



Council, Committee and Board Code of Conduct and the Integrity Commissioner

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Town of Kingsville

Integrity Commissioner

Role of the Integrity Commissioner

The Integrity Commissioner is a mandatory accountability officer under the *Municipal Act, 2001*, who acts independent of the Municipality

Roles include:

- Providing advice in response to requests from Members of Council –Members can rely on advice provided in writing and written opinions are binding in a subsequent investigation
- Participating in Council education sessions
- Receiving complaints alleging a breach
- Resolving complaints
- Investigating, reporting and recommending sanctions when it is appropriate to do so
- Advising on related policy development (e.g. Code refresh) when requested to do so
- Reports are submitted to Council

Council Code of Conduct

The Kingsville Code of Conduct operates along with federal and provincial legislation that governs the conduct of members of Council, being:

- Criminal Code of Canada
- Municipal Act
- Municipal Conflict of Interest Act
- Municipal Elections Act
- Municipal Freedom of Information and Protection of Privacy Act
- Planning Act
- Human Rights Code
- Council approved by-laws and policies

Key Principles identified in the Code

- A Code of Conduct is a living document that is intended to reflect local values at a given point in time.
- Members of Council shall uphold a high standard of ethical behaviour to ensure that their decision-making is impartial, transparent and free from undue influence.
- Members shall refrain from engaging in conduct that would bring the Municipality or Council into disrepute or compromise the integrity of the Municipality or Council.
- Roles and responsibilities of a Member of Council are complicated and having some guidelines helps

Who does the Code apply to?

- Members of Council
 - Members of Town Committees (Council and citizen members)
 - Members of municipal Boards e.g. BIAs, utility boards
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- Staff are not covered by this Code of Conduct
 - Staff report to the CAO and are governed by policies established by senior management

Code Direction for Members

The Code of Conduct identifies specific requirements for Members of Council to follow respecting the following:

- Disclosure or use of confidential information
 - Respect for Council decisions
 - Respect for staff and of their professional advice
 - Improper use of influence
 - Acceptance of gifts
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- The Code is a living document that needs to be refreshed and updated from time to time. The Integrity Commissioner can assist in this.

Complaints to the Integrity Commissioner

Complaints may be made by any person through a formal submission using the complaint form on the website or a letter, or informally through a phone call or email

As Integrity Commissioner I must assess complaints and determine:

- Is the subject matter within my jurisdiction?
- Is it frivolous and vexatious or does it appear to be substantive?
- Is an informal investigation appropriate?
- If deemed a concern, is a formal investigation, including potential to use powers under the *Public Inquiries Act* warranted?
- Is an application to court under Municipal Conflict of Interest Act justified?

What rights do you have when someone complains?

- Right to be informed of a complaint
- Right to rely on written advice provided by Integrity Commissioner
- Right to object
- Right to participate in investigation and provide an explanation
- Right to be present for presentation of report following a formal investigation
- Right to retain a personal lawyer
- Right to make submissions, but not to vote, when a report is presented

Authority of the Integrity Commissioner

- Municipality is required to provide information requested by the Integrity Commissioner and access to municipal books and records is mandated by legislation
- Integrity Commissioner will independently determine if the powers set out in the Public Inquiries Act respecting power to summon witnesses, determine admission of evidence, hold hearings, and refer matters to a court for determination
- Required to refer matters discovered when conducting an inquiry to the appropriate authority and suspend investigation if it interferes with a police investigation

Limits that apply to Integrity Commissioner

- Can make recommendations to Council; cannot impose penalties
- Cannot investigate matters or file reports between nomination day and voting day
- Duty of confidentiality
- Responsive to inquiries
- Recommend but cannot initiate changes to the Code of Conduct or related policies

Formal vs. Informal investigations

- Informal investigations do not meet a threshold to lead to a formal investigation and provide an opportunity for the Integrity Commissioner to assume the role of a mediator, and focus on resolving the concern that led to the complaint.
- Results of an informal investigation can be reported to Council in the Integrity Commissioner's Annual Report.
- Formal complaints result in the Integrity Commissioner conducting an independent investigation and taking charge of gathering the available evidence.
- Results of a formal investigation must be reported to Council within 60 days of the investigation.

Refusal to Investigate

Integrity Commissioner discretion extends to not investigating complaints determined to be:

- Not made in good faith
- No grounds or insufficient grounds to proceed with investigation
- Frivolous and vexatious
- Investigations may be terminated and the complaint disposed of after an investigation has started, if this becomes evident through the investigation

Role as a Member of Council vs. Role in community /other career

- The reality of a conflict and the optics of a conflict
- Interpretation of the Municipal Conflict of Interest Act and the Council Code of Conduct
- Common law conflicts and private business relationships
- Members of Council should balance duties of office and private affairs in a way that promotes public confidence and also recognizes being a Member of Council is not a full-time office
- **The Integrity Commissioner is a resource to use to avoid conflicts**

When to seek advice?

You can rely upon advice in writing from the Integrity Commissioner respecting any conflict concerns you may have as a Member of Council, under the Municipal Act, 2001 (s.223.3).

Examples of matters to consider:

- Do I have a conflict voting on a matter that will enhance the neighbourhood I live in?
- Do I have a conflict voting to fund a charity I or my spouse is associated with?
- What do I do when an issue about the company I work for is on the Council agenda?



How to Reach the Integrity Commissioner?

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