



Human Rights Commission Meeting

Thursday, May 1, 2025 at 12:00 PM

Agenda

ACCESS INFORMATION:

- A. This meeting will be held on May 1, 2025 at 12:00 PM. Location: ZOOM ONLY
 - B. The Public may join the virtual meeting online: <https://watertown-ma.zoom.us/j/85337391192>
 - C. Public may comment through email: dnewton@watertown-ma.gov
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- 1. Call to Order
- 2. Roll Call
- 3. Acceptance of Minutes
 - A. Minutes 4.14.25
 - B. Minutes 3.28.25
 - C. Minutes 3.10.25
- 4. Discussion
 - A. Feedback from City Attorney as to Rules of Procedure & Complaint Procedure
- 5. Public Comment
- 6. Adjournment

Human Rights Commission Rules Committee Meeting Minutes

April 14, 2025

1. Call to Order

The meeting was called to order at 12:00 PM.

2. Roll Call

Present (all via zoom) were Lisa Laplante, Elizabeth Brusie, and Corey Barr

3. Acceptance of Minutes

a. Minutes for Previous Meeting

The minutes from the previous meeting were not ready to be voted on and as such were not.

4. Discussion

a. Comments from City Attorney on Rules of Procedure

The committee is waiting for additional comments from the city attorney but has not yet received them. That said, there were still comments from the meeting prior which needed to be reconciled. This included comments regarding the role of the chairperson, the use of the term “subcommittee” vs. “committee,” whether or not language in the rules is duplicative of the open meeting law, the use of emergency meetings, and public comment at HRC meetings. The committee also discussed if they need to meet with the attorney again after reconciling their comments and ultimately decided that that would not be necessary unless they are surprised by a future piece of feedback.

b. Human Rights Commission Rules of Procedure and Complaint Procedure

Ultimately, the committee decided to proceed with the rules of procedure as edited in the meeting today pending further comments from the attorneys to be discussed at their next meeting.

5. Public Comment

No member of the public offered comment

6. Adjournment

The meeting adjourned at 12:38 PM.

Human Rights Commission Rules Committee Meeting Minutes

March 28, 2025

1. Call to Order

The meeting was called to order at 12:12 PM.

2. Roll Call

3. Acceptance of Minutes

a. Minutes for previous meeting

4. Discussion with City Attorney

a. Rules of Procedure and Complaint Procedure for Human Rights Commission

The committee reviewed the attorney's feedback on the draft complaint procedure. This included the purpose of the procedure and guidance for commissioners and for complainants. Mechanisms and parameters for the commission to fairly vet and review complaints as well as the parameters of confidentiality and/or anonymity that the commission can provide to complainants. This included the potential feasibility of one on one "intake" meetings with complainants and a designated commissioner. The committee also reviewed the remaining edits on its rules of procedure document with the two attorneys.

b. Guidance on Open Meeting & Public Records Laws

The primary focus on the open meeting law consisted of how to conduct intake meetings with complainants without running into conflict with the open meeting law.

5. Public Comment

No member of the public offered comment.

6. Adjournment

The meeting adjourned at 1:20 PM.

Human Rights Commission Rules Committee Meeting Minutes

March 10, 2025

1. Call to Order

The meeting was called to order at 5:33 PM.

2. Roll Call

Doug Newton called the roll. Present (all via zoom) were Elizabeth Brusie, Corey Barr, Lisa LaPlante.

3. Acceptance of Minutes

Elizabeth Brusie made a motion, seconded by Lisa LaPlante, to approve the minutes. The Subcommittee voted three to zero to approve the motion.

4. Discussion

a. City Attorney's Feedback to Rules

Subcommittee members began by discussing the disagreements and concern that they had with some of the city attorney's feedback to the rules. It was also noted that there was no feedback on the complaint form. The subcommittee agreed to share their screen of the attorney's edits to the rules of procedure and complaint procedure and make comments in advance of its discussion with the attorney. After doing so, Doug Newton offered to share their questions with the city attorney in advance of their discussion with him the next Thursday. The subcommittee agreed that doing so could be helpful.

5. Public Comment

No member of the public offered comment.

6. Adjournment

Corey Barr made a motion, seconded by Elizabeth Brusie, to adjourn the meeting. The subcommittee voted unanimously to approve the motion and the meeting was adjourned at 6:35.

**PROCEDURE FOR FILING COMPLAINTS
WITH THE
WATERTOWN HUMAN RIGHTS COMMISSION**
10/15/24 Draft (Commissioner Lisa Laplante, Rules Committee)

- 4) Pursuant to the ~~charge established in provisions of~~ Ordinance 0-2023-66-05 “Duties”, § 31.73, the following ~~rules establish the procedures for receiving~~ shall apply to the Commission’s receipt and ~~managing~~ management of human rights complaints brought to the Commission.

Competence

The Commission may receive concerns, complaints or questions regarding anything related so as to its general aim established in [0-2023-66-02 “Purpose”] which is “to ensure the protection of every individual in the enjoyment and exercise of their human and civil rights and to encourage and bring about mutual understanding and respect among all people who live, work, visit, and travel within the TownCity.”

A. Jurisdiction

- 1) The Commission serves as a resource for Watertown residents, employees, visitors and those doing business with or in the City, with regard to concerns, complaints, or questions of ~~discrimination, or unequal treatment of individuals and other issues~~ included in the Commission’s mandate, as further detailed in Section 2 of this Procedure and each subsection thereof. The Commission does not have the jurisdiction to investigate or resolve complaints directly between parties to a dispute.
- 2) The Commission may ~~consider such communications concerning the receive concerns, complaints or questions regarding the full~~ range of human rights issues, whether civil, political, economic, social, or cultural in nature, as recognized by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other related international human rights instruments related to human rights, including but not limited to:
 - i. In particular, the Commission may receive complaints related to the Perceived withholding, denying, interfering with, threatening or subjecting of any individual to coercion or intimidation concerning equitable access to and/or discrimination in employment, housing, education, recreation, services, public access and accommodation and public area against a person is based upon race, color, religious views, national
 - ii. origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status, sexual orientation, disability, source of income, military or veteran status. Similarly, the Commission may receive complaints about, and

Commented [CB1]: We feel that this is too narrow. Can we rephrase?

Commented [LG2R1]: We tried to draft this to be broad and inclusive. Can you explain what else you are looking for here?

Commented [LG3R1]: Based on our discussion, I added a specific reference to the broad jurisdiction of the Commission as set forth in Section 2.

i.iii. Perceived acts of prejudice, intolerance, bigotry, bias, unlawful discrimination, threats, coercion, or intimidation based upon an individual's race, color, religious views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status in any form, sexual orientation, disability, source of income, or military or veteran status.

Such events may also amount to violations of Massachusetts General Laws, Chapter 151B (the Massachusetts Anti-Discrimination Law) and 42 U.S.C. §3601, et. (the Federal Fair Housing Act), and other relevant state and federal anti-discrimination laws.

3) Such concerns may implicate the provisions of state and federal laws including but not limited to G.L. c. 151B (the Massachusetts Anti-Discrimination Law), 42 U.S.C. § 3601, et. seq. The Commission serves as a resource for residents, employees, those doing business with or in the city, or visitors on concerns, complaints, or questions of discrimination or unequal treatment of individuals in the City of Watertown. It does not have the jurisdiction to investigate or resolve complaints directly between parties of a dispute.

3) (the Federal Fair Housing Act), the Americans with Disabilities Act, and other relevant state and federal anti-discrimination laws. As such, the Commission may, after review and as appropriate, refer any such complaints to an appropriate authority having jurisdiction, including but not limited to local, state, or federal law enforcement agencies, social services agencies, the Massachusetts Commission against Discrimination, or the City's Human Resources Department. Whether or not the Commission makes such a referral, the complainant retains the right to seek any and all remedies available to them in law and in equity, and the failure of the Commission to make such a recommendation in no way reflects a determination by the Commission that such remedies are unavailable or inappropriate.

4) **IMPORTANT INFORMATION FOR COMPLAINANTS:**

i. The Commission cannot as a matter of law guarantee the confidentiality of any concerns, complaints or questions brought to its attention, as all records received by the Commission, including those received at meetings, and all meetings of the Commission, are subject to the requirements of the Public Records and Open Meeting Laws.

ii. In the event a complaint is made to or filed with the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint. In furtherance of this purpose, the Commission shall designate one member, on a rotating basis, to be available to meet or speak individually with complainants.

iii. The Commission reserves the right to refer a concern, complaint, or question concerning a potential crime, after notice to the person bringing the same to the attention of the Commission, if possible, to appropriate local, state or federal law enforcement authorities.

Commented [LG4]: Note that we moved this language to the paragraph below and modified the text to ensure that it matches the committee's authority here - to review the "event" to determine whether it implicates. This avoids the situation where it appears that the Commission has predetermined the outcome.

Commented [CB5]: We would like to discuss this during our meeting on March 13.

Commented [LG6R5]: This language properly balances the mandates of the OML and PRL and the Commission's legitimate concern about the privacy of the information. It also protects the Complainants by "warning" them of the possible requirement under the law to make the information public.

Commented [LG7R5]: Following our discussion, I have inserted language concerning the designation of a single Commission member, on a rotating basis, to meet with or speak to complainants.

Commented [LG8]: Add rotating commissioner authorization to do intake.

Commented [LG9]: This language was inserted to address the potential referral of matters of a criminal nature to the authorities.

B. Directions for Filing a Complaint

4) ~~Any person or class of persons claiming to be aggrieved by acts or events believed to be violations of their human rights may submit a complaint or concern with the Commission in writing and/or appear in person during a regularly scheduled meeting.~~

1) ~~Submissions~~ By Mail, E-Mail, Telephone or In Person. Any person or class of persons with a concern, complaint or question concerning an act or event perceived to be a human rights violation may submit the same to the Commission by mail, e-mail, or telephone; in person at a meeting; or by making an appointment to meet with or speak to a Commissioner, as provided in Section 4(ii), and/or the City staff liaison. Generally, submissions shall be made within one year of the relevant act or event; however, the Commission may accept submissions outside of that timeframe should circumstances so require. Contact information is as follows, and, for written complaints, confirmation of a written complaint will be provided as soon as possible but within seven days:

In Person or By Mail: Human Rights Commission, Watertown City Hall, 149 Main Street, Watertown, MA 02472
By E-mail: Doug Newton at dnewton@watertown-ma.gov
By Telephone:

1)2) ~~Substance of Written Complaints should.~~ While anonymous concerns, complaints, and questions will be accepted for filing, written complaints may state the name and address of the person making the complaint and must include a concise description of the events or acts believed to constitute a violation of human rights. When possible appropriate, the complaint should may indicate the person, institution, or company believed to be responsible for the violation. ~~Complaints and concerns can be filed anonymously.~~

5) ~~Complaints should be submitted through email~~ All Remedies Available to Doug Newton, Municipal Policy Analyst at dnewton@watertown-ma.gov or mailed to Watertown Human Rights Commission, City of Watertown, Massachusetts, 149 Main Street, Watertown, MA 02472. Confirmation of receipt of and Complainant. Neither the complaint will be made within seven business days.

6) The complaint should be filed within one year of the alleged act or event. The WHRC reserves the right to waive this requirement based on reasonable grounds.

7) The WHRC does not guarantee the confidentiality of such complaints or concerns in accordance with Massachusetts Public Records Law (M.G.L. c. 66). [Question: do we affirmatively state that any evidence of a criminal violation would be reported to the authorities?]

2)3) ~~The filing of a complaint, with the Commission, nor the failure to make file a complaint, or the dismissal of a complaint by the Commission shall not bar the~~ complainant from seeking assistance from or relief in any other administrative or judicial forum. Nor shall filing or failing Similarly, neither the filing of a complaint nor the failure to file a complaint within any other Federal, State administrative or City agencies or courts judicial forum bar the complainant from seeking assistance from the

Commented [CB10]: Can we add that this should be through the complaints form that we have developed?

Commented [LG11R10]: While you may require that a form be used, consider whether requiring this may deter complainants from bringing their complaint forward.

Commented [CB12]: Could we have a subcommittee of one commissioner as a way to keep a complaint confidential?

Commented [LG13R12]: Under the OML, one person is not a subcommittee. However, the full Commission can certainly vote to authorize a particular person to serve in this capacity.

Commented [LG14]: Swap out for Human Rights Commission e-mail address.

Commented [LG15]: 1) An anonymous complaint is most likely a public record in its entirety, other than redacting the name or identifying details of a particular individual against whom a complaint has been made.
2) We routinely advise that no action should be taken on an anonymous complaint due to potential liability. Even a simple accusation can lead to a claim against the municipality for invasion of privacy, a constitutional violation with potential for triple damages.
3) No binding or formal action of any kind can be taken on an anonymous complaint, as it would likely constitute an action that was "arbitrary, capricious or an abuse of discretion".
4) If they decide to go forward, we would need to discuss erecting "guardrails" to protect the City from suit.

Commented [LG16R15]: Maybe establish a standard that makes clear that Commission has complete discretion with respect to action on anonymous complaints.

Commission. The Human Rights Commission may also submit areas of concern to be reviewed by a Complaint Review Committee.

- 4) ~~After filing Confidentiality. In the event of any complaint, made to the Chairperson(s) Commission outside of a public meeting, the Commission shall designate a Complaint Review Committee of one or more of the Commissioners to review the, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint. Any commissioner who identifies a conflict of interest shall recuse themselves from participating in any stage of handling the~~
- 3)5) City Employees. If the concern, complaint, or question involves a City employee, the Chairperson shall refer the matter to the City's Human Resources Director for appropriate action. If the alleged violation involves the City Manager or a City Councilor, the Human Resources Director shall consult with the City Council President on next steps. In both cases, consideration may be given to hiring an outside investigator, if necessary.
- 6) ~~Initial~~ The Review Committee shall make an initial determination of whether or not the stated matter based on the alleged facts constitutes a prima facie violation of a human right as recognized either by these rules, state or federal law, or international human rights law. If the matter does not amount to Review/Designation of Complaint Review. If the concern, complaint, or question involves any person other ~~person~~ than a Town official or employee, the Chairperson may elect to review the same themselves or designate one or more Commissioners to conduct a Complaint Review. If two or more Commissioners are assigned to review the complaint together, they shall constitute a subcommittee subject to the requirements of the Open Meeting Law, and all meetings shall be held in open session unless one of the executive session purposes in G.L. c. 30A, §21 is applicable.
- One such provision, Pursuant to G.L. c. 30A, §21(a)(1), authorizes public bodies ~~may~~ to meet in executive session to, "discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual." Under such circumstances, the individual to be discussed must be provided with written notice at least 48 hours in advance of the session, although they can waive the 48 hours notice requirement in writing, and that person must be afforded the following rights:
- i. to be present at such executive session during deliberations which involve that individual;
 - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
 - iii. to speak on his own behalf; and
 - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

Commented [CB17]: Is this language moved somewhere? We feel that this is important to keep.

Commented [LG18R17]: Under state law, the conflict runs to the individual. If this language is still deemed essential, it can be revised as follows, "It is the request of the Commission that any Commissioner who identifies a conflict of interest in a particular matter shall recuse themselves from participation in that matter."

Commented [LG19]: This provision is essentially a repeat of Section 4(ii) above. We can, of course, have it appear twice, but deleting it will not impact the overall Procedure, in my opinion.

Commented [CB20]: Are we able to use this or any other kind of standard for review of complaints? If so, what would it be?

Commented [LG21R20]: We've said we aren't the Human Rights Commission police and we can't "order" or "direct" you to take this out of the proposed procedures. However, it is our responsibility as City Attorney to tell you that in our opinion this language seeks to implement a legal standard that is reserved to a court creating a serious risk to the members and to the City. In our opinion, incorporation of such a standard creates a very real risk of a civil rights violation, invasion of privacy, slander, defamation, libel, potential for harm to an individual, intentional tortious interference with contractual relations, reputational damage and much more. We understand that not having a "perceived" bright line rule will be a challenge, however, trying to figure out what constitutes a "prima facie violation" of any complicated law is immensely challenging.

Commented [CB22]: We would be interested in having a better understanding of what an executive session entails.

Commented [LG23R22]: There is a presumption under the Open Meeting Law that all meetings occur in open session and that a board may only meet in executive session under very limited circumstances. The Attorney General strictly enforces the law, which can also be pursued in Superior Court. Therefore, any time the Commission wants to meet privately, it must determine whether the purpose of the meeting is consistent with one of the Open Meeting Law executive purposes. In summary, it means that regular business of the Commission is required to be undertaken at posted public meetings. To the extent that a discussion could implicate the privacy right of a complainant or someone else named in a complaint, the Commission may need to go into executive session to discuss the same.

Commented [LG24R22]: This explanation, above, has been updated following our meeting.

While this section also applies to anonymous complaints, it is recognized that taking action thereon can be difficult due to the lack of verifiable information. Under such circumstances, the Commission may not have enough facts to do more than a preliminary review of the matter at issues, handling the complaint in accordance with the second sentence of Section 7(ii), below.

7) Complaint Review Resolution –

8) ~~Evidence Suggesting Further Action May be Warranted. If the Complaint Review finds evidence suggesting a further inquiry is appropriate, to be evaluated on a case by case basis, considering the particular facts involved, as to whether the act or event at issue constitutes a human rights violation, the Complaint Review Committee will dismiss Commissioner(s) reviewing the complaint and/or refer it back to the Commission. The complainant will be notified within seven days of such action and have an opportunity to appeal the decision within 10 business days following the same procedure outlined in (H) above.~~

- i. ~~If the matter does amount to a prima facie violation of a human right, the Review Committee may informally meet may request an informal, purely voluntary meeting with the complainant to learn more about the facts or to request additional information, if deemed necessary by the committee, related to. Regardless of whether such a meeting is held, however, the Commissioner(s) reviewing the complaint. At that time, the Complaint Review Committee may choose to educate shall notify the complainant of the results of their initial initial impressions review and work with respect the complainant to provide information and resources about possible other administrative and judicial avenues to resolve the complaint. See Annex 1 for a list of relevant venues pursue and address the complaint, and, further, to identify, and/or refer the complainant to support from state agencies, nonprofits, or other professionals that may be available resources.~~

9) ~~If such Review Committee determines after such informal meetings and review of the complaint that there is probable cause to find a violation of a human right, the Review Committee shall endeavor to facilitate access to a third-party mediator or facilitator to assist with the complaint. It may also refer the complaint to the appropriate town agency or body established to handle the subject matter of the complaint, which may include those listed in Annex 1. The Commission shall also endeavor to produce a report with its determinations on the matter and any possible recommendations that may be directed towards the general public as well as relevant town bodies that are either involved in the complaint or otherwise involved in the general subject matter.~~

- ii. ~~Complaint Review Resolution—No Evidence Suggesting Further Action May be Warranted. If the Complaint Review suggests that insufficient evidence exists to warrant further inquiry into the matter, to be evaluated on a case by case basis considering the particular facts at issue, the Commissioner(s) conducting the complaint review shall notify the complainant, provide information and resources about possible administrative and judicial avenues to pursue the complaint, and provide such additional information as may be appropriate to support the complainant. If the complaint at issue in anonymous, resolution under this section~~

Commented [LG25]: I inserted this to address the issues with anonymous complaints, and how they might be “resolved”. See also the second sentence of Section 7(ii).

Commented [CB26]: We would be more comfortable with something objective – is there a different phrasing that we can use?

Commented [LG27R26]: There really isn’t a “standard” that can be imposed. The Commission is not an adjudicatory body with statutory jurisdiction. Therefore, in our opinion, regardless of whether language is used that suggests some sort of bright line, each of these issues will require case by case evaluation based upon the particular facts at issue. Managing complaints in any other way will potentially create exposure to liability.

Commented [LG28R26]: Based upon our discussion, we clarified that consideration of a particular complaint will be done on a case by case basis, based upon the particular evidence at issue.

Commented [CB29]: We’re not comfortable with this language as it is very subjective. Is there another way to state this?

Commented [LG30R29]: We’ve been talking about this issue throughout - the Commission isn’t an adjudicatory body with statutory jurisdiction. In our opinion, while the Commission can’t issue “determinations” it can assist the complainant to access other available resources.

Is there something else that the Commission seeks to accomplish?

Commented [CB31]: We would be more comfortable with something objective – is there a different phrasing that we can use?

Commented [LG32R31]: There really isn’t a “standard” that can be imposed. The Commission is not an adjudicatory body with statutory jurisdiction. Therefore, in our opinion, regardless of whether language is used that suggests some sort of bright line, each of these issues will require case by case evaluation based upon the particular facts at issue. Managing complaints in any other way will potentially create exposure to liability.

Commented [LG33]: The Complainant brought the matter forward because they thought they have one. We inserted this language because regardless of what the Commission concludes, the complainant may or may not have a claim, and this language makes clear that the Commission will still be providing assistance to such persons.

shall instead involve a review as to whether and how the Commission might make resources available to residents of the City generally, based upon the known facts.

iii. Report Required. The Commissioner or Commissioners charged with conducting the Complaint Review shall prepare a report, protecting the names and identifying details of the complainant and any person(s) named in the complaint, summarizing the nature of the complaint, the Complaint Review result, and the information and resources provided.

8) As part of the Commission's Annual Action Plan, the Commission shall aggregate the information and resources provided to complainants, or the residents of the City generally, during that year ~~to complainants~~ so as to make the same information available to all persons without the need for them to first file a complaint.

4)9) Nothing set forth herein ~~is intended to~~ shall alter or limit the authority of any other municipal employee, officer, board, commission, authority or agent pursuant to any federal ~~or~~ state ~~or local~~ statute, ~~or~~ regulation or City ordinance.

C. Applicability

- 1) These ~~provisions of this ordinance~~ procedures shall be construed liberally for the accomplishment of the purposes of ~~these the Commission's Rules~~ and the Ordinance creating the Commission, ~~and any ordinances or portions thereof inconsistent with any provision of this Ordinance is hereby repealed.~~
- 2) The Human Rights Commission may periodically vote to amend these procedures as warranted necessary for the efficiency and effectiveness of its mission.

Commented [LG34]: Based upon our discussion, I added this section to make clear that while the Commission will review an anonymous complaint, in the absence of verifiable information, it will be considering whether there is information available to support or provide resources to residents of the City generally.

**PROCEDURE FOR FILING COMPLAINTS
WITH THE
WATERTOWN HUMAN RIGHTS COMMISSION**

Pursuant to the provisions of Ordinance 0-2023-66, § 31.73, the following procedures shall apply to the Commission’s receipt and management of human rights complaints so as to “ensure the protection of every individual in the enjoyment and exercise of their human and civil rights and to encourage and bring about mutual understanding and respect among all people who live, work, visit, and travel within the City.”

A. Jurisdiction

- 1) The Commission serves as a resource for Watertown residents, employees, visitors and those doing business with or in the City, with regard to concerns, complaints, or questions of discrimination, unequal treatment of individuals and other issues included in the Commission’s mandate, as further detailed in Section 2 of this Procedure and each subsection thereof. The Commission does not have the jurisdiction to investigate or resolve complaints directly between parties to a dispute.
- 2) The Commission may receive concerns, complaints or questions regarding the full range of human rights issues, whether civil, political, economic, social, or cultural in nature, as recognized by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other related international human rights instruments related to human rights, including but not limited to:
 - i. Perceived withholding, denying, interfering with, threatening or subjecting of any individual to coercion or intimidation concerning equitable access to and/or discrimination in employment, housing, education, recreation, services, public access and accommodation and public area against a person is based upon race, color, religious views, national
 - ii. ‘ origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status, sexual orientation, disability, source of income, military or veteran status; and
 - iii. Perceived acts of prejudice, intolerance, bigotry, bias, unlawful discrimination, threats, coercion, or intimidation based upon an individual’s race, color, religious views, national origin, sex, gender identity or expression, citizenship, age, ancestry, family/marital status in any form, sexual orientation, disability, source of income, or military or veteran status.
- 3) Such concerns may implicate the provisions of state and federal laws including but not limited to G.L. c. 151B (the Massachusetts Anti-Discrimination Law), 42 U.S.C. § 3601, et. seq. (the Federal Fair Housing Act), the Americans with Disabilities Act, and other relevant state and federal anti-discrimination laws. As such, the Commission may, after review and as appropriate, refer any such complaints to an appropriate authority having jurisdiction, including but not limited to local, state, or federal law enforcement agencies, social services agencies, the Massachusetts Commission against Discrimination, or the

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City's Human Resources Department. Whether or not the Commission makes such a referral, the complainant retains the right to seek any and all remedies available to them in law and in equity, and the failure of the Commission to make such a recommendation in no way reflects a determination by the Commission that such remedies are unavailable or inappropriate.

4) IMPORTANT INFORMATION FOR COMPLAINANTS:

- i. The Commission cannot as a matter of law guarantee the confidentiality of any concerns, complaints or questions brought to its attention, as all records received by the Commission, including those received at meetings, and all meetings of the Commission, are subject to the requirements of the Public Records and Open Meeting Laws.
- ii. In the event a complaint is made to or filed with the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint. In furtherance of this purpose, the Commission shall designate one member, on a rotating basis, to be available to meet or speak individually with complainants.
- iii. The Commission reserves the right to refer a concern, complaint, or question concerning a potential crime, after notice to the person bringing the same to the attention of the Commission, if possible, to appropriate local, state or federal law enforcement authorities.

B. Directions for Filing a Complaint

- 1) Submissions By Mail, E-Mail, Telephone or In Person. Any person or class of persons with a concern, complaint or question concerning an act or event perceived to be a human rights violation may submit the same to the Commission by mail, e-mail, or telephone; in person at a meeting; or by making an appointment to meet with or speak to a Commissioner, as provided in Section 4(ii), and/or the City staff liaison. Generally, submissions shall be made within one year of the relevant act or event; however, the Commission may accept submissions outside of that timeframe should circumstances so require. Contact information is as follows, and, for written complaints, confirmation will be provided as soon as possible but within seven days:

In Person or By Mail: Human Rights Commission, Watertown City Hall, 149 Main Street, Watertown, MA 02472

By E-mail: Doug Newton at dnewton@watertown-ma.gov

By Telephone:

- 2) Substance of Written Complaints. While anonymous concerns, complaints, and questions will be accepted for filing, written complaints may state the name and address of the person making the complaint and must include a concise description of the events or acts believed to constitute a violation of human rights. When appropriate, the complaint may indicate the person, institution, or company believed to be responsible for the violation.

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2) We routinely advise that no action should be taken on an anonymous complaint due to potential liability. Even a simple accusation can lead to a claim against the municipality for invasion of privacy, a constitutional violation with potential for triple damages.

3) No binding or formal action of any kind can be taken on an anonymous complaint, as it would likely constitute an action that was "arbitrary, capricious or an abuse of discretion".

4) If they decide to go forward, we would need to discuss erecting "guardrails" to protect the City from suit.

Commented [LG13R12]: Maybe establish a standard that makes clear that Commission has complete discretion with respect to action on anonymous complaints.

- 3) All Remedies Available to Commission and Complainant. Neither the filing of a complaint with the Commission, nor the failure to file a complaint, shall bar a complainant from seeking assistance from or relief in any other administrative or judicial forum. Similarly, neither the filing of a complaint nor the failure to file a complaint in any other administrative or judicial forum bar a complainant from seeking assistance from the Commission.
- 4) Confidentiality. In the event of a complaint made to the Commission outside of a public meeting, the Commission shall, to the extent possible and consistent with law, protect the privacy of the complainant and any person(s) named in the complaint.
- 5) City Employees. If the concern, complaint, or question involves a City employee, the Chairperson shall refer the matter to the City's Human Resources Director for appropriate action. If the alleged violation involves the City Manager or a City Councilor, the Human Resources Director shall consult with the City Council President on next steps. In both cases, consideration may be given to hiring an outside investigator, if necessary.
- 6) Initial Review/Designation of Complaint Review. If the concern, complaint, or question involves any person other than a Town official or employee, the Chairperson may elect to review the same themselves or designate one or more Commissioners to conduct a Complaint Review. If two or more Commissioners are assigned to review the complaint together, they shall constitute a subcommittee subject to the requirements of the Open Meeting Law, and all meetings shall be held in open session unless one of the executive session purposes in G.L. c. 30A, §21 is applicable.

One such provision, G.L. c. 30A, §21(a)(1), authorizes public bodies to meet in executive session to, "discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual." Under such circumstances, the individual to be discussed must be provided with written notice at least 48 hours in advance of the session, although they can waive the 48 hours notice requirement in writing, and that person must be afforded the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

While this section also applies to anonymous complaints, it is recognized that taking action thereon can be difficult due to the lack of verifiable information. Under such circumstances, the Commission may not have enough facts to do more than a preliminary

Commented [CB14]: Is this language moved somewhere? We feel that this is important to keep.

Commented [LG15R14]: Under state law, the conflict runs to the individual. If this language is still deemed essential, it can be revised as follows, "It is the request of the Commission that any Commissioner who identifies a conflict of interest in a particular matter shall recuse themselves from participation in that matter."

Commented [LG16]: This provision is essentially a repeat of Section 4(ii) above. We can, of course, have it appear twice, but deleting it will not impact the overall Procedure, in my opinion.

Commented [CB17]: Are we able to use this or any other kind of standard for review of complaints? If so, what would it be?

Commented [LG18R17]: We've said we aren't the Human Rights Commission police and we can't "order" or "direct" you to take this out of the proposed procedures. However, it is our responsibility as City Attorney to tell you that in our opinion this language seeks to implement a legal standard that is reserved to a court creating a serious risk to the members and to the City. In our opinion, incorporation of such a standard creates a very real risk of a civil rights violation, invasion of privacy, slander, defamation, libel, potential for harm to an individual, intentional tortious interference with contractual relations, reputational damage and much more. We understand that not having a "perceived" bright line rule will be a challenge, however, trying to figure out what constitutes a "prima facie violation" of any complicated law is immensely challenging.

Commented [CB19]: We would be interested in having a better understanding of what an executive session entails.

Commented [LG20R19]: There is a presumption under the Open Meeting Law that all meetings occur in open session and that a board may only meet in executive session under very limited circumstances. The Attorney General strictly enforces the law, which can also be pursued in Superior Court. Therefore, any time the Commission wants to meet privately, it must determine whether the purpose of the meeting is consistent with one of the Open Meeting Law executive purposes. In summary, it means that regular business of the Commission is required to be undertaken at posted public meetings. To the extent that a discussion could implicate the privacy right of a complainant or someone else named in a complaint, the Commission may need to go into executive session to discuss the same.

Commented [LG21R19]: This explanation, above, has been updated following our meeting.

review of the matter at issues, handling the complaint in accordance with the second sentence of Section 7(ii), below.

7) Complaint Review Resolution –

i. Evidence Suggesting Further Action May be Warranted. If the Complaint Review finds evidence suggesting a further inquiry is appropriate, to be evaluated on a case by case basis, considering the particular facts involved, as to whether the act or event at issue constitutes a human rights violation, the Commissioner(s) reviewing the complaint may request an informal, purely voluntary meeting with the complainant to learn more about the facts or to request additional information. Regardless of whether such a meeting is held, however, the Commissioner(s) reviewing the complaint shall notify the complainant of the results of their initial review and work with the complainant to provide information and resources about possible administrative and judicial avenues to pursue and address the complaint, and, further, to identify, and/or refer the complainant to support from state agencies, nonprofits, or other professionals that may be available resources.

ii. No Evidence Suggesting Further Action May be Warranted. If the Complaint Review suggests that insufficient evidence exists to warrant further inquiry into the matter, to be evaluated on a case by case basis considering the particular facts at issue, the Commissioner(s) conducting the complaint review shall notify the complainant, provide information and resources about possible administrative and judicial avenues to pursue the complaint, and provide such additional information as may be appropriate to support the complainant. If the complaint at issue is anonymous, resolution under this section shall instead involve a review as to whether and how the Commission might make resources available to residents of the City generally, based upon the known facts.

iii. Report Required. The Commissioner or Commissioners charged with conducting the Complaint Review shall prepare a report, protecting the names and identifying details of the complainant and any person(s) named in the complaint, summarizing the nature of the complaint, the Complaint Review result, and the information and resources provided.

8) As part of the Commission’s Annual Action Plan, the Commission shall aggregate the information and resources provided to complainants, or the residents of the City generally, during that year so as to make the same information available to all persons without the need for them to first file a complaint.

9) Nothing set forth herein shall alter or limit the authority of any other municipal employee, officer, board, commission, authority or agent pursuant to any federal or state statute or regulation or City ordinance.

C. Applicability

1) These procedures shall be construed liberally for the accomplishment of the purposes of the Commission’s Rules and the Ordinance creating the Commission.

Commented [LG22]: I inserted this to address the issues with anonymous complaints, and how they might be “resolved”. See also the second sentence of Section 7(ii).

Commented [CB23]: We would be more comfortable with something objective – is there a different phrasing that we can use?

Commented [LG24R23]: There really isn’t a “standard” that can be imposed. The Commission is not an adjudicatory body with statutory jurisdiction. Therefore, in our opinion, regardless of whether language is used that suggests some sort of bright line, each of these issues will require case by case evaluation based upon the particular facts at issue. Managing complaints in any other way will potentially create exposure to liability.

Commented [LG25R23]: Based upon our discussion, we clarified that consideration of a particular complaint will be done on a case by case basis, based upon the particular evidence at issue.

Commented [CB26]: We’re not comfortable with this language as it is very subjective. Is there another way to state this?

Commented [LG27R26]: We’ve been talking about this issue throughout - the Commission isn’t an adjudicatory body with statutory jurisdiction. In our opinion, while the Commission can’t issue “determinations” it can assist the complainant to access other available resources.

Is there something else that the Commission seeks to accomplish?

Commented [CB28]: We would be more comfortable with something objective – is there a different phrasing that we can use?

Commented [LG29R28]: There really isn’t a “standard” that can be imposed. The Commission is not an adjudicatory body with statutory jurisdiction. Therefore, in our opinion, regardless of whether language is used that suggests some sort of bright line, each of these issues will require case by case evaluation based upon the particular facts at issue. Managing complaints in any other way will potentially create exposure to liability.

Commented [LG30]: The Complainant brought the matter forward because they thought they have one. We inserted this language because regardless of what the Commission concludes, the complainant may or may not have a claim, and this language makes clear that the Commission will still be providing assistance to such persons.

Commented [LG31]: Based upon our discussion, I added this section to make clear that while the Commission will review an anonymous complaint, in the absence of verifiable information, it will be considering whether there is information available to support or provide resources to residents of the City generally.

- 2) The Human Rights Commission may periodically vote to amend these procedures as warranted necessary for the efficiency and effectiveness of its mission.