

Bill No. 117
2019

By-law No. CPOL.-____-____

A by-law to repeal and replace By-law No. CPOL.-69-301, as amended, being a by-law entitled "Code of Conduct for Members of Council" and replace it with a new Council policy entitled "Code of Conduct for Members of Council" to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to repeal and replace By-law No. CPOL.-69-301, being a By-law entitled "Code of Conduct for Members of Council" and replace it with a new Council policy entitled "Code of Conduct for Members of Council" to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled "Code of Conduct for Members of Council", attached hereto as Schedule "A" is hereby adopted.
2. By-law No. CPOL.-69-301, as amended, being a By-law entitled "Code of Conduct for Members of Council" is hereby repealed.
3. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Code of Conduct for Members of Council

Legislative History: Adopted August 22, 2017 (By-law No. CPOL.-69-301); Amended July 24, 2018 (By-law No. CPOL.-69(a)-407), Repealed and Replaced March 26, 2019 (By-law No. CPOL.-_____)

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

- 1.1 This Code of Conduct is established under the authority of Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, as amended.

2. Definitions

In this Code of Conduct:

- 2.1 **Apparent conflict of interest** – shall mean if there is a reasonable perception, which a reasonably well-informed person could properly have, that the Member’s ability to exercise an official power or perform an official duty or function must have been affected by their private interest;
- 2.2 **Child** – shall mean a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of their family;
- 2.3 **Code** – shall mean this Code of Conduct;
- 2.4 **Corporation** - shall mean The Corporation of the City of London;
- 2.5 **Council** - shall mean the Council of The Corporation of the City of London;
- 2.6 **Family member** - shall mean a child, parent or a spouse;
- 2.7 **Member** - shall mean a Member of Council and includes the Mayor;
- 2.8 **Parent** – shall mean a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- 2.9 **Spouse** - shall mean a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

3. Applicability

- 3.1 This Code of Conduct applies to the Mayor and all Members of Council.

4. The Code

Rule 1 - Key Principles and Framework

1.1 The Code is to be given a broad, liberal interpretation in accordance with the applicable legislation, the definitions set out herein and its general intent and purposes.

1.2 The Code operates together with, and as a supplement to, the following legislation that governs the conduct of Members:

- (i) *Municipal Act, 2001*;
- (ii) *Municipal Conflict of Interest Act*;

- (iii) *Municipal Elections Act, 1996;*
- (iv) *Municipal Freedom of Information and Protection of Privacy Act;*
- (v) *Provincial Offences Act;*
- (vi) *Occupational Health and Safety Act;*
- (vii) *Ontario Human Rights Code;*
- (viii) *Criminal Code of Canada; and*
- (ix) the by-laws and policies of Council as adopted and amended from time to time.

1.3 Members are governed by the *Municipal Conflict of Interest Act* which contains the following principles in relation to the duties of Members:

1. The importance of integrity, independence and accountability in local government decision-making.
2. The importance of certainty in reconciling the public duties and pecuniary interest of Members.
3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
4. There is a benefit to municipalities and local boards when Members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations and otherwise.

1.4 Members seeking clarification of any part of this Code should consult with the Integrity Commissioner and submit such requests in writing.

1.5 Any advice given by the Integrity Commissioner to a Member shall be in writing and binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

1.6 In carrying out their responsibilities regarding the Code, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member and, for clarity, the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

Rule 2 - General Rules

2.1 Members shall serve and be seen to serve their constituents in a conscientious, accountable, transparent and diligent manner.

2.2 Members shall be committed to performing their functions with integrity, independence and impartiality and avoid the improper use of the influence of their office, and conflicts of interest, including apparent conflicts of interest.

2.3 Members shall not extend favour in the discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family members have a direct or indirect pecuniary interest.

2.4 Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

2.5 Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature, and the by-laws and policies of the Corporation.

2.6 Members shall accurately and adequately communicate the decisions of the Council, even if they disagree with Council's decision, such that the respect for the decision-making processes of Council is fostered.

Rule 3 - Confidential Information

3.1 Members shall hold in strict confidence all information concerning matters dealt with at a meeting closed to the public under the *Municipal Act* or any other Act. For greater certainty, information shall include, without limitation, documents, records, advice received, presented, reviewed or discussed at a closed meeting and any discussion, direction and deliberation during the closed meeting. A Member shall not, either directly or indirectly, disclose, release, make public or in any way divulge any such information or any aspect of a closed meeting to anyone unless expressly authorized by Council or required by law.

3.2 A Member shall not collect, use, or disclose information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

3.3 A Member shall not disclose information that is subject to solicitor-client privilege, unless the privilege has been expressly waived by Council.

3.4 A Member shall not misuse any confidential information such that the release thereof may cause detriment to the Corporation, Council, the public or others or benefit or detriment to themselves or others. For greater certainty, confidential information includes, without limitation, information that a Member has knowledge of by virtue of their position as a Member that is not in the public domain, including emails, and oral and written communications from other Members or third parties.

Rule 4 - Conduct at Meetings and When Representing the Council or the Corporation

4.1 A Member shall conduct themselves with appropriate decorum at all times.

4.2 A Member shall conduct themselves at meetings of Council, committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official, with decorum in accordance with the provisions of the applicable procedure by-law.

4.3 A Member shall make every effort to participate diligently in the activities of the Council and the committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official.

Rule 5 - Incompatible Activity

5.1 A Member shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of their official duties in the public interest.

5.2 Without limiting the generality of the foregoing, a Member shall not:

- a) use the influence of their office for any purpose other than for the exercise of their official duties;
- b) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- c) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;
- d) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- e) give preferential treatment to any person or organization in which a Member has a financial interest;
- f) influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member has a financial interest;

- g) use the Corporation's property, materials, equipment, services, supplies, facilities, officers, employees, agents or contractors for personal gain, personal purpose or for any private purpose; or
- h) influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the *Provincial Offences Act*.

5.3 A Member shall not allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties.

5.4 A Member shall avoid waste, abuse and extravagance in the provision or use of public resources.

5.5 A Member shall expose fraud and corruption of which the Member is aware.

Rule 6 - Conduct Respecting Staff

6.1 A Member shall be respectful of the Corporation's officers, employees, individuals contracted by the Corporation on a purchase of service agreement and students on placements, role to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council or a committee.

6.2 No Member shall injure the professional or ethical reputation, or the prospect or practice of an officer or employee of the Corporation, an individual contracted by the Corporation on a purchase of service agreement or a student on placement, and all Members shall show respect for the professional capacities of such persons.

6.3 No Member shall compel or attempt to compel an officer and employee of the Corporation to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

6.4 No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any officer or employee of the Corporation, individual contracted by the Corporation on a purchase of service agreement or a student on placement with the intent of interfering in that employee's duties, including the duty to disclose improper activity.

6.5 Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of Members.

Rule 7 - Discreditable Conduct

7.1 Members have a duty to treat members of the public, one another, individuals contracted by the Corporation on a purchase of service agreement, students on placement and officers and employees of the Corporation appropriately and without abuse, bullying or intimidation and to ensure that their work environment is safe and free from discrimination and harassment. *The Ontario Human Rights Code* and the *Occupational Health and Safety Act* apply and, where applicable, the Corporation's Workplace Harassment and Discrimination Prevention Policy.

7.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member that relates to the Corporation's Workplace Harassment and Discrimination Prevention Policy, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources which, in the event mediation or other informal attempts to resolve the complaint as provided for in the applicable policy are not appropriate or prove ineffective and where Human Resources determines that further inquiry is warranted, will refer it to an external investigator to conduct an independent investigation in accordance with the applicable policy and the Corporation's Formal Investigation Process.

7.3 Upon receipt of the report of the independent investigator, the Integrity Commissioner shall make a determination on the application of this Code of Conduct and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.

Rule 8 - Requirement to Adhere to Council Policies and Procedures

8.1 Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

Rule 9 - Gifts, Benefits and Hospitality

9.1 No inappropriate gifts and hospitality are allowed that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

9.2 No Member shall accept, solicit, offer or agree to accept a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit that is connected directly or indirectly with the performance of their duties of office unless permitted by the exceptions listed in section 3.4 below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than fair market value or at no cost.

9.3 For the purpose of this Code a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit provided with the Member's knowledge to a friend, family member 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 to that Member.

9.4 Members are not precluded from accepting:

- a) contributions authorized by law;
- b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- c) food and beverages at banquets, receptions, ceremonies or similar events, if:
 - i) attendance serves a legitimate business purpose;
 - ii) the person extending the invitation or a representative of the organization is in attendance; and
 - iii) the value is reasonable and the invitations infrequent;
- d) services without compensation by persons volunteering their time;
- e) food, lodging, transportation, hospitality and entertainment provided by other levels of government, by other local governments, boards or commissions or by a foreign government within a foreign country;
- f) a reimbursement of reasonable expenses incurred in the performance of duties or office;
- g) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
- h) token gifts such as souvenirs, mementos and commemorative gifts that are given in recognition of service on a committee, for speaking at an event or representing the Corporation at an event; and
- i) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

9.5 A Member shall return any gift or benefit which does not comply with this Code, along with an explanation why the gift or benefit cannot be accepted.

9.6 In the case of exceptions claimed under 3.4 (c), (e), (h) and (i), if the value of the gift, hospitality or benefit exceeds \$300.00, or if the total value of gifts, hospitality or benefits received from one source during the course of a calendar year exceeds \$300.00, the Members shall within 30 days of receipt of the gift, hospitality or benefit or reaching the annual limit, complete a disclosure statement in a form prescribed by the Integrity Commissioner and file it with the Integrity Commissioner. A disclosure statement shall be a matter of public record.

9.7 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift, hospitality or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, they shall call upon the Member to justify receipt of the gift, hospitality or benefit.

Rule 10 - Requirement to Adhere to Council Policies and Procedures

10.1 Members shall adhere to such by-laws, policies and procedures adopted by the Council that are applicable to them.

Rule 11 - Use of Municipal Property and Resources

11.1 In order to fulfil their roles as elected representatives Members have access to municipal resources such as property, equipment, services, staff and supplies. No Member shall use, or permit the use of Corporate land, facilities, equipment, supplies, services, staff or other resources for activities other than purposes connected with the discharge of Council or Corporate business.

Rule 12 - Election-Related Activity

12.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the Policy for the Use of City of London Resources for Municipal Election Purposes. Member shall not solicit, demand or accept the services of any corporate officer and employee, or individual providing services on a contract for service, for re-election purposes during hours in which the officer, employee, or individual providing services under a contract for service, is in the paid employment of the Corporation.

Rule 13 - Integrity Commissioner

13.1 It is a violation of the Code to obstruct the Integrity Commissioner in the carrying out of their duties and responsibilities.

13.2 No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code or against a person who provides information to the Integrity Commissioner in any investigation.

13.3 It is a violation of the Code to destroy any documents or erase any electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code.

13.4 The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and
- (d) removal as a chair of a committee.

The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial actions at their discretion.

13.5 Upon receipt of a recommendation from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

13.6 The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether a Member has contravened section 5, 5.1 or 5.2 of the Act.

**THE CORPORATION OF THE CITY OF LONDON
CODE OF CONDUCT FOR MEMBERS OF COUNCIL
COMPLAINT PROTOCOL**

AUTHORITY

Section 223.3 of the *Municipal Act, 2001* authorizes a municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the powers and duties assigned by the municipality with respect to the application of the Code of Conduct for Members of Council. Sections 223.4 of the *Municipal Act, 2001* provides that an Integrity Commissioner has certain powers duties and protections.

The Code of Conduct for Members of Council was adopted by Council by By-law No. A.-6957-158 on April 30, 2013 and amended by By-law No. CPOL.-_____ on March 26, 2019

This Complaint Protocol was adopted by Council by By-law No. CPOL.-_____ on March 26, 2019.

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or any representative of an organization who has identified or witnessed behaviour or an activity by a Member of Council that they believe is in contravention of the *Code of Conduct for Members of Council* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member that the behaviour or activity contravenes the Code;
- (2) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- (5) if applicable, confirm to the Member your satisfaction with the response of the Member; or, if applicable, advise the member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the Member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries - Section 1

1. (1) A request for an investigation of a complaint that a Member has contravened the Code (the "complaint") shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier and shall be in writing.
 - (2) All complaints shall be signed by an identifiable individual (which includes

the authorized signing officer of an organization).

(3) A complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code. For example, the complaint should include the name of the alleged violator, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.

(4) Municipal Council may also file a complaint and/or request an investigation of any of its members by public motion.

Initial Classification by Integrity Commissioner - Section 2

2. (1) Upon receipt of the complaint, the Integrity Commissioner shall make an initial classification 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 Policies as described in subsection (2).

(2) If the complaint is not, on its face, a complaint with respect to non-compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Council Policy, the Integrity Commissioner shall advise the complainant in writing as follows:

(a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;

(b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City Clerk;

(c) if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure;

(d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a Human Rights complaint or similar process, the Integrity Commissioner may, in their sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and,

(e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

(3) The Integrity Commissioner may report to Municipal Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

(4) The Integrity Commissioner shall report semi - annually to Municipal Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation - Sections 3 – 9

3. (1) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

(2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Municipal Council on any complaint described in subsection (1) except as part of a semi- annual or other periodic report.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and in so doing, at any time may attempt to settle the complaint.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation, which may include mediation, or alternatively to exercise the powers of a Commission under sections 33 and 34 of the *Public Inquiries Act, 2009* as contemplated by subsection 223.4(2) of the Act.

(3) When the *Public Inquiries Act, 2009* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act, 2009* the provision of the *Public Inquiries Act, 2009* prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act, 2009*:

(a) serve the complainant and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten business days; and

(b) serve a copy of the response provided upon the complainant with a request for a written reply within ten business days.

(2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any City work location relevant to the complaint for the purposes of investigation and settlement.

(3) 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 reasonable notice of the basis for the proposed finding and any recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty.

(4) The Integrity Commissioner may make interim reports to Municipal Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

(5) If the Integrity Commissioner has not completed an investigation before Nomination Day for a regular election, as set out in the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

If an investigation is terminated in accordance with subsection 223.4(7) of the *Municipal Act, 2001*, the Integrity Commissioner shall not commence another inquiry in respect to the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the

investigation be commenced.

(6) The Integrity Commissioner shall retain all records related to the complaint and investigation.

6. Notwithstanding any other provisions of this Protocol, in the year of a regular election the following rules apply during the period starting on Nomination Day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on Voting Day in a regular election, as set out in section 5 of the Act:

(i) there shall be no requests for an inquiry about whether a Member has contravened the Code applicable to the Member;

(ii) the Integrity Commissioner shall not report to the municipality about whether in their opinion, a Member has contravened the Code applicable to the Member; and,

(iii) the municipality shall not consider whether to impose penalties referred to in subsection 223.4(5) of the *Municipal Act, 2001*, on a Member.

7. (1) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Municipal Council outlining the findings, the terms of any settlement or recommended penalty. The City Clerk shall process the report for the next meeting of Municipal Council.

(3) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

(4) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Municipal Council except as part of a semi-annual or other periodic report.

8. If the Integrity Commissioner determines that there has been no contravention of the Code or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Notwithstanding any other provision of this Protocol, the Integrity Commissioner shall not make any report to Municipal Council or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Municipal Council Review – Section 10

10. (1) Municipal Council shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) Municipal Council shall not consider whether to impose sanctions on a Member, where the Integrity Commissioner makes a report to the Municipal Council regarding a contravention of the Code, during the period of time starting on Nomination Day and ending on Voting Day in a year in which a regular election will be held, as set out in the *Municipal Elections Act, 1996*.

(3) In responding to the report, Municipal Council may vary a recommendation that imposes a penalty, subject to section 223.4, subsection (5) of the *Municipal Act, 2001*, but shall not refer the recommendation other than back to the Integrity Commissioner.

(4) Upon receipt of recommendations from the Integrity Commissioner, Municipal Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code impose either of two penalties:

- (a) a reprimand; or
- (b) suspension of the remuneration paid to the member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

(5) The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and,
- (d) removal as a chair of a committee.

(6) The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether the member has contravened sections 5, 5.1 or 5.2 of the Act.

Confidentiality – Section 11

11. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.

(2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.

(3) All reports from the Integrity Commissioner to Council will be made available to the public.

(4) Any references by the Integrity Commissioner in a semi-annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council on whether a member has violated the Code shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.