

Office of the Integrity Commissioner

integrity.commissioner@edmonton.ca

ANNUAL REPORT

OFFICE of the INTEGRITY COMMISSIONER

The City of Edmonton

Council Code of Conduct Bylaw 18483

(“Code of Conduct” or “Code”)

For the period January 1, 2022 to
December 31, 2022 (“Reporting Period”)

INTEGRITY OFFICE

1. On September 5, 2018, Edmonton City Council appointed Jamie Pytel as the City's Integrity Commissioner and Brent Rathgeber as the Ethics Advisor. These positions form an independent Integrity Office which supports City of Edmonton Council Members with maintaining the high level of integrity that they and the public have come to expect. Together, Jamie and Brent administer the *Council Code of Conduct* (the "Code").
2. The Integrity Commissioner and the Ethics Advisor are not City employees. The Integrity Commissioner was appointed by Council under Bylaw 18567 *Integrity Commissioner Bylaw*, which delegates the duty of receiving Code complaints and carrying out investigations to the Integrity Commissioner. The Integrity Commissioner reports directly to Council and, in addition to investigations, provides proactive advice with respect to the Code and related procedures, including best practices relative to codes of conduct and elected officials.
3. The Ethics Advisor provides legal advice to Councillors regarding the Code and individual ethics. The Ethics Advisor also provides educational programs and materials to Council Members and their staff upon request.
4. This report covers Integrity Office activities for the period January 1, 2022 to December 31, 2022 (the "Reporting Period").
5. The budget for the Integrity Office for the Reporting Period was \$150,000.00. Total expenditures for the Reporting Period were \$112,409.55. This is below previous reporting periods where the yearly expenses were in the \$132,000.00 range.

INTEGRITY COMMISSIONER ACTIVITIES

Complaints and Enquiries

6. In the Reporting Period, the Integrity Commissioner received 33 complaints, 8 of which were investigated (with 7 related to the same incident). Below is a summary of the investigation activity for and prior Reporting Periods:

REPORTING PERIOD	COMPLAINTS RECEIVED	COMPLAINTS INVESTIGATED	FINDINGS	SANCTIONS IMPOSED
Sept 2018 to Sept 2019	16	6	None	None
Sept 2019 to Sept 2020	20	12	9 investigations resulted in findings of multiple Code breaches, including conduct that was disrespectful, lacking in decorum and for posting misleading information about Council decisions on social media.	None
Sept 2020 to December 2021	38	6	6 investigations resulting in findings of violations, including: Council Member violated the Code when he used electronic mail addresses used for his official Councillor duties for his personal election campaign activities and communications (4 complaints). Council Member deliberately retaliated against Code complainants; publicly ridiculed and tried to intimidate Code complainants and published on social media information that was false and misleading about prior Code complaints; his social media posts lacked decorum, were disrespectful and misleading (2 complaints).	None
January 2022 to December 2022	33	8	7 investigations arising out of the same social media post. The Council Member was found to have violated the Code when a social media post containing a derogatory term about police	

			<p>officers was re-tweeted by the Council Member.</p> <p>1 investigation was undertaken but after a comprehensive review of the allegations it was dismissed as outside of the IC's jurisdiction. As no findings of a Code breach were made, the outcome of this investigation was not brought to Council.</p>	
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7. The balance of the complaints received in the Reporting Period that were not investigated, included:

(a) Complaints outside the Integrity Commissioner's jurisdiction, including:

- o Blocking on social media
- o Alleged non-pecuniary conflict of interest
- o The level a Council Member is informed on issues or responsive to constituents
- o Matters that are more properly dealt with in private or through the legal system
- o When a Councillor attended a political event in their personal capacity

(b) Complaints that were resolved informally, including the Integrity Commissioner suggesting a path forward short of an investigation when the matters were appropriate for informal resolution.

(c) The IC also used her discretion to issue a couple of warnings after complaints were received about activity that was technically off-side the Code but did not warrant being brought to Council unless the impugned conduct continued after the warnings were issued.

Code Compliance Guidelines and Interpretations

8. In the Reporting Period questions arise regarding the Code. Areas of interest for the reporting period are as follows:

(a) Conflict of Interest

9. The IC receives complaints and the Ethics Advisor gets questions about what are perceived to be conflicts of interest, and when Council Members can vote on an item. The conflict of interest section of the Code of Conduct deals with pecuniary interest as defined by the *Municipal Government Act*. The Council Member has a pecuniary interest if:

- The matter could monetarily affect the Council Member or an employer of the Councillor;
- The Councillor knows or should know the matter could affect the Councillor's family;

If there is a pecuniary interest, the Council Member is obliged to:

- Disclose the pecuniary interest
- Abstain from voting on the matter
- Abstain from discussing the matter
- Leave the room until the matter is concluded

If a Council Member does not have a pecuniary interest in the item before Council, they are obliged to vote on the item.

When in doubt, contact the Ethics Advisor for advice.

(b) Social Media Activity – Correcting Misinformation

10. The Code requires that all communications issued by or on behalf of a Councillor on social media are respectful and do not discriminate, harass, or demonstrate disrespect toward any person. Sharing a post can have the same Code obligations as the publication of the original post. When, for instance, someone reTweets a Tweet without commentary, they are implicitly expressing their agreement with the content of the Tweet. As a result, please use caution when re-posting.

11. If something is posted in error on social media, Council Members are encouraged to take immediate action and accountability. If there is misinformation in the post, correct it quickly and proportionately.

For example, the Council Member publishes the wrong information about a decision made by Council. The Council Member should immediately correct the

information on the same forum it was published and refer the correction back to the incorrect information. Vague information that does not reference the earlier post and identify what was incorrect about the post would not go far enough to mitigate the Code breach. A pattern of publishing misinformation then correcting could still result in a finding of a Code breach.

If in doubt, please contact the Ethics Advisor for assistance on how to publish a proper correction.

Integrity Office Activity – Updating the Program

12. This past year, the focus was to take the learning from the last 4 years and developments across the country on how Codes are written and administered to update our program. Key shifts in the program include:

(a) Making it more accessible for the public. This includes **updating the on-line Complaint Form** and providing interpretations on how the Code is administered both to Council Members and the general public. The public continues to get direct access to the Integrity Commissioner through the web-site to raise their concerns and ask questions.

(b) In September 2022, the IC and the Ethics Advisor presented to the Council Code of Conduct Sub-Committee on **recommended changes to the Code of Conduct**. As of the date of this report, the Sub-Committee and other members of Council have been actively providing feedback on amendments to the Code. Key areas proposed for updating the Code include:

- a. Cleaning up language that may be confusing around what is or is not covered by the Code;
- b. Enhancing the requirement to treat administrative staff respectfully and respecting their role to provide neutral and objective information to Council;
- c. Taking a restorative approach with more options for informal or mediated resolutions.

(c) The Integrity Commissioner continues to meet with Integrity Commissioners from other jurisdictions and convenes sessions on advancing the work related to Codes.

13. The Integrity Commissioner continues to feel privileged to assist with the smooth and ethical delivery of this municipal government.

ETHICS ADVISOR'S ACTIVITIES

14. During the Reporting Period, the Ethics Advisor provided confidential advice to Council Members or their designated representative on 80 separate occasions (including supplemental advice). The advice was provided primarily orally (by telephone) or on in writing (by e-mail), depending on the Councillor's preference and timelines. On rare occasions, the advice was given during a face-to-face meeting with the Councillor and at the Councillor's request.
15. The Ethics Advisor assists Councillors who are the subject of a Complaint Investigation. This assistance might include Complaint Review, statement preparation and/or attendance with the Councillor when being interviewed by the Integrity Commissioner.
16. It would be awkward for the Ethics Advisor to formally represent a Councillor who is the subject of a formal disciplinary hearing. Invariably the individual Councillors deliberating at the hearing would have, at one time or another, sought advice from the Ethics Advisor. This may or may not be a technical conflict as the deliberative body would be Council as a whole, while the previous advice given would have been to individual Councillors. Regardless, this would be a complicated arrangement and the Ethics Advisor continues to work with the City Solicitor's Office to find a more workable solution should the need arise for a Councillor to require legal advice at a formal Code hearing.
17. Interactions with Councillors or their designated representatives were up 23% during the current reporting period. It is presumed that the hopeful end of COVID 19 and the resulting return of invitations to Councillors to attend events and attractions (and the questions surrounding the suitability of accepting those gifts) accounts for the significant increase in consultations.
18. Part L of Code dealing with "Gifts and Benefits" was still the section that generated the most inquiries. However, respectful communications and social media posts are accounting for an increasing number of inquiries to the Ethics Advisor.
19. Event attendance not only generates the most inquiries but also the most confusion. Previously, part The 1 (g) of Part L of the Code required a gift of admission to, or food and beverages, at an event to be "offered by the entity or a representative or member of the entity, responsible for organizing or presenting the event. It was recommended to Council and accepted that the requirement that the giftor be the sponsor of the event,

be deleted from the Code. That was a welcome amendment and has cleared up at least some of the confusion regarding event attendance.

20. Further, confusion persists regarding the gift registry and when disclosure of a gift is required. Stated succinctly if a gift is “acceptable” and its perceived, actual or estimated value exceeds \$300, the gift must be disclosed in the Councillor’s quarterly disclosure. If a gift cannot be accepted for whatever reason in Part L of the Code, there is no need to disclose a gift that was not accepted. Most significantly, if a gift is unacceptable, it does not become acceptable merely because its value is <\$300.
21. Finally, the Ethics Advisor met with the Council Services Committee on several occasions both virtually and in person. These meetings have been less frequent than in previous years and it is hoped and presumed that as Councillors become more familiar with the Code that fewer group meetings are required. The Ethics Advisor will continue to provide input and advice and discuss such unresolved issues as the future establishment of a Lobbyist Registry for Edmonton City Council, further amendments to the Code (including gift and event acceptability) a workable Councillor social media policy and the potential for establishing individual constituency or ward offices.
22. In summary, the Integrity Office is now over four years old; and most, but not all, of the bugs have been worked out. The Ethics Advisor believes that the Office and Code are generally working as intended and may have even exceeded expectations. This is evidenced by the very few substantiated breaches of the Code since the inception of the Integrity Office. However, some fine tuning may still be required as even a well-functioning program can always be improved.
23. As always, the Ethics Advisor finds his role challenging and rewarding. It is an honour to contribute to democracy by promoting ethical conduct by elected officials.

CLOSING COMMENTS

24. We are pleased that the level of activity is high with respect to Council Members and the public engaging the Integrity Commissioner and the Ethics Advisor proactively on the expectations and interpretations of the Code. We continue to take a preventative approach with **the hope** of being able to report **zero Code breaches** in the upcoming reporting period.

25. We look forward to continuing our dialogue with Council about topics related to the *Council Code of Conduct* and how it is administered.

We are grateful to the Office of the City Clerk and other members of Administration for providing exceptional support and assistance with this program.

Respectfully Submitted

Jamie Pytel
Integrity Commissioner

Brent Rathgeber
Ethics Advisor