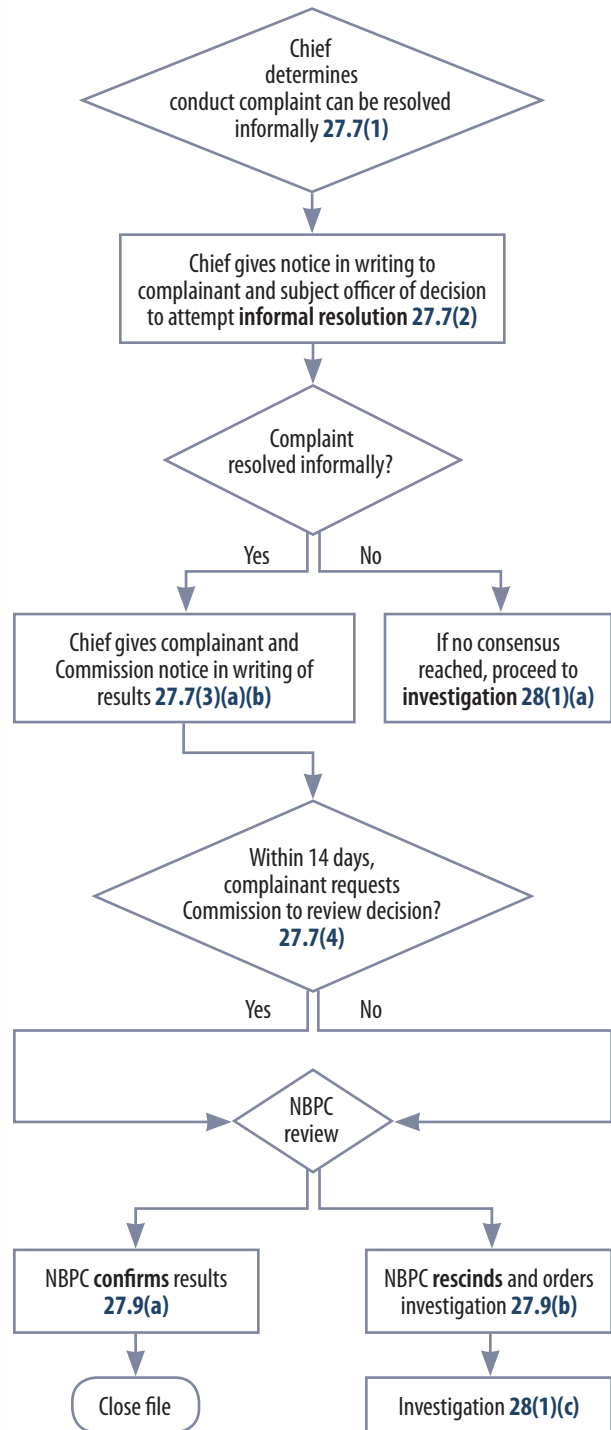
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

Pursuant to section 27.2(1) "... the Commission may... suspend the processing of a conduct complaint... where the processing will be or becomes an investigation into an alleged offence under an Act of the Legislature or an Act of the Parliament of Canada until such time as the Commission directs otherwise."

Summarily Dismiss (Police Officer)

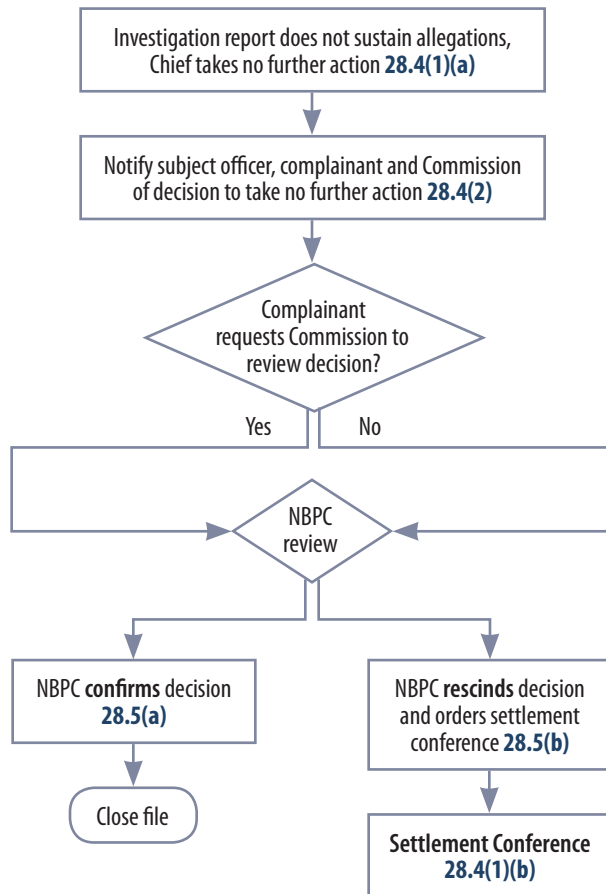


Informal Resolution (Police Officer)

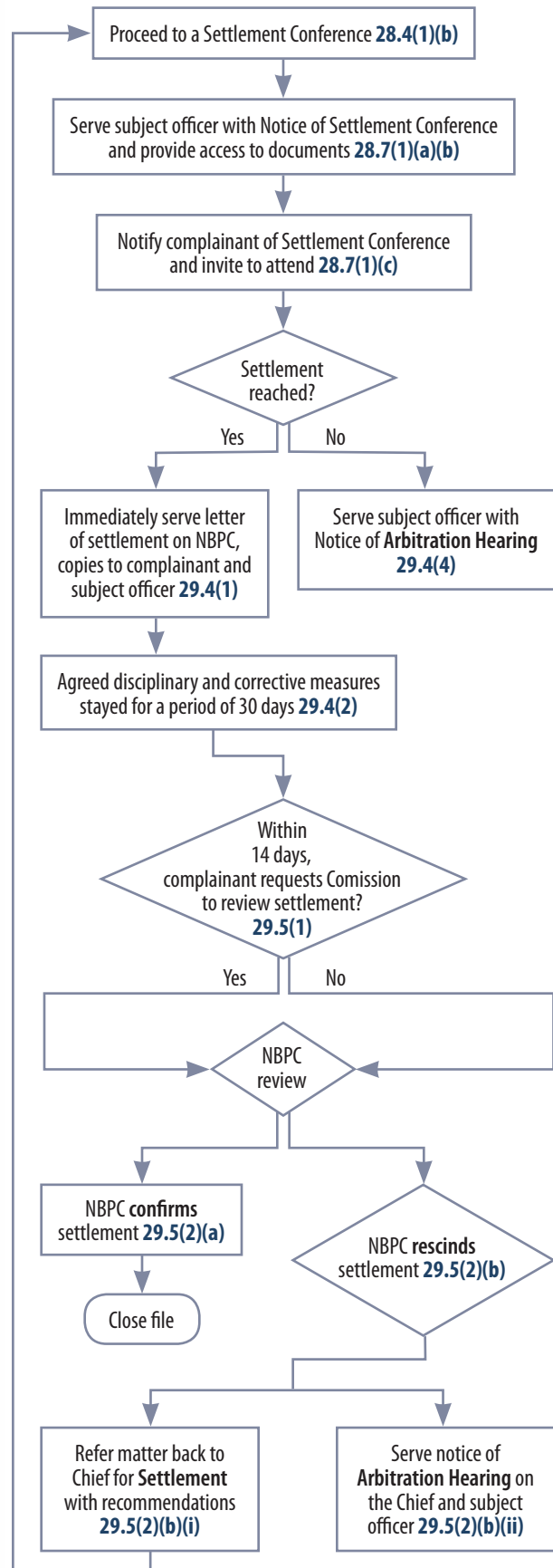


27.5(1) The chief of police may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the chief of police, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

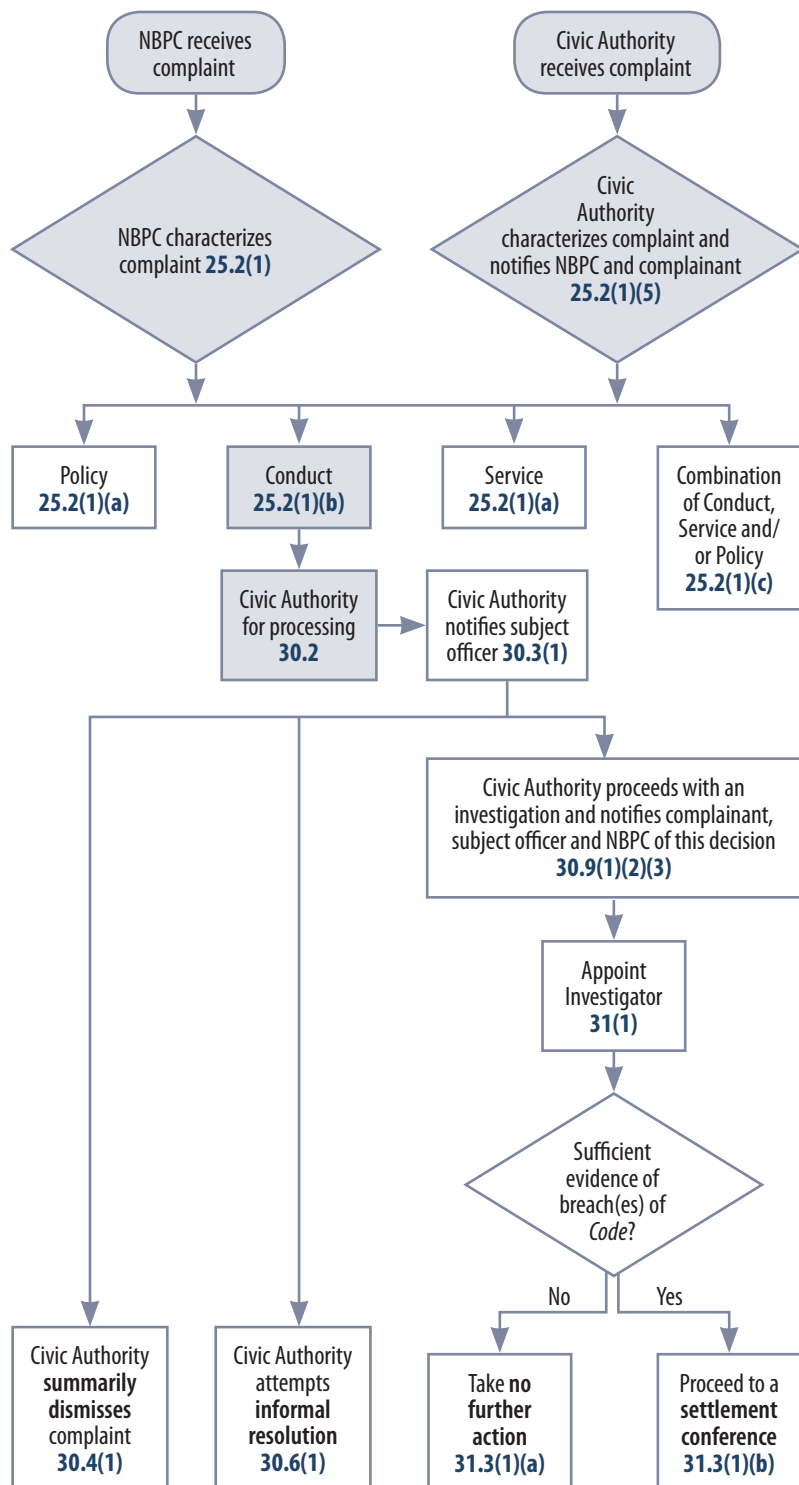
No Further Action (Police Officer)



Settlement Conference (Police Officer)



Conduct Complaint against Chief or Deputy Chief

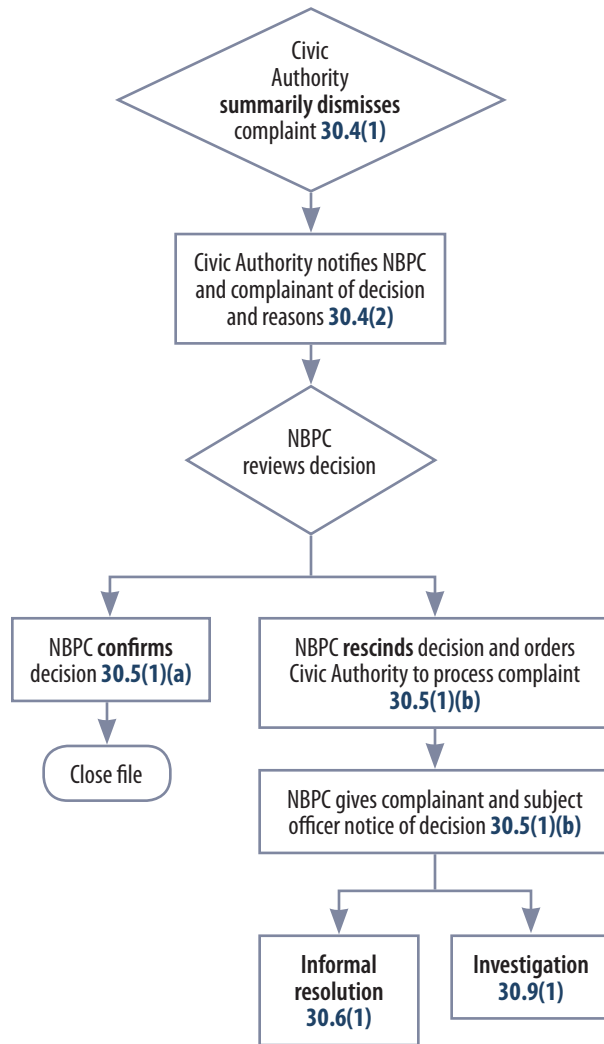


Pursuant to section 26.1(1) "...the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

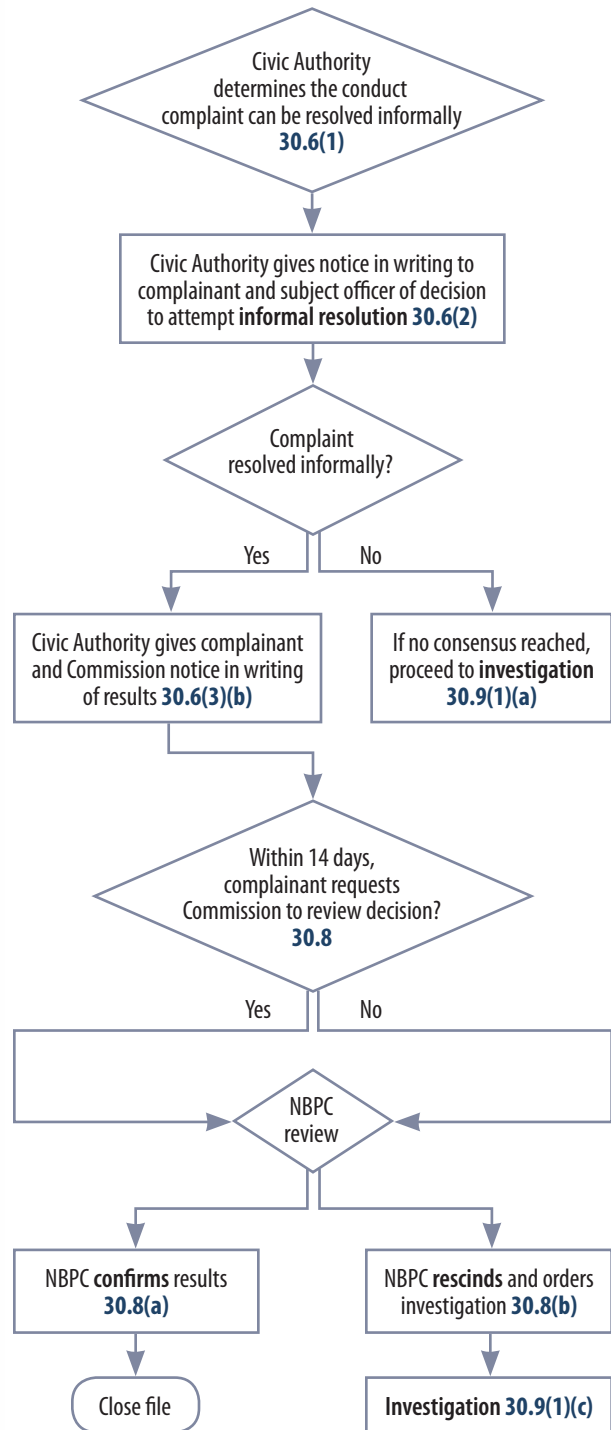
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

Pursuant to section 30(1) "...the Commission may... suspend the processing of a conduct complaint...where the processing will be or becomes an investigation into an alleged offence under an Act of the Legislature or an Act of the Parliament of Canada until such time as the Commission directs otherwise."

Summarily Dismiss (Chief or D/Chief)

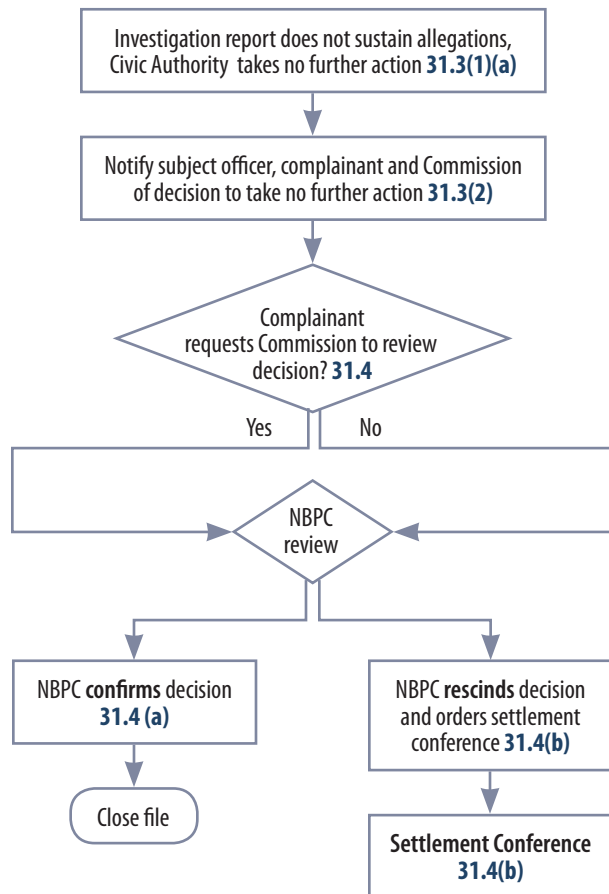


Informal Resolution (Chief or D/Chief)

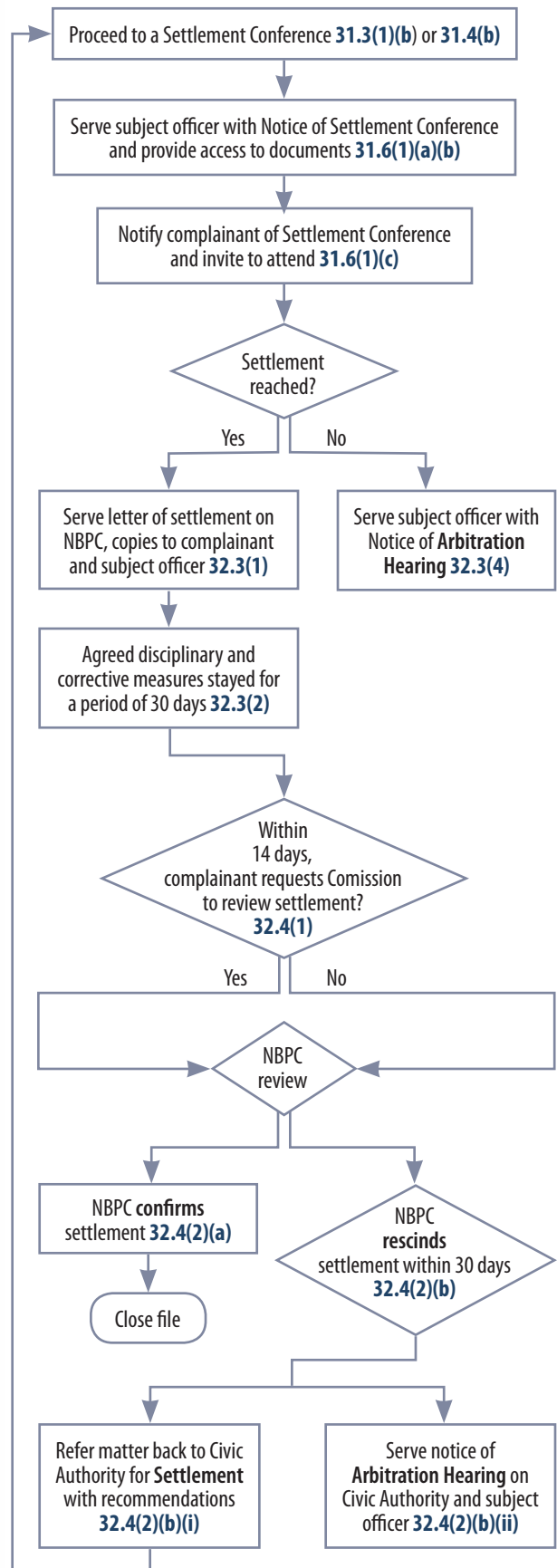


30.4(1) The civic authority may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the civic authority, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

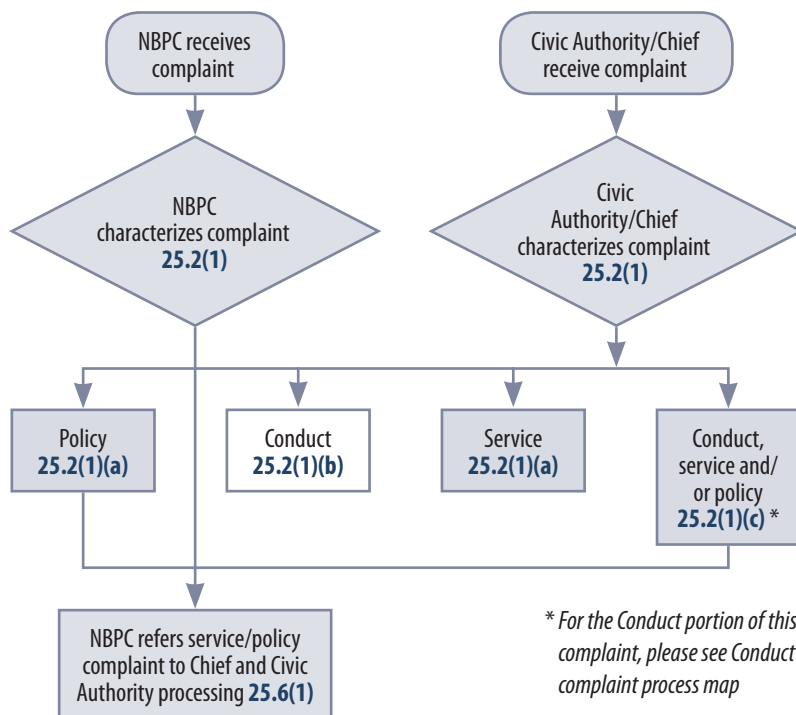
No Further Action (Chief or D/Chief)



Settlement Conference (Chief or D/Chief)



Service/Policy Complaint



Service and/or Policy Complaint

