



The Corporation of the  
Municipality of Clarington  
By-Law 2017-020

Being a by-law to establish a Code of Conduct for Members  
of Council.

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Passed, by Council, on: February 27, 2017

Consolidated as of: February 26, 2019

Amendments:

Amending By-Law	Date	Amendment Details
2019-009	February 25, 2019	Delete subsection 7.2 and replace with subsections 7.2-77.

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**The Corporation of the Municipality of Clarington****By-law 2017-020**

Being a by-law to Establish a Code of Conduct for Members of Council.

Whereas section 223.2 of *The Municipal Act, 2001*, S.O. 2001, c.25, as amended, authorizes the municipality to establish a Code of Conduct for members of the council; and

Whereas the Council of the Municipality of Clarington passed By-law 2009-163, as amended, to establish a Code of Conduct for Members of Council; and

Whereas the Council of the Municipality of Clarington deems it necessary to update the Code of Conduct for Members of Council:

Now therefore the Council of the Municipality of Clarington hereby enacts as follows:

1. That "Schedule A" attached hereto is adopted as the Municipality of Clarington's Council Code of Conduct for Members of Council; and
2. That "Schedule A" attached hereto forms part of this by-law.
3. That By-law 2009-163 and its amending By-law 2013-096 are repealed.

Passed this 27<sup>th</sup> day of February, 2017.

Original Signed

**Municipality of Clarington**

**Council Code of Conduct**

**Municipality of Clarington**  
**Code of Conduct for Members of Council**

**1. PRINCIPLES**

- 1.1 Improving the quality of Municipal administration and governance can best be achieved by encouraging high standards of conduct on the part of all municipal officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the Municipality's and the Council members' reputation and integrity.
- 1.2 Key statements of principles that underline this Council Code of Conduct are as follows, members of Council shall,
- (a) serve, and be seen to serve, their constituents in a conscientious and diligent manner;
  - (b) be committed to performing their functions with integrity, avoiding the improper use of the influence of their office, and conflicts of interest, under the *Municipal Conflict of Interest Act*;
  - (c) perform their duties in office in a manner that promotes public confidence and will bear close public scrutiny;
  - (d) recognize, and act upon, the principle that democracy is best achieved when the operation of government is made as transparent and accountable to members of the public as possible; and
  - (e) seek to serve the public interest by upholding both the letter and spirit of the laws of Parliament and the Ontario Legislature, as well as the by-laws and policies adopted by Clarington Council.

**2. DEFINITIONS**

- 2.1 In this Council Code of Conduct:
- (a) "child" means a child born within or outside marriage and includes an adopted child or a person whom a member has demonstrated a settled intention to treat as a child of his or her family;
  - (b) "Council Code of Conduct" means the rules which govern the conduct of members established pursuant to the authority of section 223.2 of the *Municipal Act, 2001, S.O. 2001, c. 25*;
  - (c) "complaint" means a written request to investigate the conduct of any member for a possible violation of the Council Code of Conduct filed in accordance with the Complaint Procedure;

- (d) "confidential information" means any information in the possession of, or received in confidence by, the Municipality that the Municipality is prohibited from disclosing, or has decided to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, or any other law, which includes, but is not limited to:
- (i) information of a corporate, commercial, scientific or technical nature received in confidence from third parties,
  - (ii) personal information as defined in subsection 2(1) of the *Municipal Freedom of Information and Protection of Privacy Act*,
  - (iii) information that is subject to solicitor-client privilege,
  - (iv) information that concerns any confidential matters pertaining to matters related to an identifiable individual, personal, labour relations, litigation, property acquisition, the security of the property of the municipality or a local board,
  - (v) any other information lawfully determined by the Council to be confidential, or required to remain or be kept confidential by legislation or order, and
  - (vi) any information considered by, or made available to Council, during a closed meeting pursuant to subsection 239(2) of the *Municipal Act, 2001*.
- (e) "Council" means the Council of the Municipality;
- (f) "gift and benefits" means any cash or monetary equivalent, fee, object of value, service, travel and accommodation, or entertainment;
- (g) "information" means any record, document, data, material, correspondence or evidence however recorded, whether oral or in printed form, on film, by electronic means or otherwise;
- (h) "Integrity Commissioner" means the Integrity Commissioner appointed by the Council pursuant to section 223.3 of the *Municipal Act, 2001*;
- (i) "member" means a member of Council, unless the context otherwise requires;
- (j) "Municipality" means the Corporation of The Municipality of Clarington
- (k) "parent" means a person who has demonstrated a settled intention to treat a child as a part of his or her family whether or not that person is the natural parent of the child;

- (l) "person" includes a corporation, partnership, association and any other entity, as the context allows, and expressly includes a member as well as Council;
- (m) "spouse" means a person to whom a person is married or with whom the person is living in a conjugal relationship outside marriage; and
- (n) "staff" means the municipal administrative staff of the Municipality and of its municipal corporations and local boards.

### **3. APPLICATION OF THIS CODE**

- 3.1 This Council Code of Conduct applies to every member of Council and local boards.

### **4. COMPLIANCE WITH DECLARATION OF OFFICE**

- 4.1 Every member shall act in accordance with his or her declaration of office sworn pursuant to Section 262 of the *Municipal Act, 2001*.

### **5. ADHERENCE TO COUNCIL POLICIES AND PROCEDURES**

- 5.1 Every member shall observe and comply strictly with every provision of this Council Code of Conduct, as well as all other policies and procedures adopted or established by Council affecting the member, whether or not acting in his or her capacity as a member of Council.

### **6. CONDUCT AT MEETINGS**

- 6.1 Every member shall conduct himself or herself properly and in a civil manner at Council, committee and other meetings, and in accordance with the provisions of the Municipality's Procedural By-law, this Council Code of Conduct, and any other applicable law.

### **7. CONDUCT RESPECTING OTHERS**

- 7.1 Every member has the duty and responsibility to treat all members of the public, other members of Council, and all staff appropriately and without abuse, bullying or intimidation, and to ensure that the work environment is free from discrimination and harassment.
- 7.2 No member shall use indecent, abusive or insulting-words or expressions toward any other member, any member of staff or any member of the public.
- 7.3 No member shall engage in Harassment of anyone. The Human Rights Code defines Harassment as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome."

- 7.4 No member shall engage in Discrimination against anyone on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability (the list of prohibited grounds of discrimination in the Human Rights Code).
- 7.5 Sections 7.3 and 7.4 shall be interpreted in a manner consistent with the *Human Rights Code*.
- 7.6 The following examples of Harassment are illustrative only and not exhaustive:
- (a) Examples Harassment in the workplace include:
- Physically abusive or aggressive behaviour such as pushing, hitting, finger pointing or standing close to the victim in an aggressive manner
  - Using intimidating or disrespectful body language
  - Verbally abusive behaviour such as yelling, insults, intimidating comments and name calling
  - Spreading malicious rumours
  - Excluding or ignoring the victim
  - Making little or no eye contact with the victim and refusing to engage in common pleasantries
  - Sabotaging the victim's work or claiming credit for it
  - Repeatedly blaming another for mistakes
  - Making false allegations in memos or other documents
  - Undermining the victim's efforts by setting impossible goals and deadlines and impeding an employee's efforts at promotions or transfers
  - Persistent excessive and unjustified criticism and constant scrutiny by a supervisor
  - Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome

- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome
- Reprisal or threat of reprisal by a person in a position to grant or deny a benefit to a person who has rejected his or her sexual proposition
- Unnecessary or unwanted physical contact, ranging from touching, patting or pinching to physical assault
- Leering or other suggestive gestures
- Displaying, sending or communicating electronically or by any other means pornographic pictures or other offensive, sexually explicit material
- Practical jokes of a sexual nature, which cause awkwardness or embarrassment
- Compromising invitations
- Unwelcome remarks, jokes or insults about a person's physical appearance, attire, race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
- The displaying of racist, derogatory or otherwise offensive material
- Insulting gestures or practical jokes, or other action that causes embarrassment, based on grounds of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability
- A refusal to converse or work with an individual because of his or her race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability



- (b) The following examples, relative to employees who report directly to Council, do not constitute Harassment, providing they are undertaken without malice or intent to intimidate or undermine:
- Performance reviews
  - Work assignments
  - Work evaluation
  - Disciplinary measures taken by the employer for valid reasons
  - Reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment

7.7 In the course of investigating a complaint that alleges Harassment or Discrimination, the Integrity Commissioner may make interim reports to Council, including interim reports that recommend measures to protect the complainant or to maintain the integrity of the investigation.

## **8. CONDUCT RESPECTING STAFF**

8.1 Every member acknowledges that staff operate under the direction of the senior municipal administration, and in accordance with the decisions of Council, and are required to serve the Municipality as a whole and not the needs or desires of any individual member.

8.2 Every member shall:

- (a) be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any member or faction of the Council; and
- (b) show respect for staff, and for their professional capacities and responsibilities.

8.3 No member shall,

- (a) maliciously or falsely injure or impugn the professional or ethical reputation of any member of staff;
- (b) compel any member of staff to engage in partisan political activities, or subject any member of staff to threat or discrimination for refusing to engage in any such activity; or
- (c) use or attempt to further his or her authority or influence by intimidating, threatening, coercing, commanding or influencing improperly any staff member or interfering with that staff person's duties, including the duty to disclose improper activity.

## 9. GIFTS, BENEFITS, SERVICES AND HOSPITALITY

For the purposes of this Code, a gift or benefit provided, with the member's knowledge, to a member's spouse, child or parent, or to his or her staff, that is connected directly or indirectly to the performance of the member's duties, is deemed to be a gift or benefit to that member.

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted under one or more of the exceptions listed below.

Each of the following is recognized as an exception:

- (a) compensation authorized by law;
- (b) a gift or benefit of the kind that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation;
- (c) a political contribution otherwise authorized reported, as required by law, in the case of a member running for office;
- (d) services provided without compensation by a person volunteering his or her time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation or entertainment lawfully provided by any Provincial, regional or local government or board or political subdivisions of any of them, by the Federal government, a foreign government, or by those organizing a conference, seminar or event where the member is speaking or attending in an official capacity;
- (g) food and beverages consumed at a banquet, reception or similar event, if:
  - (i) attendance by the member is for a legitimate municipal purpose;
  - (ii) the person extending the invitation, or a representative of the organization holding the event, is in attendance; and
  - (iii) the value is reasonable;
- (h) communications to the office of a member, including subscriptions to newspapers and periodicals; and
- (i) a sponsorship or donation for a community event organized or run by a member, or a third party on behalf of a member, subject to the limitations set out in any applicable municipal policy.

Except for exception (c) (political contributions allowable by law), these exceptions do not apply where a gift or benefit is provided by a lobbyist or a lobbyist's client or employer. In this provision, a lobbyist is an individual, organization or business who or that:

- (i) lobbies, or causes the lobbying of, any public office holder of the municipality, the municipal council or corporation, or a local board;
- (ii) the member knows is attempting or intending to lobby the member or any of the public persons or bodies listed in paragraph (a); or
- (iii) is maintaining an active lobbyist registration with the municipality, whether or not with respect to any specific or current subject matter.

In the case of any of the recognized exceptions (b), (e), (f), (h) and (i), if the value of the gift or benefit exceeds \$300.00, or if the total value of gifts or benefits received from any one source during the course of a calendar year exceeds \$300.00, the member shall file, within 30 days of receipt of the gift or benefit, or of reaching the annual limit, a disclosure statement with the Municipal Clerk.

The disclosure statement must set out:

- 1. the nature of every gift or benefit received;
- 2. its source and date of receipt;
- 3. the circumstances under which it was given and received;
- 4. its estimated value;
- 5. what the recipient intends to do with any gift; and
- 6. whether any gift will at some point be provided to the municipality.

Every disclosure statement filed under this Code shall be made a public record.

Upon receiving a disclosure statement, the Municipal Clerk shall forward the statement to the Integrity Commissioner who shall examine it to ascertain whether the receipt of the gift or benefit might, in his or her opinion, constitute a contravention of this Code or create a conflict between a private interest and the public duty or responsibilities of the member. In the event that the Integrity Commissioner makes such a determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt of any gift or benefit was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, forfeit the gift or remit the value of any gift or benefit already consumed, to the Municipality.

Except in the case of exceptions (a), (c), (f) and (i), no member shall accept a gift or benefit worth in excess of \$500.00, or gifts or benefits from one source during a calendar year which together are worth in excess of \$500.00.

## 10. CONFIDENTIAL INFORMATION

### 10.1 No member shall,

- (a) disclose, release or publish by any means to any person or to the public any confidential information acquired by virtue of his or her office, in any form, except when required or authorized by Council or otherwise by law to do so;
- (b) use confidential information for personal or private gain or benefit, or for the personal or private gain or benefit of any other person or body;
- (c) disclose a matter, the substance of the matter, and information pertaining to a matter, that has been debated or discussed at a meeting closed to the public, and shall be maintained as confidential, unless authorized by the Council or legislation to be released, generally or subject to conditions, and such are complied with;
- (d) disclose the content of any matter referred to in the preceding paragraph or the subject-matter of deliberations at a meeting closed to the public meeting, unless such matter has been lawfully and knowingly discussed by Council at a meeting that is open to the public or where Council authorizes the release the information to the public;
- (e) without lawful authority, disclose, or make personal use of, any of the following types of confidential information:
  - (i) information concerning litigation, negotiation or personnel matters,
  - (ii) information the publication of which may infringe on the rights of any person (e.g. source of a complaint where the identity of a complainant is given in confidence),
  - (iii) price schedules in any contract, tender or proposal document while such remains a confidential document,
  - (iv) information deemed to be "personal information" under the *Municipal Freedom of Information and Protection of Privacy Act*, or
  - (v) any other information or statistical data required by law not to be released; and
- (f) obtain access, or attempt to gain access, to confidential information in the custody of the Municipality except to the extent that such access is necessary for the performance of his or her duties and such access is not prohibited by Council or otherwise by law.

**11. USE OF MUNICIPAL PROPERTY, SERVICES AND OTHER RESOURCES**

11.1 Subject to 11.2 below, no member shall,

- (a) use, or permit the use of, Municipal land, facilities, equipment, supplies, services, staff or other resource, including any municipally-owned information, website, transportation delivery service or funds allocated for the member expenses of his or her office, for any purpose or activity other than the lawful business of the Municipality; or
- (b) seek or acquire any personal financial gain from the use or sale of confidential information, or of any municipally-owned intellectual property including any invention, creative writing or drawing, computer program, technical innovation, or any other information or item capable of being patented or copy righted, of which property remains exclusively that of the Municipality.

11.2 Incidental and occasional personal, non-commercial use of email/internet and a personal communication device (i.e. Blackberry) is permitted.

**12. CONDUCT OF ELECTION CAMPAIGN**

12.1 Every member shall comply with all applicable requirements of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched.

12.2 No member shall,

- (a) use confidential information, facilities, equipment, supplies, services or other resources of the Municipality, including any member newsletter or website linked through the Municipality's website, for any election campaign or campaign-related activity;
- (b) undertake campaign-related activities on municipal property except as otherwise provided for in Policy F5 – Political Activities; or
- (c) use the services of any person for election-related purposes during hours in which that person receives any compensation from the Municipality.

**13. NO IMPROPER USE OF INFLUENCE**

13.1 No member shall,

- (a) use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purposes;
- (b) use his or her office or position to influence or attempt to influence the decision of any other person, for the member's private advantage or that of the member's parent, child, spouse, staff, friend, or associates, business or otherwise;

- (c) attempt to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties; or
  - (d) hold out the prospect or promise of future advantage through the member's supposed influence within Council, in return for any action or inaction.
- 13.2 For the purposes of this provision, "private advantage" does not include a matter that,
- (a) is of general application;
  - (b) affects a member, his or her parents/children or spouse, staff, friends or associates, business or otherwise, as one of a broad class of persons; or
  - (c) concerns the remuneration or benefits of a member.
- 13.3 Section 13.1 does not prevent a member from requesting that Council grant a lawful exemption from a Municipal policy not including this Council Code of Conduct.
- 14. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE**
- 14.1 Every member must respect the integrity of the Council Code of Conduct and inquiries and investigations conducted under it, and shall cooperate in every way possible in securing compliance with its application and enforcement.
- 14.2 No member shall obstruct the Integrity Commissioner, his or her designate, or any other Municipal official involved in applying or furthering the objectives or requirements of the Council Code of Conduct, in the carrying out of such responsibilities, or pursuing any such objective.
- 14.3 No member shall undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person under the Council Code of Conduct.
- 15. STATUTES REGULATING THE CONDUCT OF COUNCILLORS**
- 15.1 Members acknowledge that in addition to this Council Code of Conduct, the following legislation and Clarington Policies also govern the conduct of members:
- (a) *Municipal Act, 2001;*
  - (b) *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50;*
  - (c) *Municipal Elections Act, 1996;*
  - (d) *Municipal Freedom of Information and Protection of Privacy Act;*

- (e) *Occupational Health and Safety Act, R.S.O. 1990, c. 0.1;*
- (f) *Human Rights Code, R.S.O. 1990, c. H.19;* and
- (g) *Criminal Code, R.S.C. 1985, c. C-46.*
- (h) Clarington Policy F-110 Use of Corporate Resources for Election Purposes
- (i) Clarington Policy F5 Political Activities

15.2 A member may become disqualified and lose his or her seat by operation of law, including being convicted of an offence under the *Criminal Code* or the *Municipal Elections Act, 1996*, or being found to have failed to comply with the *Municipal Conflict of Interest Act*, whether or not the conduct in question involves a contravention of this Council Code of Conduct.

15.3 In the case of any inconsistency between this Council Code of Conduct and a federal or provincial statute or regulation, the statute or regulation shall prevail.

15.4 All references to any statute, regulation, by-law or legislation shall be deemed to be a reference to the statute, regulation, by-law or legislation as amended, consolidated, replaced or superseded.

## **16. INTEGRITY COMMISSIONER**

16.1 The Integrity Commissioner shall be responsible for performing in an independent manner the following functions as assigned by the Municipality with respect to:

- (a) the application of the Council Code of Conduct; and
- (b) the application of any procedures, rules and policies of the Municipality governing the ethical behaviour of members;

and, without limiting the generality of the foregoing, shall be entitled to undertake investigations or not undertake investigations in accordance with provisions of Part V.1 of the *Municipal Act, 2001*.

16.2 In addition, to the responsibilities set out in Section 16.1, the Integrity Commissioner shall also provide:

- (a) information to Council as to members' obligations under the Council Code of Conduct and the Complaint Procedure;
- (b) advice to individual members regarding specific situations as they relate to the application of the Council Code of Conduct;
- (c) advice to Council on other policies and procedures that relate to the ethical behavior of members;

- (d) information to the public regarding the Council Code of Conduct and the obligations of members under the Council Code of Conduct; and
  - (e) an annual report to Council on the activities of the Integrity Commissioner.
- 16.3 Without limiting the generality of Section 16.1, the Integrity Commissioner may determine, on a case-by-case basis, whether to undertake an investigation or not to undertake an investigation. The Integrity Commissioner shall be entitled to summarily dismiss a complaint filed in accordance with the Complaint Procedure on the basis that it constitutes in his or her opinion, an abuse of process or is frivolous or vexatious.
- 16.4 Without limiting the generality of Section 16, all determinations of the Integrity Commissioner under the Council Code of Conduct shall be made in his or her own absolute discretion and shall be final and binding.
- 16.5 A request by a member of Council, or of a local board for advice from the Integrity Commissioner shall be made in writing.
- 16.6 Where the Integrity Commissioner provides advice to a member of Council or local board, the advice shall be in writing.
- 16.7 Where the Integrity Commissioner provides educational information to of the public about the Municipality's Council Code of Conduct, the Integrity Commissioner may summarize advice he or she has provided, but shall not disclose confidential information that could identify a person concerned.

## **17. COMPLAINTS**

- 17.1 All complaints pursuant to the Council Code of Conduct shall be filed in accordance with the Complaints Procedure in Appendix "A" attached hereto.

## **18. PENALTIES**

- 18.1 Council may, where it has received a report from its Integrity Commissioner that there has been a violation of the Council Code of Conduct, impose one of the following penalties on a member who has been found to be in contravention of the Council Code of Conduct:
- (a) a reprimand; or
  - (b) suspension of the remuneration paid to the member in respect of his or her services as a member for a period of up to 90 days.



**19. ANNUAL REPORTS**

- 19.1 The Integrity Commissioner shall submit an annual report to Council which will include information on the nature and volume of activity for the past year and provide examples, while maintaining the anonymity of the persons involved, in respect of advice provided and the nature of complaints received and for which a response was issued.
- 19.2 The annual report of the Integrity Commissioner shall be provided to Council for information purposes. The report is a public document.

**Municipality of Clarington's  
COUNCIL CODE OF CONDUCT  
COMPLAINT PROCEDURE  
(the "Complaint Procedure")**

**1. Procedure — Informal Complaint**

- 1.1 Any person who believes that a member is in contravention of the Municipality of Clarington's Council Code of Conduct may address their concerns in the following manner:
- (a) advise the member that their behaviour or activity contravenes the Council Code of Conduct;
  - (b) encourage the member to stop the prohibited behaviour or activity;
  - (c) if applicable, confirm to the member their satisfaction or dissatisfaction with the member's response to the concern identified; and
  - (d) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter.
- 1.2 If any person is not satisfied with the response received through the aforementioned informal process, the person may proceed with a formal complaint through the Integrity Commissioner as outlined in Section 2 of the Complaint Procedure.

**2. Procedure — Formal Complaint**

- 2.1 Any person who has reasonable grounds to believe that a member of Council has contravened the Council Code of Conduct may address their concerns through the formal complaint process set out below:
- (a) all formal complaints ("Complaints") must be made using the Municipality's Complaints Form (see Schedule "A") and shall be dated and signed by the person making the Complaint (the "Complainant");
  - (b) the Complaint must include an explanation as to why the issue raised may be a contravention of the Council Code of Conduct and any evidence in support of the allegation must be included with the Complaints Form;
  - (c) any witnesses in support of the allegation must be identified on the Complaint Form;

- (d) the Complaint Form must include the name of the member alleged to have breached the Council Code of Conduct, the specific provision(s) of the Council Code of Conduct allegedly contravened, the date, time and location of the alleged contravention(s) and any other information as required on the Complaint Form;
- (e) the Complaint shall be filed directly with the Integrity Commissioner who will determine whether the matter is, on its face, a Complaint with respect to non-compliance with the Council Code of Conduct and not covered by other legislation or policies; and
- (f) the Complaint must be submitted to the Integrity Commissioner no later than six (6) months from the date in which the alleged violation occurred and no action will be taken on a Complaint received after this deadline.

2.2 The Integrity Commissioner may request additional information from the Complainant in order to properly assess the Complaint.

2.3 A Complainant may, at any time, abandon a Complaint.

### **3. Response of Integrity Commissioner of Complaint Outside Jurisdiction**

3.1 If the Complaint received by the Integrity Commissioner does not relate to a non-compliance with the Council Code of Conduct, it will be deemed not to be a Complaint and the Integrity Commissioner shall advise the Complainant in writing as follows:

- (a) Criminal Matter — if the Complaint is an allegation of a criminal nature consistent with the *Criminal Code*, R.S.C. 1985, c. C-46, the Complainant shall be advised that pursuit of such an allegation can only be made through the appropriate police service;
- (b) Municipal Conflict of Interest — if the Complaint is an allegation with respect to matters under the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, the Complainant shall be advised of their right to review the matter with their own legal counsel;
- (c) Municipal Freedom of Information and Protection of Privacy — if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56,
- (d) Where the complainant is seeking access to records, the Complainant shall be advised of their option to contact the Clerk for details regarding the application process, or

- (e) Where the complainant is pertaining to a confidentiality breach, the complainant shall be advised of their option to contact the Information and Privacy Commissioner;
- (f) Overlap of Jurisdiction – where the complaint pertains to a member that is also a member of the Council of the Region of Durham, the Integrity Commissioner shall, based on the details of the complaint, make a determination as to whether the complaint pertains to the member in his/her capacity of a member of Clarington Council or in his/her capacity of a member of Regional Council and shall proceed with the investigation involving the appropriate organization.
- (g) Other Matters – if the matter is covered by other policies or legislation, the Complainant will be advised and directed to proceed in a manner as considered appropriate by the Integrity Commissioner.

#### **4. Refusal to Conduct an Investigation**

- 4.1 If upon, review of a Complaint, the Integrity Commissioner is of the opinion that the Complaint is frivolous, vexatious or not made in good faith, or that there are no or insufficient grounds for an investigation, the Integrity Commissioner will not conduct an investigation and shall communicate this position in writing to the Complainant and the member identified in the Complaint Form. The Integrity Commissioner is under no obligation to prepare a report for any matters that he or she summarily dismisses or determines not to investigate.

#### **5. Opportunity for Resolution**

- 5.1 If at any time following the receipt of a Complaint or during the investigation process, the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the Complainant and the member agree, efforts may be made to achieve an informal resolution. The formal Complaint will be held in abeyance during such time.

#### **6. Investigation**

- 6.1 If the Integrity Commissioner determines that a formal investigation is required, he or she shall:
  - (a) provide a copy of the Complaint and any supporting materials to the member whose conduct is in question with a request that a written response to the allegation be provided to the Integrity Commissioner within ten (10) days;
  - (b) provide a copy of the response provided by the member to the Complainant with a request for a written reply within ten (10) days;

- (c) have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality that the Integrity Commissioner believes to be necessary for an investigation; and
- (d) make interim reports to Council where necessary and as required to address any issues of interference, obstruction, delay or retaliation, if any, encountered during the investigation.

6.2 The Integrity Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, S.O. 2009, c. 33, Sched. 6, in which case those sections apply to the investigation.

## **7. Co-Operation**

7.1 A Member shall co-operate in every way possible with the Integrity Commissioner in any investigation of a Complaint and the enforcement of the Council Code of Conduct.

7.2 A member of staff may not assist a member in his/her duties under this Procedure, including, but not limited to, assisting in preparing the member's written response to the Integrity Commissioner.

## **8. Suspension of Investigation**

8.1 The Integrity Commissioner will cease the investigation if:

- (a) a Complainant abandons the request for an investigation, in which case the Integrity Commissioner shall report to Council as set out in Section 9; or
- (b) the Integrity Commissioner determines that there are reasonable grounds to believe that there has been a contravention of any other statute or of the *Criminal Code*, in which case the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the investigation until any resulting police investigation and charge(s) have been finally disposed of, and shall report the suspension to Council.

## **9. Report Regarding Recommendation**

9.1 The Integrity Commissioner shall report to the Complainant and the member on the results of his or her review within 60 days of receiving a complete Complaint Form upon completion of an investigation. If the investigation process requires more than 60 days, the Integrity Commissioner shall provide an interim report to the Complainant and member indicating when the complete report may be available.

- 9.2 If, during the investigation process, the Complaint is withdrawn, sustained or resolved, the Integrity Commissioner shall report to Council outlining the findings, the terms of any resolution and any recommended action within 30 days.
- 9.3 If, upon completion of the investigation, the Integrity Commissioner finds that there has been no contravention of the Code, or that a contravention occurred but the member took all reasonable measures to prevent it, or the contravention committed was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall set this out in a report to Council.
- 9.4 If, upon completion of the investigation, the Integrity Commissioner finds that a breach of the Council Code of Conduct has occurred, the Integrity Commissioner shall report his or her findings to Council including a recommendation as to the imposition of a penalty as set out in subsection 223.4(5) of the *Municipal Act, 2001* S.O. 2001, c. 25, namely either:
- (a) a reprimand; or
  - (b) a suspension of remuneration paid to the member for a period of up to 90 days.
- 9.5 The report shall only disclose such information that, in the Integrity Commissioner's opinion, is required for the purposes of the report.

## **10. No Appeal of Integrity Commissioner's Decision**

- 10.1 There is no appeal of the decision of the Integrity Commissioner.

## **11. No Complaints or Reports Prior to Election**

- 11.1 No Complaint may be referred to the Integrity Commissioner or forwarded by the Clerk for review and/or investigation after July 1 in any year in which a regular municipal election will be held. The Clerk shall forward any Complaint received after July 1 to the Integrity Commissioner on as soon as possible after the new Council has taken office in a regular election year and advise the Complainant of this process.
- 11.2 Notwithstanding Section 9 of this Complaint Procedure, the Integrity Commissioner shall not make any report to Council or any other person after the last regular Council meeting in July in any year in which a regular municipal election is to be held. Any reports will be made to the first Council meeting held after the inaugural meeting of the new Council.

## **12. Confidentiality**

12.1 The Integrity Commissioner and every person acting under his or her instructions shall preserve the confidentiality of all documents, material or other information, whether belonging to the Municipality or not, that come into their possession or to their knowledge during the course of their duties as required by section 223.5 of the *Municipal Act, 2001*. Pursuant to subsection 223.5(3) of the *Municipal Act, 2001*, Section 9 of the Complaint Procedure prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.

## **13. Delegation**

13.1 The Integrity Commissioner may delegate, in writing, to any person, other than a member, any of the Integrity Commissioner's powers and duties.