

Town of Oakville Council  
Code of Conduct

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## **Introduction**

Since its inception in 1857, Council has demanded a high level of integrity and ethical conduct from its Members. The Town of Oakville's exemplary reputation has relied upon the good judgement of individual Members of Council. While tacit understandings have served well for many years, a written Code of Conduct helps to ensure that all Members share a common basis for acceptable conduct.

Formalized standards help to provide a useful reference guide and a supplement to the legislative parameters within which Members must operate. Further, they enhance public confidence that the town's elected representatives operate from a base of integrity, justice, and courtesy. Members are therefore expected to perform their duties of office in a manner that will bear the closest scrutiny.

As of March 2019, Provincial legislation requires all municipalities to have codes of ethical conduct in place for their members of council and local boards. The purpose of this Town of Oakville Council Code of Conduct for Council ("Code") is to establish rules that guide Members in performing their diverse roles in representing their constituents, and to recognize Members' accountability for managing Town resources.

## **Framework and Interpretation**

- 1) This Code applies to the Mayor and all Members. It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. Commentary and examples used in this Code are meant to be illustrative and not exhaustive.
- 2) This Code does not prohibit the activities in which Members normally engage on behalf of constituents in accordance with applicable laws.
- 3) This Code operates together with and as a supplement to existing federal and provincial statutes governing Members' conduct specifically and not limited to the following as may be amended from time to time:
  - a) Municipal Act, 2001, S.O. 2001, c. 25 ("Municipal Act, 2001");
  - b) Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50 ("Municipal Conflict of Interest Act");
  - c) Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched ("Municipal Elections Act, 1996");
  - d) Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56 ("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.

- 4) The following policies, as amended from time to time, shall apply to all Members of Council and any breaches of same may also be deemed a breach of this Code
  - a) Council Remuneration, Resources and Expenses Policy
  - b) Council Staff Relations Policy
  - c) Procedure By-law, as amended from time to time
  - d) Use of Corporate Resources During an Election Period Procedure
  - e) Any other policy applicable to Council which may be enacted by Council following the approval and coming into effect of this Code

## Definitions

In this Code, words imparting singular numbers include the plural and vice versa as the context requires. In addition, any reference in this Code to any statutes, regulations or by-laws shall be deemed to be a reference to such statutes, regulations or by-laws, as amended, restated or replaced from time to time. Where appropriate all references to gender (including pronouns) shall be neutral.

For the purposes of this Code, the following definitions have been identified:

**“Charity”** or **“Charitable”** means an organization or relating to an organization that is registered with the Canada Revenue Agency for the purpose of the relief of poverty, the advancement of education, the advancement of religion or other purposes that benefit the community.

**“Child”**, **“Parent”** and **“Spouse”** have the same meanings as in the *Municipal Conflict of Interest Act*.

**“Complaint”** means a written request to investigate the conduct of any Member for a possible violation of the Halton Town Council Code of Conduct in accordance with the Complaint Protocol/Procedure.

**“Council”** means the council of the Town of Oakville.

**“Council Committee”** means an Advisory, Standing or Special Committee of Council, established by Council.

**“Duties”** has the following meaning:

- For Members, it includes those activities that are reasonably related to a Member’s office, taking into consideration the different interests and diverse profiles of their wards, and their different roles on committees, agencies, boards and commissions.
- The Members are responsible for the activities that flow from acting on their direction by persons employed in the Office of the Mayor and Council.

**“Employee”** means all categories of paid and unpaid Town of Oakville staff and other individual(s) working on behalf of the Town of Oakville, including individuals employed by the offices of the elected officials.

**“Family Member”** means,

- Spouse, common-law partner, or any person with whom the person is living as a Spouse outside of marriage
- Parent, including step-parent and legal guardian
- Child, including step-child and grandchild
- siblings and children of siblings
- aunt/uncle, niece/nephew, first cousins
- in-laws, including mother/father, sister/brother, daughter/son
- any person who lives with the Member on a permanent basis

**“Non-Pecuniary Interest”** means a personal or private interest that is non-financial or monetary that would be considered as being likely to influence a transaction or decision.

**“Non-Profit”** or **“Not-for-Profit”** means associations, clubs, or societies that are not charities and are organized and operated exclusively for social welfare, civic improvement, pleasure, recreation, or any other purpose except profit.

**“Member”** means a member of Town of Oakville Council.

**“Municipal Act, 2001”** means the *Municipal Act, 2001*, S.O. 2001, c. 25.

**“Pecuniary Interest”** means a direct or indirect interest within the meaning of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50.

# The Code of Conduct

## 1. Key Principles

- 1) The key principles underlining this Code to guide both the Members in their actions and the Integrity Commissioner in interpreting sections 2 to 13, are as follows:
  - a) Members shall serve their constituents in a conscientious and diligent manner that fosters and enhances respect for government and demonstrates respect for members of the public.
  - b) Members are responsible for making honest statements. Members shall not make a statement when they know that statement is false. Members shall not make a statement with the intent to mislead Council or members of the public.
  - c) Members shall perform their Duties with integrity and transparency, recognizing the public's right to reasonable access to information in relation to how decisions are made (including the right of the public to receive complete and understandable information which must be balanced against the requirement to protect the legitimate interests of the Town and the respect for approved policies of the Town of Oakville. This Code does not require Members to provide a response to an inquiry or request for information that is frivolous or vexatious, unreasonable, or harassing.
  - d) Members shall avoid conflicts, both apparent and real, and the improper use of the influence of their office. In the discharge of their Duties, Members shall not extend preferential treatment to Family Members, organizations or groups in which they or their Family Member have a Pecuniary Interest, which Pecuniary Interest is known to the Member.
  - e) Members shall avoid any Pecuniary Interest in any contract made by them in their official capacity and shall not contract with the Town or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.
  - f) Members shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the Town, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the Town.

- g) A Member may engage in an activity prohibited by clause (e) if the following conditions are met:
  - i. The Member has disclosed all material facts to the Integrity Commissioner;
  - ii. The Integrity Commissioner is satisfied that the activity, as carried on in the specified manner, does not create a conflict between the Member's private interest and public duty;
  - iii. The Integrity Commissioner has given the Member their approval and has specified the way the Member may remedy the situation; and,
  - iv. The Member remedies the situation in the manner specified by the Integrity Commissioner.
- h) Members shall perform their Duties and arrange their public affairs in a manner that promotes public confidence and respect and bears close public scrutiny, by refraining from participating in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual member of the public.
- i) Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal and Provincial governments and Council.
- j) Members shall fulfill their roles as set out in the *Municipal Act, 2001* and respect the role of Employees in the administration of the business affairs of , recognizing that the Town of Oakville's decision-making authority for the municipality lies with Council, not an individual Councillor, and that it is the role of the officers and Employees to implement Council's decisions and establish administrative practices and procedures to carry out Council's decisions. Members affirm that only the whole Council has the capacity to direct Employees.
- k) Members should endeavour to demonstrate the same commitment to ethical behaviour required by this Code in their capacity as private citizens, recognizing that actions taken by Members as private citizens may sometimes be interpreted as reflecting the Council and the Town that they represent.

## **2. Gifts and Benefits**

1. Members shall not accept fees, advances, gifts, loans, or personal benefits that are connected directly or indirectly with the performance of their Duties. For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Member's Spouse, Child, or Parent, or to a Member's 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. Exceptions may include:

- a) compensation authorized by law, that is, the regular remuneration (salary) paid by the Town to a Member for their elected service and any additional compensation provided by the Town's board for duties as a representative of Council to that board;
- b) such gifts or benefits that normally accompany the Duties of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law;
- d) services provided without compensation by persons volunteering their time to a Member;
- e) a suitable memento of a function honouring the Member (e.g., a trinket or favour of relatively little monetary value such as a pen, notepad, t-shirt);
- f) food, lodging, transportation and entertainment provided by Federal, Provincial, regional or local governments or political subdivisions of them, or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event (for greater certainty, where Council has authorized or endorsed an initiative or event, this would be considered an official event.)
- g) food and beverages consumed at banquets, receptions or similar events, for charitable, not-for-profit and community purposes, if:
  - i. attendance serves a legitimate public duty purpose; and
  - ii. the value is reasonable, and the invitations are infrequent.
- h) business meals;
- i) communication to the offices of a Member, including subscriptions to newspapers and periodicals related to the Duties that are provided at no cost by the Town.
- j) sponsorships and donations for community events or initiatives organized or run by a Member or a third party on behalf of a Member where Council has authorized or endorsed the event or initiative (for greater certainty, for Member-organized community events or initiatives, Members should be transparent in their dealings with the public and should not handle any funds on behalf of any organization and should remain at arm's length from the financial aspects of these events and initiatives). This subsection 2.1 (j) does not affect the entitlement of a Member to:
  - i. use their Individual Allowance (or the Mayor's budget, depending on the Member) to run or support community events subject to the terms of the Council Expense Policy;
  - ii. urge constituents, businesses and other groups to support community events put on by others in the Town of Oakville;
  - iii. play an advisory or membership role in any organization that holds community events in the Town of Oakville; and
  - iv. collaborate with the Town of Oakville and its agencies to hold community events.
- k) An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's Duties (i.e., for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is the fulfillment of a Duty.



2. This Code recognizes that as community leaders, Members may lend their support to and encourage, community donations to registered charitable and not-for-profit groups. Funds raised through fundraising efforts shall go directly to the groups or volunteers and chapters acting as local organizers of the group. This Code recognizes the important work of Members in supporting charitable causes and the need for transparency in Members' involvement. In this context, this Code sets the following guiding principles for Members:
  - a) Members should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.
  - b) A Member or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or corporation with any pending litigation or application before Council (including but not limited to bids on contract tenders or Requests for Proposals).
  - c) With reference to Member-organized community events that are Town-wide in scope, Members must report to the Integrity Commissioner the names of all donors and the value of their donation.
  - d) Where a Member sponsors and/or lends support to a charitable organization's event, this Code recognizes that all donations are subject to this Code and the Council Expense Policy.
  - e) Donation cheques shall not be made out to a Member.
  
3. Nothing included herein affects the entitlement of a Member to:
  - a) use their Individual Council Member budget to run or support community events subject to the terms of the Council Expense Policy;
  - b) urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in the Town;
  - c) play an advisory or membership role in any organization that holds community events in the Town; and
  - d) collaborate with the Town and its agencies to hold community events.

*Commentary:* Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the Town, be such that no Member of Council is perceived as showing favoritism or bias toward the vendor, contractor or other. Each Member of Council is accountable to the public and should keep a list of all gifts received from individuals, firms or associations (with estimated values) in their offices for review by Integrity Commissioner, as he/she deems appropriate. A gift to a Member may be perceived as improper influence that may improperly induce, influence or create an incentive for a Member to make decisions on the basis of relationships rather than in the best interests of the Town.

### 3. Confidential Information

- 1) For the purposes of this Code, confidential information includes, but is not limited to, information in the possession of the Town that the Town is either prohibited from disclosing or must refuse to disclose under access and privacy legislation. Information addressed in section 239(2) of the *Municipal Act, 2001* and other legislation may be considered examples of same. Such information is typically communicated to Members via a staff report or memorandum that is clearly marked confidential and cites the appropriate confidential justification under the *Municipal Act, 2001*.
- 2) When in doubt as to whether certain information is confidential, Members should confirm with the Town Clerk.
- 3) Members shall not disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.
- 4) Members shall not use confidential information for personal or private gain, or for the gain of Family Members or any person or corporation.
- 5) Members shall not directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of Town's property or assets.
- 6) Members shall not disclose the content of any such matter, or the substance of deliberations, of a meeting held in closed session until Council discusses the information at a meeting that is open to the public or releases the information to the public. For greater certainty, there is no "sunset date" after which time confidential information automatically becomes public. Historical confidential information remains confidential in perpetuity unless ordered released by direction of Council. Individual Members may not request that confidential information be released.
- 7) Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.
- 8) Members shall not access or attempt to gain access to confidential information in the custody of the Town unless it is necessary for the performance of their duties and not prohibited by Council policy.
- 9) Members shall refer requests for confidential information to the Town Clerk to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

#### **4. Use of Town Property, Services and Other Resources**

- 1) Members shall not use Town property, equipment, services, supplies or services of consequence (for example, agency, board, commission, or Town-owned materials or websites, and any Council Member budget other than for purposes connected with the discharge of Duties.
- 2) Members shall not obtain financial gain from the use of Town-developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Town.
- 3) Members shall not use information that is not available to the general public for any purposes other than their Duties.
- 4) During election campaigns, Members should refer to the Use of Corporate Resources during an Election Procedure.

#### **5. Work of a Political Nature**

- 1) Members are required to follow the provisions of the *Municipal Elections Act, 1996*.
- 2) Members shall not use corporate resources for any election campaign or campaign-related activities except as contemplated by the Use of Corporate Resources During an Election Period Procedure.
- 3) Members shall not use the services of Employees for campaign-related activities during hours in which those persons receive any compensation from the Town.
- 4) Members shall refer to the Use of Corporate Resources During an Election Period Procedure for a complete list of obligations and/or restrictions applicable to Members regarding corporate resources during an election period.

#### **6. Business Relations**

- 1) Members shall not borrow money from any person who does business with the Town unless such person is an institution or company whose shares are publicly traded and who is in the business of lending money (e.g., a bank).
- 2) Members shall not act as paid or unpaid agents before Council, its committees or other agency or board affiliated with the Town.
- 3) Members shall not refer any third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

- 4) Members shall not allow the prospect of their future employment by a person or entity to affect the performance of their Duties.
- 5) If a Member becomes aware that an entity for which the Member has a material interest (or is a director or employee), may offer or provide goods, consulting or other services to the Town, the Member will seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, membership is in the best interests of the Town. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of Council and the Town.

## **7. Influence on Staff**

- 1) Members shall not use the influence of their office for any purpose other than for the exercise of their Duties.
- 2) Members shall be mindful that only Council as a whole and not individual Members may issue directions to Employees through the Chief Administrative Officer, as noted in the Council Staff Relations Policy.
- 3) Members shall not use their status as a Member to improperly influence the decision of another person to the private advantage of themselves, or their Family Members, friends, or associates, business or otherwise, including but not limited to attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of others as part of their Duties.
- 4) Members shall not hold out of the prospect or promise of future advantage through a Member's supposed influence within the Town in return for present actions or inaction.

## **8. Traditional Media and Social Media Communications**

- 1) Members shall respect that the Mayor is the official spokesperson for Council and all positions of same for both traditional and social media communications, unless otherwise provided for.
- 2) Members will accurately communicate the decisions of Council even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council.
- 3) Members may state that they did not support or voted against a decision of Council but should refrain from making disparaging comments about other Members and the process whereby the decision was undertaken.
- 4) Aspects of this Code applying to communications with the traditional media and public shall also apply to communications using social media. Members shall

express themselves on social media respectfully, in an open, transparent and publicly accountable manner and in accordance with the principles set out in the Code.

- 5) Members shall be mindful that social media use does not excuse them from their obligations under this Code regardless of the following:
  - a) whether or not they use their Council title on the social media platform(s);  
or
  - b) if a disclaimer is posted that views expressed therein are only personal opinions and not those of the Town or their local municipality.
- 6) Members shall not use the Town's property or intellectual property in social media posts that are unconnected to Town business.
- 7) Members shall not engage in campaign activities on social media accounts which use their official title, or from which they conduct official business of the Town.
- 8) Members shall consider their public obligations to engage in dialogue with those who disagree with them. Members must not block the public from access to the social media accounts they use to perform their Duties only because some users express criticism or disagreement with the Member's conduct or stated positions.
- 9) Members are not obligated to accept abuse, bullying, cyberstalking, harassment, threatening behaviour or conduct that violates the law by anyone on social media (including fellow Members). Members may block, report to the social media platform, or, in extreme cases, advise appropriate legal authorities about, individuals who are engaging in any of the behaviour noted above. The Integrity Commissioner may be relied upon for advice in these instances prior to any such action being taken.
- 10) Members must ensure, if an individual is blocked from accessing their personal accounts, that there is another avenue for that person to obtain information related to town services (e.g. corporate social media accounts and feeds or the town's website).
- 11) Members shall refer to the Online Communications Policy and related procedures.

## **9. Conduct Respecting Employees and Harassment**

- 1) In interactions with Employees, Members shall be governed by the Council Staff Relations Policy and the rules of decorum as set out in the Procedure By-law, as amended from time to time.

- 2) Harassment by a Member of another Member, an Employee, or any member of the public, is misconduct.
- 3) Members shall not compel any Employee to engage in partisan political activities or subject them to verbal, written or physical threats or discrimination, reprisal or punishment of any kind for refusing to engage in such activities.
- 4) Members shall not use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any Employee with the intent of interfering in the Employee's duties, including the duty to disclose improper activity.
- 5) Members shall be respectful of the roles of Employees to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of Council.
- 6) Members shall not maliciously or falsely impugn or injure the professional or ethical reputation, or the prospects or practice of Employees and all Members shall show respect for the professional capacities of Employees.

#### **10. Employment of Members' Family Members**

- 1) Members shall not attempt to influence the outcome, or to influence any Employee to hire or promote an individual from the Member's family.
- 2) Members shall not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any member of their Family Member.
- 3) Members shall not supervise a Family Member or be placed in a position of influence over a Family Member.
- 4) Members shall not attempt to use a family relationship for their personal benefit or gain.

#### **11. Reprisals and Obstruction**

- 1) Members shall not obstruct the Integrity Commissioner in the carrying out of their responsibilities. Examples of such obstruction may include, but are not limited to, the destruction of documents, erasing of electronic communications or refusal to respond in writing to a formal Complaint lodged pursuant to the Complaint Process adopted as part of this Code.
- 2) Members shall not threaten or undertake any act of reprisal against a person initiating an inquiry or Complaint under the Code or who provides information to the Integrity Commissioner in any investigation.

## 12. Compliance

- 1) Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in their opinion, there has been a violation of this Code, Council may impose the following penalties on a Member as authorized by the *Municipal Act, 2001*:
  - a) A reprimand; or
  - b) Suspension of the remuneration paid to the Member in respect of their services as a Member for a period of up to 90 days.
- 2) Where the Integrity Commissioner reports that in their opinion, there has been a violation of this Code, the Integrity Commissioner may also recommend that Council take other remedial actions. Such remedial actions must be measures which are intended to address the violation and the effects of the violation. Such remedial actions may include but are not limited to the following:
  - a) Requiring repayment or reimbursement of funds received by the Member.
  - b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.
  - c) Requiring a written and/or verbal apology from the Member to Council, the complainant, or to another appropriate person.
  - d) Removal from membership of a committee (if applicable) where, due to the Member's violation of this Code, it would no longer be appropriate for the Member to sit on the committee.
  - e) Removal as chair of a committee (if applicable) where, due to the Member's violation of this Code, it would no longer be appropriate for the Member to serve as chair the committee.
- 3) Upon Council's decision on the Integrity Commissioner's recommendations, the Member who has violated this Code shall comply with Council's decision. Failure to comply with Council's decision shall constitute a further contravention of this Code and may result in additional and potential escalation of penalties.

## 13. Implementation

- 1) Each new term of Council shall include a presentation by the Integrity Commissioner on this Code.
- 2) Members are expected to formally and informally review their adherence to the provisions of this Code on a regular basis or when so requested by the Integrity Commissioner.
- 3) If an individual Member is not able to attend the formal presentation by the Integrity Commissioner at the commencement of the Council term, they are encouraged to meet with the Integrity Commissioner separately.

- 4) Members and the public should not assume that any unethical activities not covered by or not specifically prohibited by this Code or by any legislation, are therefore condoned.
- 5) This Code shall be reviewed by the Town Clerk every five years or subject to any applicable amendments to the *Municipal Act, 2001* and any required amendments updates will be presented to Council for approval.

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## Appendix A: Role of the Integrity Commissioner

- 1) The Integrity Commissioner is an officer appointed by Town Council as authorized by section 223.3 of the *Municipal Act, 2001*. As defined by this Act, the Integrity Commissioner is responsible for performing the following functions in an independent manner:
  - a) Providing advice on the application of this Code for Members.
  - b) Providing advice on the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of Members.
  - c) Providing advice on the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended, to Members.
  - d) Responding to requests from Members for advice respecting their obligations under this Code.
  - e) Responding to requests from Members for advice respecting their obligations under a procedure, rule or policy of the municipality that governs the ethical behaviour of Members.
  - f) Responding to requests from Members for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
  - g) Providing educational information to Members, the municipality and the public about this Code and about the *Municipal Conflict of Interest Act*.
- 2) With respect to requests for advice, referred to in paragraphs (d), (e), and (f) above:
  - a) Requests for advice from Members shall be in writing and the Integrity Commissioner shall provide all advice in writing.
  - b) If all the facts known to the Member are disclosed to the Integrity Commissioner and there is no change to these facts, then the Member may rely on any written advice provided by the Integrity Commissioner.
  - c) If the Integrity Commissioner receives a formal Complaint in respect of the matter for which advice was given, the written advice provided to the Member will not remove the presumption of neutrality of the Integrity Commissioner or unfairly prejudice the Member.
- 3) Regarding requests for advice referred to in paragraphs 1(d), (e) and (f) above, the Integrity Commissioner may still receive and investigate Complaints for which written advice was given. The Integrity Commissioner may also decide to delegate the investigation of a Complaint under subsection 223.3(3) of the *Municipal Act, 2001*.
- 4) The Integrity Commissioner does not have jurisdiction to conduct inquiries regarding the conduct of Employees in the course of their duties in the administration of the decisions of Council. Any requests for inquiry or complaints in respect of actions, omissions or decisions of the administration of Council shall be denied by the Integrity Commissioner and directed instead to the Town's

appointed Ombudsman once the Town's complaints processes have been exhausted.

- 5) Should it be unclear whether a Complaint falls within the mandate of Halton Region or the Town, the Regional and Town Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). Where the Regional and the Town's Integrity Commissioner is the same person or firm, that Integrity Commissioner will decide under which mandate the Complaint falls. In such instances, consideration will be given to the following:
  - a) The municipality in which the Complaint was filed;
  - b) The municipality in which the expense/mileage claim was submitted for an event or function; and
  - c) The reasonableness for the respective municipality's Integrity Commissioner to undertake the investigation.
- 6) The Integrity Commissioner shall provide clarification regarding any part of this Code for Members, members of the public or Employees. Employees cannot provide advice regarding how an individual should interpret this Code nor assist in an Informal or Formal Complaint Process.
- 7) Items 1 through 5 above shall apply regardless of the individual or firm appointed by Council as its Integrity Commissioner under section 223.3 of the *Municipal Act, 2001*.

## Appendix B: The Complaint Process

Any individual who has identified or witnessed behaviour or activity by a Member that appears to be in contravention of the Code or sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* may address their concerns through one of the following processes outlined below. Complaints regarding the Code may be addressed through either the Informal or Formal Complaint Process, while complaints regarding the *Municipal Conflict of Interest Act* may only be dealt with through the Formal Complaint Process.

### A. Informal Complaint Process

- 1) Individuals (including Members, Employees, members of the public or local boards) who identify or witness behaviour or activity by a Member that appears to be in contravention of the Code may address the prohibited behaviour or activity themselves as follows:
  - a) Advise the Member that the behaviour or activity appears to contravene the Code.
  - b) Encourage the Member to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
  - c) If the Member stops the prohibited behaviour or activity, the process may terminate at this step. If not, the complainant should continue the process below.
  - d) Document the incidents including dates, times, locations, other persons present, and any other relevant information. Request that the Integrity Commissioner assist in the informal discussion of the complaint with the Member to resolve the issue. If applicable, confirm to the Member whether their response is satisfactory or, if applicable, advise the Member that the response is not satisfactory; and
  - e) At the earliest possible juncture, the Member, whose behaviour is the subject of the Complaint, will be advised of an inquiry to the Integrity Commissioner under the Informal Complaint Process, as will any complainant;
  - f) Pursue the matter in accordance with the Formal Complaint Process outlined starting in section 2 below, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
- 2) Individuals are encouraged to pursue this Informal Complaint Process as a means of stopping and remedying a behaviour or activity that they believe violates the Code. The Informal Complaint Procedure will not apply to Complaints against Members in respect of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.
- 3) With the consent of both the complainant and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a Complaint. However, it is not a precondition or a prerequisite that a complainant pursue the Informal Complaint Process prior to pursuing the Formal Complaint Process set out in section 2 below.

- 4) The Integrity Commissioner will assess the suitability of the Informal Complaint Process for settlement or resolution on an ongoing basis and may at any time decline to continue participation in the process. The complainant or the Member can decline to participate in the Informal Complaint Process at any time. The Informal Complaint Process is informal as such the Integrity Commissioner will not perform an official investigation nor provide a public report, even if the parties agree to involve the Integrity Commissioner.

#### **B. Initiation of Formal Complaint Process**

- 1) All formal Complaints must be made using Town's Complaint form/Affidavit as made available on the Town's website and shall be dated and signed by an identifiable individual. Anonymous Complaints, Complaints made by organizations, Complaints using aliases or Complaints made on behalf of another person will not be accepted.
- 2) The Complaint must include an explanation as to why the issue raised may be a contravention of the Code and any evidence in support of the allegation must be included with the Complaint Form/Affidavit.
- 3) The Complainant is encouraged to identify witnesses in support of the allegation but may provide the names of witnesses confidentially to the Integrity Commissioner.
- 4) The Complaint Form/Affidavit must include the name of the Member alleged to have breached the Code, the section of the Code allegedly contravened, the date, time and location of the alleged contravention and any other information as required on the Complaint Form/Affidavit;
- 5) The Complaint shall be filed with the Integrity Commissioner requesting that the Integrity Commissioner determine whether a Member has contravened the Code.
- 6) Council as a whole may also file a Complaint against any of its Members of an alleged contravention of the Code by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.
- 7) Complaints regarding the Code will not be accepted later than six months after the action alleged in the Complaint.

#### **C. Initiation of Formal Complaint Process - *Municipal Conflict of Interest Act***

- 1) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act* or a person demonstrably acting in the public interest (collectively, "complainant") may file a request that the Integrity Commissioner carry out an inquiry concerning an alleged contravention of sections 5, 5.1 or 5.2 of that statute by a Member in accordance with the following requirements:
  - a) all requests (also referred to as "Complaints") shall be in writing on the prescribed form as made available on the Town's website, dated and signed by an identifiable individual; anonymous Complaints, Complaints made by organizations or Complaints using aliases will not be accepted;

- b) the request shall include a statutory declaration attesting to the fact that:
  - i. the complainant became aware of the contravention not more than six weeks before the date of the Complaint, or
  - ii. that the complainant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection 223.4.1 (5) of the *Municipal Act, 2001*;
- c) Council may also pass a resolution directing the Mayor, or an alternate representative if the Mayor is the subject of the allegation, to request that the Integrity Commissioner undertake an inquiry respecting an alleged contravention of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a Member and provide a full and complete record of evidence to the Integrity Commissioner who, while under no obligation whatsoever to, may seek additional information to supplement or complete the evidentiary record to substantiate or support the allegations set out in the Complaint or request.

#### **D. Filing of Formal Complaints and Classification**

- 1) The Complaint may be filed directly with the Integrity Commissioner electronically using the appropriate form as available on Town's website.
- 2) Complaints may not be filed with an Employee and Employees will not assist in the preparation or submission of Complaints to the Integrity Commissioner.
- 3) The Integrity Commissioner shall initially classify the Complaint to determine if the matter is, on its face, a Complaint with respect to non-compliance with the Code and not covered by other legislation or other Council by-laws, policies or procedures, or whether it is a request under sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

#### **E. Refusal to Conduct Investigation**

- 1) The Integrity Commissioner has discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied, and after considering the information contained in the Complaint, that a Complaint:
  - a) is frivolous or vexatious;
  - b) is not made in good faith;
  - c) constitutes an abuse of process;
  - d) discloses no grounds or insufficient grounds of an investigation; or
  - e) does not warrant a full investigation,

The Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the Complaint. Where this becomes apparent during the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member. In exceptional circumstances, the Integrity Commissioner may report to Council on the dismissal.

## **F. Opportunities for Resolution**

- 1) Following receipt and review of a formal Complaint or at any time during the investigation where the Integrity Commissioner, in their discretion, 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 pursued to achieve an informal resolution.

## **G. Investigation**

- 1) Except where the Integrity Commissioner has a full factual record and believes, in their sole discretion, that no additional information is required, or where otherwise required by the *Public Inquiries Act, 2009*, or where the Integrity Commissioner has not otherwise terminated the inquiry, the Integrity Commissioner may proceed as follows:
  - a) provide the Member with an outline of the Complaint with careful thoroughness of detail to allow the Member to understand the Complaint against them, but the Integrity Commissioner shall not have any obligation to disclose:
    - i. the identity of the complainant; or
    - ii. the identity of any witnesses set out in the Complaint or persons that are questioned/interviewed by the Integrity Commissioner, unless it is essential for the Member to adequately respond to the Complaint, the determination of which shall be made in the Integrity Commissioner's sole and absolute discretion.
  - b) request that the Member provide a written response to the allegations in the Complaint to the Integrity Commissioner within 10 business days;
  - c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within 10 business days; and
  - d) extend the timelines set out above if the Integrity Commissioner deems it necessary to do so in their sole and absolute discretion.
- 2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Town's computers and servers, and may enter any Town work location relevant to the Complaint for the purpose of investigation and potential resolution.
- 3) The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed draft report on the Complaint.
- 4) The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had an opportunity, either in person or in writing, to comment to the Integrity Commissioner on any of the preliminary or proposed finding(s).

- 5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in a report to Council.
- 6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal complaint investigation.
- 7) The Integrity Commissioner is entitled to make such additional inquiries and provide such additional reports to Council where necessary and as required to address any instances of non-compliance with any decision of Council including the failure to comply with any penalties or corrective measure or actions imposed by Council.
- 8) The Integrity Commissioner shall retain all records related to the Complaint and investigation but may provide copies of certain records, in confidence, to the Town Clerk. The Clerk is required to ensure that any such records are securely and confidentially retained in accordance with the town's Corporate Records Management Program.

#### **H. No Complaint Prior to Municipal Election**

- 1) Notwithstanding any other provision of this Complaint Process, no Complaint may be filed with the Integrity Commissioner and no report shall be made by the Integrity Commissioner to Council during the period starting on nomination day for a regular municipal election year ending on the voting day in a regular election. The referred days are determined in accordance with the *Municipal Elections Act, 1996*.
- 2) If the Integrity Commissioner has received a Complaint and has commenced an inquiry but has not completed the inquiry before nomination day in a regular municipal election year, the Integrity Commissioner shall terminate the inquiry on nomination day but may commence an inquiry in respect to the same Complaint if within six weeks after the voting day in a regular municipal election the individual who made the request makes a further written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the *Municipal Act, 2001*.

#### **I. Advice Provided to Member by Integrity Commissioner**

- 1) A Member is entitled to rely on any written advice given to them by the Integrity Commissioner respecting the Code in any subsequent consideration of the conduct of the Member regarding the same matter, provided that the Member fully disclosed, in writing, all relevant facts known to them and acted in accordance with the written advice provided by the Integrity Commissioner.
- 2) If the Integrity Commissioner applies to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member contravened sections 5, 5.1 or 5.2 of that statute, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner, provided that the Member

fully disclosed in writing all relevant facts known to them and acted in accordance with the written advice provided by the Integrity Commissioner.

- 3) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code, the *Municipal Conflict of Interest Act*, or generally at law with respect to any matter that the Integrity Commissioner is investigating or reviewing with respect to the Member. Further, the Member is not entitled to rely upon any statement(s) made by the Integrity Commissioner during any investigation or review that may impact the Member's rights under the Code, the *Municipal Conflict of Interest Act* or generally at law.

#### **J. Authority to Abridge or Extend**

- 1) Notwithstanding any requirement, obligation or timeline set out in the Code or this Complaint Process, the Integrity Commissioner shall retain the right to abridge or extend any provision therein in the public's interest.

#### **K. Investigation Report**

- 1) The Integrity Commissioner shall report to the complainant and the Member no later than 90 days after the official receipt of any Complaint (as determined by the Integrity Commissioner) under the Code. If the investigation process is anticipated to take or takes more than 90 days, the Integrity Commissioner shall provide an interim report to Council and must advise the parties of the approximate date that the report will be available. The Integrity Commissioner may also, at their discretion, advise any witnesses or other persons of the approximate date the report will be available.
- 2) Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining their findings, the terms of any settlement and/or any recommended remedial or corrective measure or action.
- 3) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released. The Member shall have the right to speak to the report if it is considered at a meeting of Council (refer to section 13 below).
- 4) Where the Complaint is not sustained, the Integrity Commissioner shall, at their discretion, report to Council on the result of the investigation or any findings. Alternatively, such information, as they deem necessary, may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.
- 5) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than 180 days after the official receipt of any Complaint validly made.



## **L. Findings**

- 1) If the Integrity Commissioner determines that:
  - a) there has been no contravention of the Code or sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*, or
  - b) a contravention occurred but:
    - i. the Member took all reasonable measures to prevent it;
    - ii. the Member sought and followed the advice of the Integrity Commissioner and provided all relevant facts known to them;
    - iii. it was trivial;
    - iv. it was committed through inadvertence; or
    - v. it resulted from an error in judgement made in good faith;

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to a recommendation of no penalty.

- 2) If the Integrity Commissioner considers it appropriate, once they have concluded the investigation, they may apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member has contravened section 5, 5.1 or 5.2 of that statute. If the Integrity Commissioner does not proceed with an application to the judge, they shall so advise the complainant.
- 3) If the Integrity Commissioner finds that the Complaint is sustained in whole or in part, the Integrity Commissioner may make recommendations as set out in section 12 of the Code.

## **M. Report to Council**

- 1) When the Integrity Commissioner submits to Council a Code of Conduct Complaint Investigation Report, it shall be placed on the agenda for the next regular meeting of Council, or a special meeting that is scheduled prior to the next regular meeting for the exclusive purpose of considering the Investigation Report.

## **N. Duty of Council:**

- 1) Upon submission of a Code of Conduct Complaint Investigation Report, Council shall:
  - a) receive the Report;
  - b) may accept, vary or reject the Integrity Commissioner recommendation on sanctions, if any;
  - c) may ask the Integrity Commissioner questions of clarification on her process. Questions seeking clarification go to the Integrity Commissioner. The Member subject of the Complaint is not investigated at Council.

- d) may not ask questions of the Member who has been investigated. The Integrity Commissioner is the third-party investigator and fact finder and the only person who may question the Member in the course of the investigation process.
- 2) Council may make a decision on the Report at the meeting at which it is presented or postpone a decision on the Report for no more than two regular meeting cycles.

#### **O. Public Disclosure**

- 1) The Integrity Commissioner and every person acting under their jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Process.
- 2) The Integrity Commissioner shall retain all records related to the Complaint and investigation, although copies may be provided to the Town Clerk, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.
- 3) The identity of the Member who is the subject of the Complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant and any other person, including witnesses, may be disclosed if deemed appropriate and necessary by the Integrity Commissioner and/or if consented by the complainant.
- 4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Town Clerk.

#### **P. Delegation by Integrity Commissioner**

- 1) The Integrity Commissioner may delegate in writing to any person, other than a Member, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.