

Principles *Integrity*

November 30, 2018

Integrity Commissioner's Annual Report City of Mississauga

Principles *Integrity* is pleased to submit this annual report, covering the period from its appointment on July 1, 2017 to today.

The purpose of an integrity commissioner's annual report is to provide the public with the opportunity to understand the ethical well-being of the City's elected and appointed officials through the lens of our activities.

This being our first annual report to Council, we also take the opportunity to introduce ourselves and state our perspective on our role.

About Us:

In 2017 we formed Principles *Integrity*, a partnership focused on accountability and governance matters for municipalities. Since its formation, Principles Integrity has been appointed as integrity commissioner (and occasionally as lobbyist registrar and closed meeting investigator) in over 30 Ontario municipalities. Within Peel Region, we currently serve as integrity commissioner for both the Region of Peel and the City of Mississauga.

The Role of Integrity Commissioner, Generally:

Recent amendments to the *Municipal Act, 2001* mandate that all municipalities have codes of conduct and integrity commissioners for elected and appointed (local board) officials as of March 1, 2019. The City of Mississauga has had a code of conduct and access to an integrity commissioner for several years.

The integrity commissioner's statutory role is to carry out the following functions in an independent manner.

Put succinctly, the role is to:

- Advise on ethical policy development
- Educate on matters relating to ethical behaviour
- Provide, on request, advice and opinions to members of Council and Local Boards
- Provide, on request, advice and opinions to Council
- Provide a mechanism to receive inquiries (often referred to as 'complaints') which allege a breach of ethical responsibilities
- Resolve complaints
- And where it is in the public interest to do so, investigate, report and make recommendations to council within the statutory framework, while guided by

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Council's codes, policies and protocols.

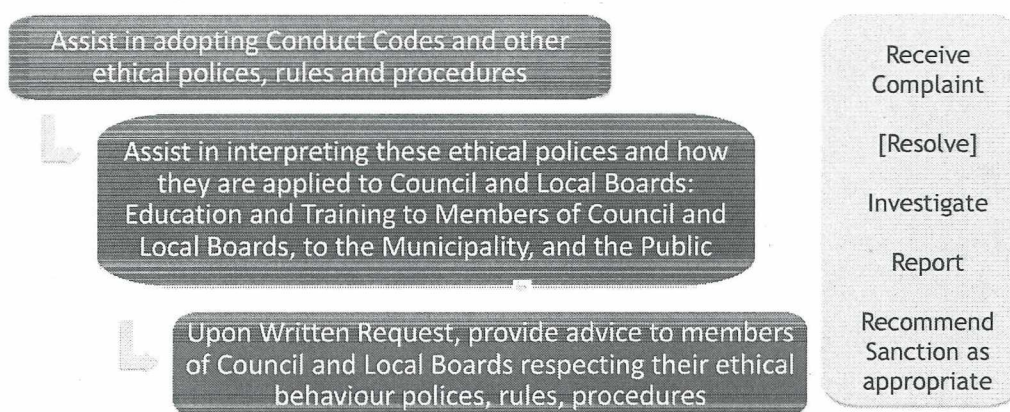
This might contrast with the popular yet incorrect view that the role of the integrity commissioner is primarily to hold elected officials to account; to investigate alleged transgressions and to recommend 'punishment'. The better view is that integrity commissioners serve as an independent resource and guide focused on enhancing the municipality's ethical culture.

The operating philosophy of Principles Integrity recites this perspective. We believe there is one overarching objective for a municipality in appointing an Integrity Commissioner, and that is to raise the public's perception that its elected and appointed officials conduct themselves with integrity:

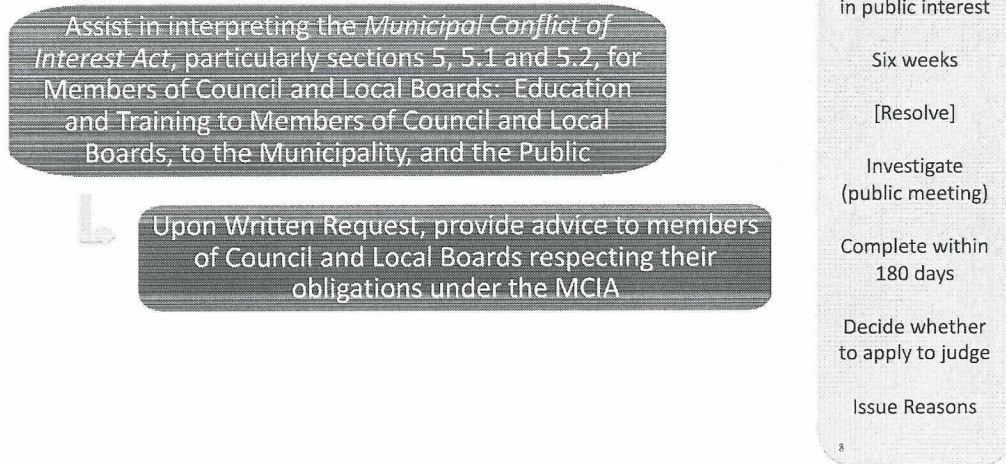
The perception that a community's elected representatives are operating with integrity is the glue which sustains local democracy. We live in a time when citizens are skeptical of their elected representatives at all levels. The overarching objective in appointing an Integrity Commissioner is to ensure the existence of robust and effective policies, procedures, and mechanisms that enhance the citizen's perception that their Council (and local boards) meet established ethical standards and where they do not, there exists a review mechanism that serves the public interest.

In carrying out our broad functions, the role falls into two principle areas. 'Municipal Act' functions, focused on codes of conduct and other policies relating to ethical behaviour, and 'MCIA' or *Municipal Conflict of Interest Act* functions, set out graphically in the following two charts:

The broad role of an Integrity Commissioner: Municipal Act Functions



The broad role of an Integrity Commissioner: MCIA Functions



In each of the charts the primary functions of the integrity commissioner are summarized in the horizontal boxes to the left, and the review mechanism (or inquiry function) appears in the vertical box on the right.

The emphasis of *Principles Integrity* is to help municipalities enhance their ethical foundations and reputations through the drafting of effective codes of conduct and other policies governing ethical behaviour, to provide meaningful education related to such policies, and to provide pragmatic binding advice to Members seeking clarification on ethical issues. As noted in the Toronto Computer Leasing Inquiry report authored by the Honourable Madam Justice Bellamy (the "Bellamy Report", seen by many as the inspiration for the introduction of integrity commissioners and other accountability officers into the municipal landscape), "*Busy councillors and staff cannot be expected to track with precision the development of ethical norms. The Integrity Commissioner can therefore serve as an important source of ethical expertise.*"

Because the development of policy and the provision of education and advice is not in every case a full solution, the broad role of the integrity commissioner includes the function of seeking and facilitating resolutions when allegations of ethical transgressions are made, and,

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where it is appropriate and in the public interest to do so, conducting and reporting on formal investigations. This in our view is best seen as a residual and not primary role.

Confidentiality:

Much of the work of an integrity commissioner is done under a cloak of confidentiality. While in some cases secrecy is required by statute, the promise of confidentiality encourages full disclosure by the people who engage with us. We maintain the discretion to release confidential information when it is necessary to do so for the purposes of a public report, but those disclosures would be limited and rare.

City of Mississauga Activity:

Since starting our role with the City of Mississauga we have been engaged in a moderate level of activity which subdivides roughly into three categories:

1. Policy Development and Education

Shortly after our engagement we endeavoured to meet individually with Members of Council to better understand their concerns and issues. Though it is our standard practice, we have not had the opportunity as of yet to provide broad-based training.

At the request of the City we have provided some guidance with respect to issues touching on the interplay of responsibilities of Members of Council when serving on local boards, as well as support to senior staff on policy development and issues pertaining to use of resources during an election, as well as specific advice with respect to a new statutory provision requiring endorsement signatures.

Also, we attended Governance Committee to present proposed changes to the City's Code of Conduct. Discussion regarding the proposed amendments has been deferred to the new term of Council. We look forward to the opportunity of working with Mississauga Council early in the term to share emerging practices and assist in the review of the current code.

2. Advice

The advice function of the integrity commissioner is available to all Members of Council and their staff on matters relating to the code of conduct, the *Municipal Conflict of Interest Act* and any other matter touching upon the ethical conduct of Members. Advice provided by the integrity commissioner is confidential and independent, and where all the relevant facts are disclosed, is binding upon the integrity commissioner.

Our advice is typically provided in a short Advice Memorandum which confirms all relevant facts and provides with clarity our analysis and a recommended course of action.

Though advice is confidential, we can advise that some of the issues we provided guidance on this year arose in the context of the municipal election, particularly interpretations on the use of municipal resources during an election year. The clarifications provided to

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Councillors seemed to be readily understood and welcome.

3. Complaint Investigation and Resolution

Our approach to reviewing complaints starts with a determination as to whether an inquiry to us is within our jurisdiction, is beyond a trifling matter, is not either frivolous or vexatious, and importantly, whether in its totality it is in the public interest to pursue. We always look to the possibility of informal resolution in favour of formal investigation and reporting. Once a formal investigation is commenced, the opportunity to seek informal resolution is not abandoned.

Where we are able to resolve a matter without concluding a formal investigation, our practice is to provide a written explanation to the complainant to close the matter. Often the potentially respondent Member is involved in preliminary fact-finding and will also be provided with an explanation. While also a courtesy, the provision of an explanation minimizes the potential for a formal review being undertaken by the office of the Ombudsman should the Complainant pursue further recourse.

Where formal investigations commence, they are conducted under the tenets of procedural fairness and Members are confidentially provided with the name of the Complainant and such information as is necessary to enable them to respond to the allegations raised.

In only one case in the period covered by this report has an inquiry reached the formal investigation stage. Our conclusions and recommendations in that report will be presented to Council commensurate with the delivery of this annual report.

Ethical Themes In Mississauga and Around the Province:

With due regard to our obligation to maintain confidentiality, this annual report enables us to identify from advice requests and investigations conducted in a variety of municipalities which generate the identification of learning opportunities.

One area of prominence is the failure of some Members of Council to adhere to rules against disparagement. Regardless of the medium, regardless of the intended audience, and regardless of motive, we have observed several instances where Members of Council in municipalities around the province have been found to have breached ethical standards by saying or recording things they have come to regret.

Another area Members have sought guidance on is the interpretation of the rules around receipt of gifts and hospitality. Some questions arose around gifts bestowed upon Members and their family members, and how best to meet the requirements of the Code. Other questions arose in respect of the appropriate treatment of hospitality such as meals paid by others at conferences. Best practice always tends towards greater transparency on the gift disclosure statements and, when in doubt, Members should not hesitate to seek our advice.

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In furtherance of better transparency, our recommendation to our clients is the recognition that even gifts and hospitality which fit within the exceptions ought to be reported on, if the value is above a nominal value. The public's perception is then enhanced when gift disclosures filed more honestly reflect what gifts and hospitality are being received. In any event, we recommend Members maintain their own records of gifts and hospitality received, as they are responsible for monitoring any cumulative values over the year from a single source.

Conclusion:

In the coming year, we look forward to working with Council on proposed amendments to the Mississauga Code of Conduct which will continue to support a strong ethical framework. We embrace the opportunity to elevate Members' familiarity with their obligations under the Code and to respond to emerging issues.

As always, we welcome Members' questions and look forward to continuing to serve as Mississauga's Integrity Commissioner.

We wish to recognize the Members of Council who are responsible for making decisions at the local level in the public interest. It has been a privilege to assist you in your work by providing advice about the Code of Conduct and resolving complaints. We recognize that public service is not always easy and can be challenging. The public rightly demands the highest standard those who serve them.

Finally, we wish to thank the Clerk and the City Solicitor for their professionalism and assistance where required. Although an Integrity Commissioner is not part of the City administrative hierarchy, the work of our office depends on facilitation of access to information and policy in order to carry out the mandate. This was done efficiently by the staff of the City.