

From: "Mochrie, Paul" <Paul.Mochrie@vancouver.ca>

To: "Direct to Mayor and Council - DL"

Date: 11/29/2024 8:00:14 AM

Subject: Integrity Commissioner - 2024 Annual Report

Attachments: AR_2024_IC_VancouverCity_Final.pdf

Good afternoon Mayor and Council,

The Integrity Commissioner has provided her annual report for the year ending October 31, 2024 as required pursuant to the Code of Conduct By-law.

The report is attached for your information and will be posted on the City's website on Friday. We ask that you please refrain from sharing or discussing the document externally in advance of the public release.

Best,
Paul

Paul Mochrie (he/him)
City Manager
City of Vancouver
paul.mochrie@vancouver.ca



The City of Vancouver acknowledges that it is situated on the unceded traditional territories of the m k y m (Musqueam), S wxwú7mesh (Squamish), and s lilw ta (Tsleil-Waututh) Nations.



ANNUAL REPORT

Submitted December 1, 2024 – Reporting for the period November 1, 2023 to October 31, 2024

Submitted to Paul Mochrie, City Manager, City of Vancouver

Submitted by Lisa Southern, Integrity Commissioner, City of Vancouver

Message from Integrity Commissioner

On January 1, 2022, I was appointed by the City of Vancouver (“City”) as its first Integrity Commissioner. It has been an honour to serve the City, the Vancouver City Council, and the community in this integral role of supporting Council and Advisory Board Members to maintain a high level of integrity and accountability in their important work.

In its first year, the Office of the Integrity Commissioner (“Office”) focused on establishing and implementing systems for fulfilling its duties and responsibilities of advice, education, and complaint resolution made under the *Code of Conduct By-law No.12886* (“Code of Conduct By-law”).

In its second year, the Office focused on delivering education and advice to a newly formed Council and providing Council and Advisory Board Members with information and tools to support governance in a manner aligned with the obligations set out in the Code of Conduct By-law.

I was reappointed to serve for a second two-year term commencing January 1, 2024.

2024 was an interesting year as we experienced a significant increase in complaints submitted to the Office compared to 2023. While many of the issues raised in the complaints were matters we had considered previously, such as communications and conflicts of interest, the complaints also raised novel issues related to how the work of political employees might overlap with Council obligations, as well as complex legal arguments related to the decision to engage in formal investigations and to whether participants to an investigation had to maintain confidentiality if this was directed by the Integrity Commissioner.

The provisions and processes under the Code of Conduct By-law were tested in 2024 through the work that our Office conducted, which we valued as a unique opportunity to assess both the strengths and challenges that flow from the language of the Code of Conduct By-law.

As the Office approaches its fourth year in service, Council’s commission for a third-party review of the Code of Conduct By-law is welcomed. 2024’s activities highlight opportunities to improve the Code of Conduct By-law in a number of ways, including potential changes to ensure investigations can be conducted more efficiently.

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We are excited to participate in the third-party review and look forward to the recommendations Reece Harding, Barrister & Solicitor, provides for improvements to the Code of Conduct By-law.

The Code of Conduct By-law limits the number of terms an Integrity Commissioner can hold to two. 2025 is the last year I can serve in this role, and I encourage Council, with the support of the City's senior employees, to consider best timing for a transition to a new appointment, which may best align with the conclusion of the third-party review and the introduction of an amended Code of Conduct By-law based on recommendations flowing from that review. We look forward to supporting a smooth transition to a new Integrity Commissioner in 2025 to ensure the Office's continued success.

We wish to thank the City's Office of the City Clerk, Legal Services, Civic Engagement and Communications team, and Digital Channels team for their ongoing assistance. We also wish to personally thank City Manager Paul Mochrie for his continued support and commitment to the work of the Office.

A handwritten signature in black ink, appearing to read 'Lisa Southern'.

Lisa Southern, Integrity Commissioner

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Learn and Connect – Integrity Commissioner for the City of Vancouver



[Vancouver.ca/your-government/integrity-commissioner](https://vancouver.ca/your-government/integrity-commissioner)



IntegrityCommissioner@Vancouver.ca

Introduction

Background

In response to a City of Vancouver-led review that recommended a new code of conduct be drafted for Council and Advisory Board Members, the City of Vancouver (“City”) established the Office of the Integrity Commissioner (“Office”) on January 1, 2022, and appointed Lisa Southern, Barrister & Solicitor, as the Integrity Commissioner.

Year One – 2022

In its inaugural year, the focus of the Office was to establish the Office and fulfil its duties and responsibilities as set out in section 5.7 of the *Code of Conduct By-law No. 12886* (“Code of Conduct By-law”).

Year Two – 2023

The focus of the Office in its second year was to support new Council and Advisory Board Members. For many Members, this term was their first time in public office, so providing orientation, advice, support, and education on core areas of the Code of Conduct By-law, the *Vancouver Charter*, and other relevant policies were priorities for our Office.

On May 10, 2023, Council, by unanimous vote, endorsed the recommendations we made at the end of 2022 to amend the Code of Conduct By-law to include compulsory education for Council and Advisory Board Members and to publish non-attendance at education sessions; to provide clarity on the Integrity Commissioner’s ability to make recommendations for indemnification of legal fees in appropriate circumstances; and to include provisions to facilitate the transition to a newly appointed Integrity Commissioner when required. The amended Code of Conduct By-law can be found on the [City’s website](#).

Year Three – 2024

The focus of the Office in its third year was to complete accessible learning through the development of an eLearning course on the Code of Conduct By-law for both Council and Advisory Board Members. Council took its own initiative to have specific education delivered related to human rights obligations for new parents, and all of Council took training offered by the Office on supporting inclusion for the Trans community. Every Council Member demonstrated their commitment to continued education and have completed, or are in the process of completing, the eLearning course.

2024 was also busy with conducting preliminary assessments of complaints and, for those we determined should proceed to resolution, conducting formal investigations. As is set out in this report, the number of complaints received in 2024 increased substantially from 2023, and was more closely aligned with the numbers we experienced in 2022 (a City election year during which we saw a spike in complaints in the months shortly before the October 2022 election).

Year Four – 2025

Under the Code of Conduct By-law, 2025 must be the last year that I can hold the appointment of Integrity Commissioner. To ensure the transition to a new Integrity Commissioner is efficient and smooth, I encourage Council to consider best timing for the new appointment to commence in 2025.

Duties of the Office

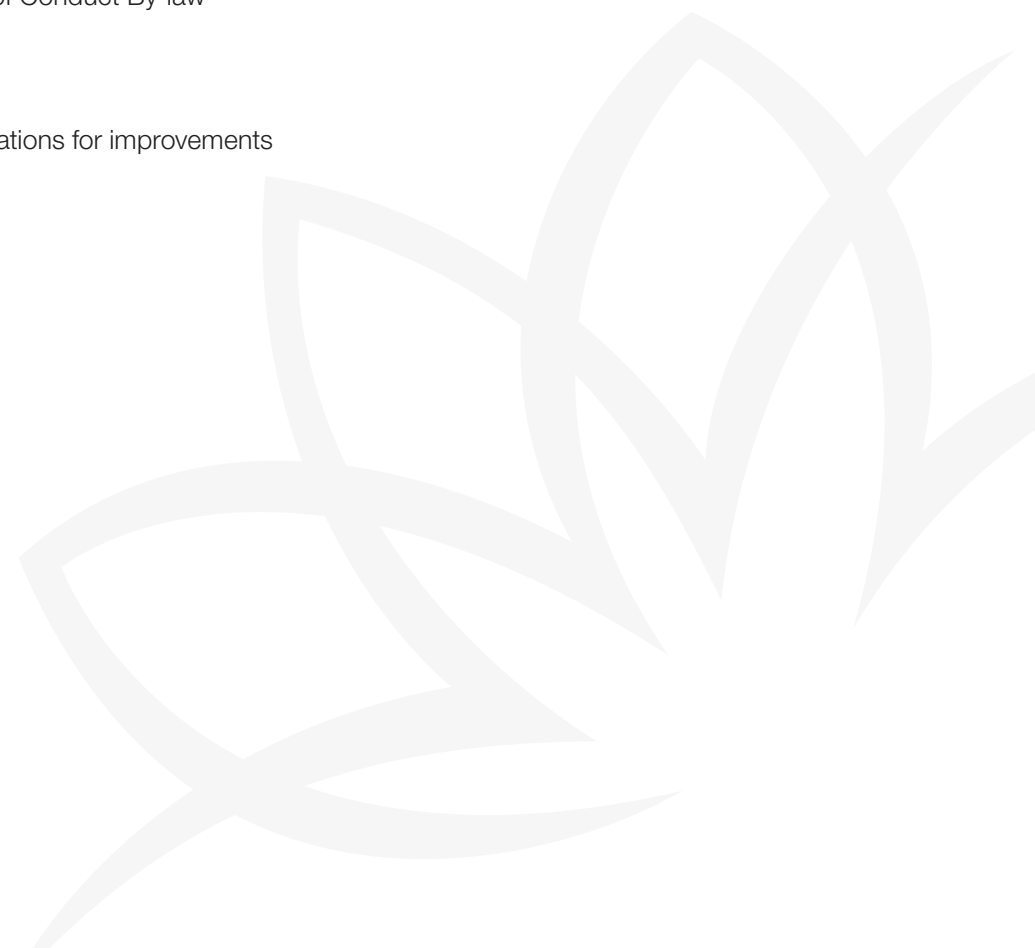
The duties of the Office are summarized as follows:

1. **Advice:** Provide advice and recommendations to Council and Advisory Board Members regarding their ethical obligations and responsibilities
2. **Community Outreach:** Aid the public in their understanding of the Code of Conduct By-law, the *Vancouver Charter*, and the *City of Vancouver's Code of Conduct*
3. **Complaints:** Assess and potentially mediate and/or investigate Code of Conduct By-law complaints made against Council and Advisory Board Members
4. **Budget:** Produce an annual budget
5. **Recommendations:** Produce an annual report, including recommendations for improvements to the Code of Conduct By-law

Report Structure

The 2024 Annual Report is the Office's third Annual Report submitted to the City. It provides the following:

- a. A summary of the activities undertaken by the Integrity Commissioner during the past year, organized by duty
- b. A summary of trends and themes drawn from the complaints received and investigations conducted in the past year
- c. A list of recommendations for improvements to the Code of Conduct By-law and the functioning of the Office



Education and Advice to Elected Officials

Education and advice continue to be critical functions of the Office, both of which help elected officials proactively understand how the Code of Conduct By-law applies, thus minimizing contraventions.

Council Members

We delivered one educational presentation entitled “Everybody’s City: Why Trans Inclusion Matters” to Council on October 1, 2024. All Council Members attended this session.

We also developed an eLearning course entitled “Introduction to the Code of Conduct By-law” which provides an overview of the Code of Conduct By-law and baseline refresher training for Council Members on their responsibilities and obligations under the Code of Conduct By-law. Council Members are expected to complete the eLearning course by December 31, 2024.

In addition to this, we note that Council, on its own initiative, engaged an outside provider to deliver training on supporting parents before and after maternity leaves. This is topical and relevant training given the unique challenges new parents face particularly when serving as elected officials, and we commend the commitment Council has shown to ongoing learning through this and attendance at the presentations delivered by our Office over this past year and previously.

Advisory Board Members

Advisory Board Members are required to complete four hours of ongoing education per year, as noted under the Code of Conduct By-law. Given the large size of this group, it was determined that a self-directed education approach, delivered through online training, was best. Advisory Board Members were required to complete civic agency and anti-oppression training as well as a version of the

“Introduction to the Code of Conduct By-law” eLearning course that was specifically tailored for Advisory Board Members and their unique roles and responsibilities as appointees to City boards, committees, and commissions.

Advisory Board Members are expected to complete their education hours, including the eLearning course, by December 31, 2024.

Community Outreach

Our focus for community outreach was on continuing to update and populate the [Office’s web page](#), a key tool to provide information and act as a portal for members of the public to learn about the Code of Conduct By-law, the Office, and the complaint resolution process. We have seen a notable increase in traffic to the Integrity Commissioner web page this year. Between November 1, 2023 and October 31, 2024, there were 3,815 visits to the web page (compared to 2,000 in the first year and 1,800 in the second year).

In addition to informing the public through the web page, the Office was referenced in or by the media throughout the year. An estimated 33 news articles, as well as over 20 radio show segments and TV news broadcasts, were released with mention of the Office between November 1, 2023 and October 31, 2024.

In the summer and fall of 2024, Integrity Commissioners and Ethics Advisors in Western Canada began a dialogue and met virtually to discuss topical issues. Given the value of these meetings, the group will be organizing a full-day conference in the spring of 2025.

Complaints

The process and procedures for receiving and addressing complaints were established during 2022. We continually evaluate the process and procedures to ensure both their accessibility and that investigations, when required, are done fairly and respectfully, and are completed in a timely manner. **Figure 1** provides a flow chart of the complaint process.

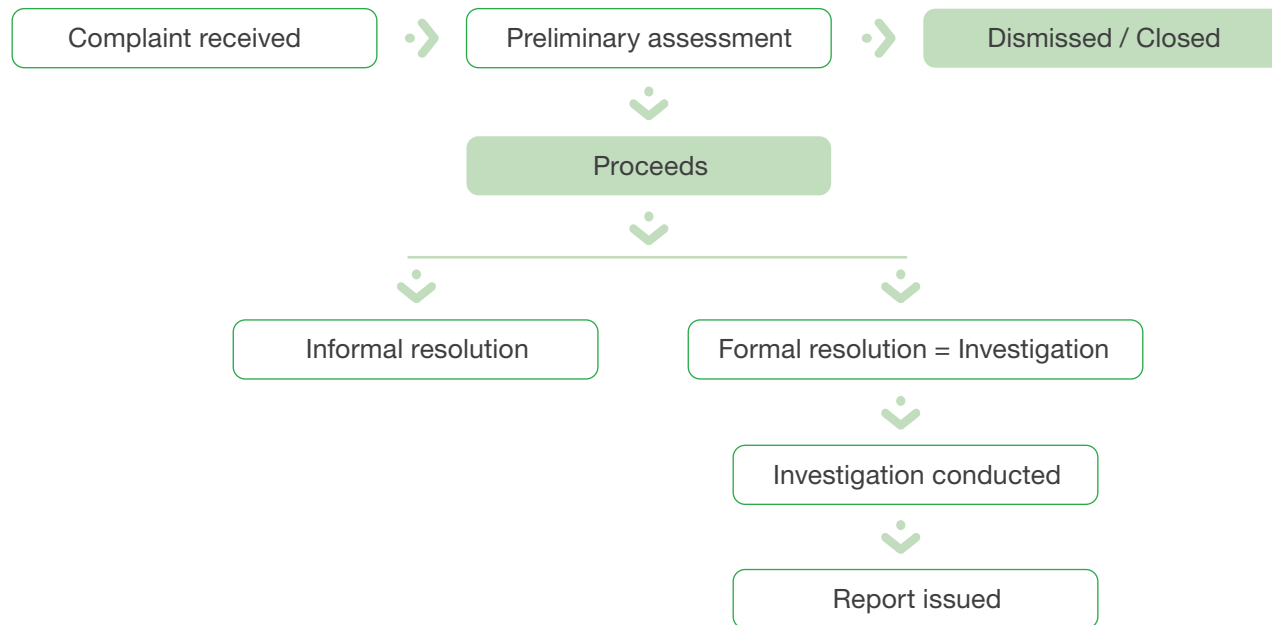


Figure 1: Complaint Process

Summary of Complaint Statistics

The Office received 31 complaints from November 1, 2023 to October 31, 2024. Two complaints are still open as of October 31, 2024.

As illustrated in **Figure 2**, the majority of the current reporting period complaints were dismissed (22 or 71%) or closed (7 or 23%). Complaints were dismissed or closed for various reasons, as illustrated in **Figure 3**, namely because they did not fall under the jurisdiction of the Code of Conduct By-law (12 or 41%) or they were found not to be breaches of the Code of Conduct By-law after the preliminary assessment (7 or 24%). The Integrity Commissioner published two investigation reports for complaints in this reporting period.

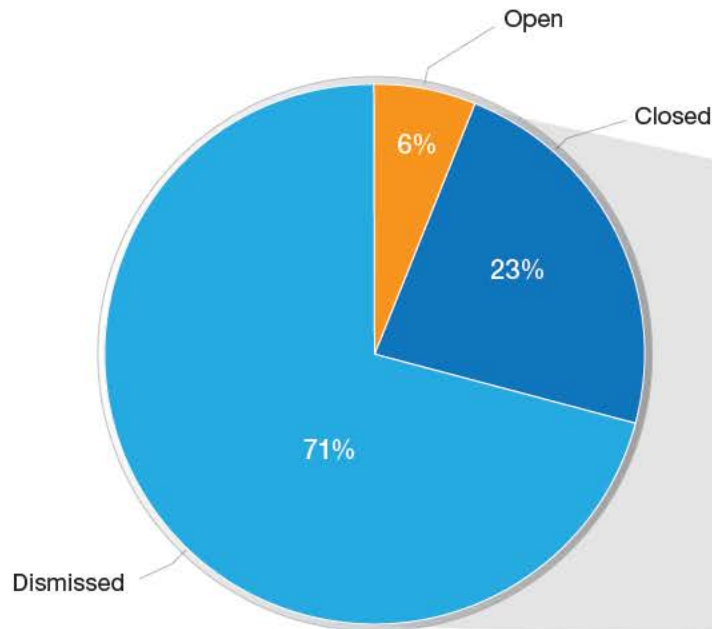


Figure 2: Status of Complaints

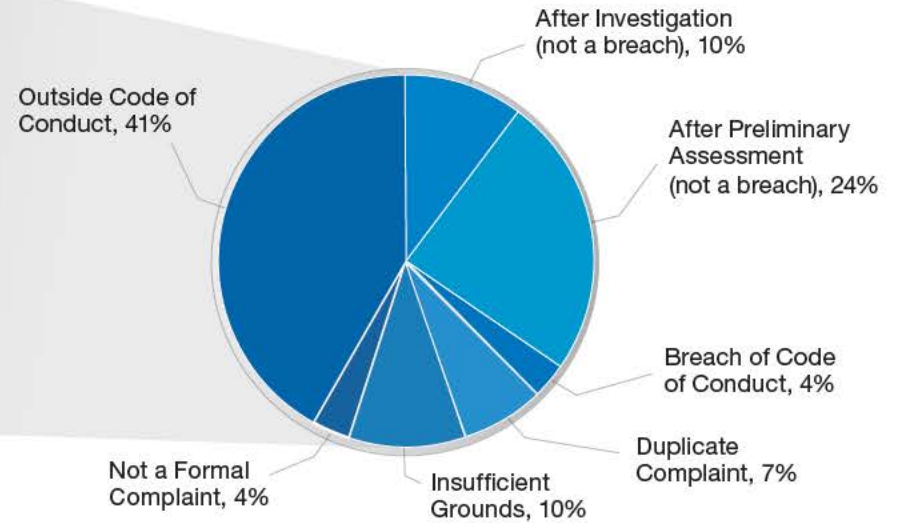


Figure 3: Reasons for Dismissal and closure

The Integrity Commissioner is directed by the Code of Conduct By-law to complete the complaint process in a timely manner. During this reporting period, the duration in days ranged from 1 day to 219 days, with an average length of 23 days.

As was our experience in 2022 and 2023, we received a number of complaints relating to communications. These complaints touched on important legal principles in the application of the Code of Conduct By-law, the *Charter of Rights and Freedoms*, and lawful limits to free speech. The Office also received complaints regarding alleged conflicts of interest and respectful conduct issues.

No bulletins were issued in 2024 as topics that were the subject matter of complaints, such as communication, had already been addressed in prior bulletins or were published through a formal investigation report.

Complaint Process Duration | Days

Shortest Duration	1
Longest Duration	219
Average Duration	23

Costs Summary and Budget Recommendations for 2025

The original budget for the Office (set in 2021) was \$200,000 annually. The annual budget is for fees for services and does not include taxes or disbursements.

Table 1: Costs Summary

Report Year	Total Costs Reported as of October 31 for Annual Report (10 months)	Total Year-End Costs (inclusive of disbursements)	Disbursements *	Actual Fees for Service	Budget (does not include disbursements)	Number of Complaints
2022	\$159,595	\$184,700	\$7,613	\$177,087	\$200,000	37**
2023	\$129,080	\$173,660	\$20,703	\$152,957	\$200,000	12
2024	\$207,352	N/A	\$13,067***	\$194,285***	\$200,000	31

As noted in Table 1, fees for services were less than budgeted in 2022 and 2023.

As of October 31, 2024, fees for services are \$194,285 for this reporting period. We estimate that total fees for services for January 1, 2024 to December 31, 2024 will exceed \$200,000.

* Since January 2022 when the Office was created, no disbursements have been incurred for travel expenses or meals; disbursements are for outsourcing of tasks for administrative services, such as web design, webinar creation, and graphic design and development of the annual report

** 7 complaints (or 19% of total complaints) were automatically dismissed due to the election freeze or the Council Member not being re-elected pursuant to sections 6.10 and 6.14 of the Code of Conduct By-law

*** Accurate as of October 31, 2024

The rise in fees for 2024 reflects work done in three areas. First, we handled an increased number of complaints between 2023 and 2024, some of which raised issues of legal complexity regarding preliminary matters. Second, we spent approximately \$15,000 (10% of our budget) on education, a large part of which was developing the eLearning courses for Council and Advisory Board Members (which is a legacy resource that can be leveraged for future use). Third, we are supporting the work of the third-party reviewer by providing information as requested.

Given the factors noted above, we view 2024 as an anomaly in our experience running the Office since January 2022, and do not recommend any budget increase from the original budget of \$200,000 for fees for services for next year.

The breakdown of services delivered is illustrated in [Figure 4](#).

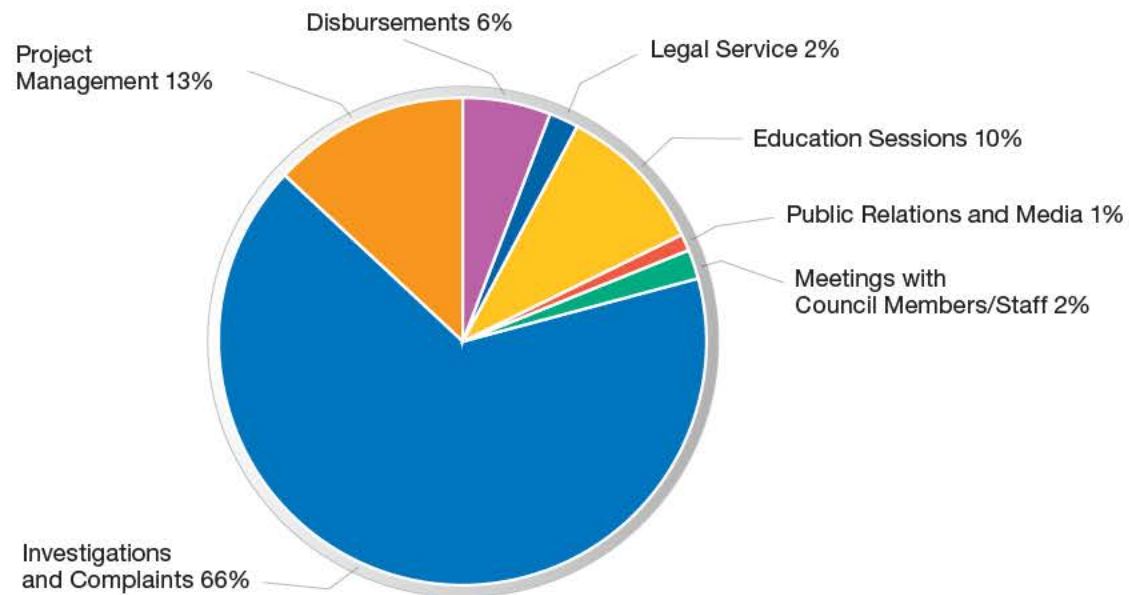


Figure 4: Breakdown of Services

Recommendations

The Code of Conduct By-law requires that we provide advice and recommendations to improve the text and operation of this By-law.

As we approach our last year, reflecting on the practical application of the Code of Conduct By-law in action and under tension, we have identified a number of areas where improvements can be made to the operation of the Code of Conduct By-law and the Office. We look forward to sharing our experiences, learnings, and recommendations with the third-party reviewer.

Recommendation 1

Consider adding clear and precise language that obligates those who are involved in informal complaint resolution and/or investigation processes to comply with directions of confidentiality made by the Integrity Commissioner. In the event of a breach of confidentiality by a Council Member or an Advisory Board Member, the breach of confidentiality could be considered a breach of the Code of Conduct By-law. In the event of a breach of confidentiality by a City employee, the employee's breach could be addressed through the City's employee policies.

As members of the public would not be bound by the Code of Conduct By-law or employee policies, we recommend consideration of a provision that would provide the Integrity Commissioner with discretion to dismiss a complaint, and future complaints by the same individual, in the event they breach the obligation to maintain confidentiality.

Recommendation 2

Consider separating the education and advice functions from the investigation / complaint resolution functions in order to better avoid conflicts and foster continued use of the advice and education functions when investigations are ongoing.

Recommendation 3

Consider the Office having a roster of investigators (akin to other organizations like the Public Service Agency and the Office of the Sport Integrity Commissioner) so that different investigators may be assigned to investigate complaints. This would assist with capacity and allow for a different investigator to handle subsequent complaints that involve the same party or parties.

Recommendation 4

Consider changing language related to the preliminary assessment process to clarify that the initial assessment decision is not revisited (currently the provision allows for complaints to be dismissed on preliminary assessment grounds throughout the complaint process). Consider adding a provision allowing for summary dismissal after formal investigation commencement where evidence collected demonstrates complaints are frivolous, vexatious, or made in bad faith; an investigation would not be in the public interest; or there are insufficient grounds for concluding a violation of the Code of Conduct By-law occurred. The purpose of this recommendation is to clearly delineate between the preliminary assessment and formal investigation stages and to provide clearer and more distinct steps for the complaint process.

Recommendation 5

Consider eliminating the requirement that during an investigation, a written submission is sought from a respondent, and instead replace it with less prescriptive language that provides discretion to the investigator to determine a process that is fair and that allows for a full opportunity for the respondent to respond to allegations. The current language results in a bottleneck where submissions sought may not address the substance of the allegations but may raise preliminary objections and delay the investigation process. This written submission request is unnecessary to meet due process requirements, has the risk of turning the process into one that is unnecessarily litigious, is misaligned with how investigations are typically conducted, and is inefficient.

Recommendation 6

The current terms of the Code of Conduct By-law require publication of the investigation report after a formal investigation has been conducted, regardless of whether a breach is found. We recommend that publication of a formal investigation report **only** occurs when a breach is found.

We recommend that when no breach is found, an anonymous summary bulletin be published instead. We suggest adding language (similar to that currently in section 6.30(d)) which permits that “the respondent may disclose the fact that the complaint has been closed, or that a finding has been made that the respondent did not breach this By-law” in such circumstances.

We view this approach as the best balance between protecting the privacy of those involved and the public interest for transparency. Where a breach is found, the public interest is met through transparency of the published investigation report.

Recommendation 7

Consider addressing a gap in governance of political employees. In 2021, as an Ad-hoc Integrity Commissioner under the City's former code of conduct and previous Council, I noted the confusion created by the unique role that political employees play ([see the report issued in June 2021](#)). The Code of Conduct By-law does not apply to political employees, nor do the City's employee policies fit with this role, given both that they are permitted to engage in political activities, and their reporting structure is not to the City Manager. Consider policy and process for creating clarity and accountability around roles, responsibilities, and conduct for political employees.

Recommendation 8

In our view, a two-year term for the Office is too short, given that a new Integrity Commissioner in their first year focuses on learning and establishing themselves in the role. Many provincially appointed roles (such as at the Labour Relations Board and the Human Rights Tribunal) are three-year terms. We suggest amending the term to extend to three years. This will also ensure fewer appointments that start in the year of an election.

In Addition

In addition, we reiterate the recommendations we made in our [2023 Annual Report](#), including our first recommendation to clarify which provisions in Part 2: Standards and Values are interpretative principles and non-substantive obligations. We recommend that section 2f), which discusses responsibility, should be dealt with separately from the other standards and values listed in Part 2, given that it gives rise to specific, substantive obligations for compliance.

Finally, we note that, consistent with section 5.6 of the Code of Conduct By-law, an Ad-hoc Integrity Commissioner was appointed on August 14, 2024, to address a complaint involving an allegation under section 6.41. The Ad-hoc Integrity Commissioner provided a recommendation that the City consider amending section 6.41 to also include attempted obstruction, expressing their view that any attempt to obstruct the functions of the Integrity Commissioner could be as equally damaging to the public interest as actual obstruction.

Closing Comments

As was acknowledged by Council in August 2024, maintaining an ethics regime for Council and Advisory Board Members is important to the public. Accountability and transparency are key to the Office's success, and we thank Council for its continued commitment to this work.

As we close out three years in this role, and enter our last one, we can reflect on our experience of creating and administering the Office. I want to thank my colleagues Deanna Brummitt, Michael Oland, and Maia Tsurumi for their support and hard work during the last few years, as well as Debra Rusnak and Marisa Cruickshank for helping as we move into this last transitional period. Also, gratitude to our administrative team for their dedication to the Office. Conducting this work is not always easy – indeed, it can be very challenging at times. Being supported by a team of smart, dedicated, and kind individuals makes it so much easier and so much more rewarding.


We are excited to see how the Office evolves in 2025 and look forward to being a part of making the change successful, the transition smooth, and the future of the Office sustainable.

With continued thanks, appreciation, and endless optimism.

The Office of the Integrity Commissioner:



Lisa Southern



Deanna Brummitt



Marisa Cruickshank



Michael Oland



Debra Rusnak