



ANNUAL REPORT

Submitted December 1, 2023 – Reporting for the period November 1, 2022 to October 31, 2023

Submitted to Paul Mochrie, City Manager, City of Vancouver

Submitted by Lisa Southern, Integrity Commissioner, City of Vancouver

Message from Integrity Commissioner

2023 marked the second year of the Office of the Integrity Commissioner (the “Office”). In our first year, we focused on establishing and implementing systems for fulfilling the Office’s duties and responsibilities of advice, education, complaints, and reporting. In our second year, we 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 City of Vancouver’s *Code of Conduct By-Law No. 12886* (the “Code of Conduct By-law”).

We are extremely fortunate that Council supported the work of the Office, both in terms of prioritizing participation at education sessions and of endorsing the recommendations we made in our *2022 Annual Report* (the “2022 Recommendations”).

On May 10, 2023, Council, by unanimous vote, endorsed the 2022 Recommendations, which included making the Office’s education sessions compulsory for Council and Advisory Board Members. Through its endorsement, Council recognized the value education plays in assisting Council and Advisory Board Members to have a shared understanding of their obligations, to identify potential ethical issues, and to act thoughtfully, thereby mitigating breaches of the Code of Conduct By-law. In order to ensure accountability and transparency regarding education, Council went further by also endorsing our recommendation for the publication of non-attendance at compulsory education sessions.

Creating an ethics regime that builds on both accountability and transparency is key to the Office’s success. Different from other provinces where provincial governments have legislated municipal codes of conduct, in British Columbia, municipalities need only *consider* implementing codes of conduct after a municipal general election. As a result, many municipalities do not have codes of conduct, and those that do struggle with how to operationalize them without an independent body that conducts investigations. The Code of Conduct By-law is the gold-standard model. From inception, the Code of Conduct By-law included accountability to the public and transparency of found breaches by including the requirement that formal investigation reports be made public. By adopting our 2022 Recommendations regarding compulsory education and publication of non-attendance, Council has continued to be a leader in creating a courageous and open regime.

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This year, we published several reports on important matters that needed clarity. One was on *in camera* meetings and disclosure of how a Council Member voted. As set out in [Investigation Report COVIC-004](#), this was a matter that lacked clarity and consistent guidance. Having the matter considered by the Office allowed it to be researched thoroughly and fairly, and highlighted for Council the need to develop a clear policy regarding disclosures. Other reports related to communication, including where expression may go too far and thus constitute a breach of the Code of Conduct By-law. In addition to rendering formal investigation reports, we issued bulletins on matters where both Council and the public may have an interest, perhaps most notably [Bulletin 2023-03](#), which outlined the open meeting principle and highlighted Council's obligations to make decisions in open and public processes.

We wish to thank the City of Vancouver's Office of the City Clerk, Legal Services, the Civic Engagement and Communications team, and the 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.

December 31, 2023 marks the end of our first term. We are proud of the work we have accomplished in our two years running the Office. In year one, we established the Office and its processes, and supported Council going through an election cycle. In year two, we focused on supporting a newly formed Council in its inaugural year and delivering education to foster common understandings. More so, we are proud to work with elected officials who are leaders in creating and enhancing a transparent ethics regime that stands apart in this province as the model to be followed.



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

Lisa Southern, Integrity Commissioner

A handwritten signature in black ink, appearing to read 'Deanna Brummitt'.

Deanna Brummitt, Barrister & Solicitor

A handwritten signature in black ink, appearing to read 'Michael Oland'.

Michael Oland, Barrister & Solicitor

A handwritten signature in black ink, appearing to read 'Emily Harrison'.

Emily Harrison, Administrator

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Learn and Connect – Integrity Commissioner for the City of Vancouver



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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 (the “Office”) on January 1, 2022, and appointed Lisa Southern, Barrister & Solicitor as the Integrity Commissioner. In its inaugural year, the Office focused on both establishing the Office and fulfilling its duties and responsibilities as set out in [section 5.7 of the Code of Conduct By-Law No. 12886](#) (the “Code of Conduct By-law”).

Year Two

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 relevant policies were priorities for our team.

On May 10, 2023, Council, by unanimous vote, endorsed the recommendations we made at the end of our first year to amend the Code of Conduct By-law to include compulsory education for Council and Advisory Board Members and publication of non-attendance at education sessions; clarity on the Integrity Commissioner’s ability to make recommendations for indemnification of legal fees in appropriate circumstances; and 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](#).

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 2023 Annual Report is the Office’s second 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

We consider the education and advisory functions critical. Throughout the year, we have been available to help elected officials proactively understand how the Code of Conduct By-law applies in practice through education and advice. Our focus has been on building capacity and common understandings with a view that this would minimize contraventions to the Code of Conduct By-law.

Council Members

We delivered five educational presentations to Council that focused on information newly elected Council Members needed:

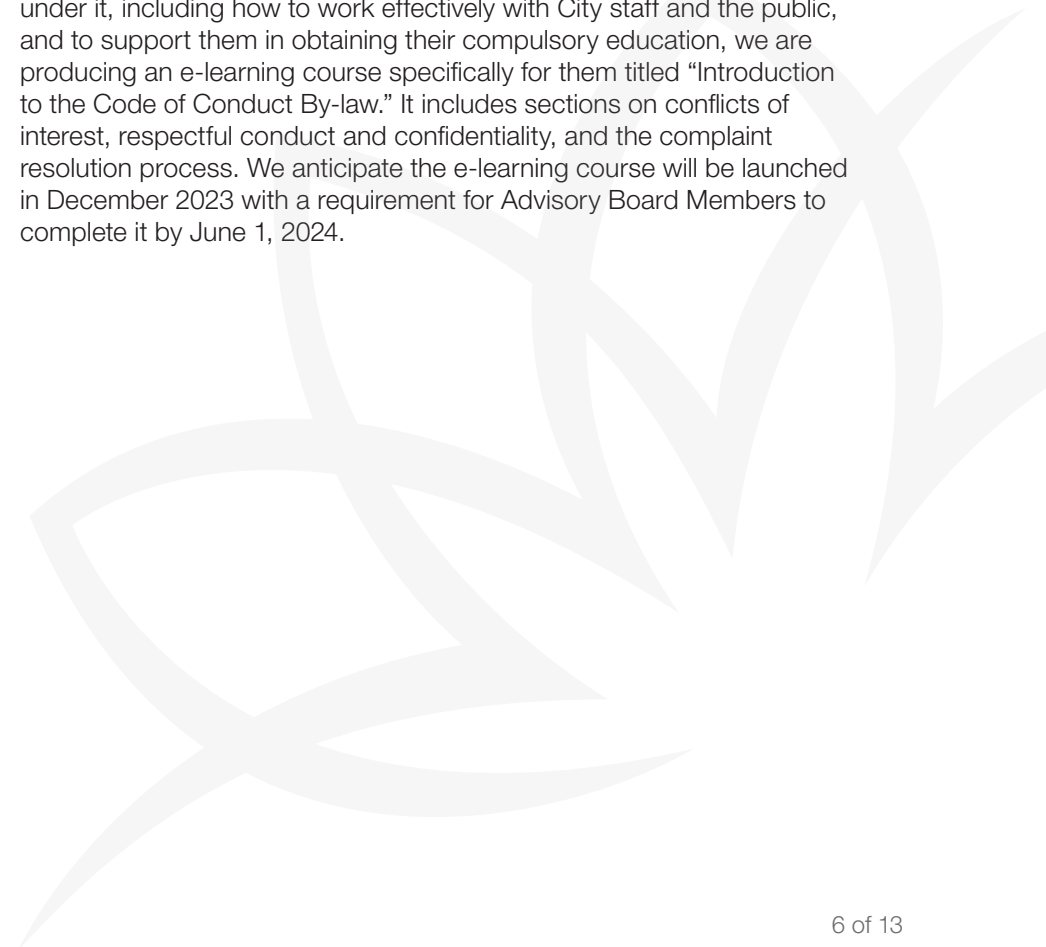
1. November 10, 2022: Conflicts of Interest
2. November 23, 2022: The Code of Conduct By-law
3. February 8, 2023: Communications (included content on the British Columbia *Human Rights Code*)
4. May 23, 2023: Conduct with Staff (included content on the British Columbia Human Rights Code and the Occupational Health and Safety Regulation) (additional sessions offered on June 20, July 10, and October 16 for those who could not attend the May 23 session)
5. October 25, 2023: Managing Difficult Public Situations (a non-compulsory workshop)

We were also available to Council Members to provide guidance throughout the year on various matters and conducted one-on-one meetings to support individual learning based on topics of particular interest to Council Members.

Advisory Board Members

Advisory Board Members received orientation training on their roles and responsibilities from City staff. In addition, on July 10, 2023, the Office delivered a session that introduced the Members to the role of the Integrity Commissioner and the Code of Conduct By-law.

To provide Advisory Board Members with a basic understanding of both the Code of Conduct By-law and how to meet their obligations under it, including how to work effectively with City staff and the public, and to support them in obtaining their compulsory education, we are producing an e-learning course specifically for them titled “Introduction to the Code of Conduct By-law.” It includes sections on conflicts of interest, respectful conduct and confidentiality, and the complaint resolution process. We anticipate the e-learning course will be launched in December 2023 with a requirement for Advisory Board Members to complete it by June 1, 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 process.

Since its launch on January 4, 2022 up to October 31, 2023, there have been approximately 3,800 visits to the web page (2,000 in the first year and 1,800 in the second year).

Unlike when the Office publishes a formal investigation decision, which is mandatory under the Code of Conduct By-law, the Integrity Commissioner has discretion in determining whether to publish a bulletin. One criterion we consider is whether it is in the public interest to provide a bulletin. Three bulletins were published in this reporting period (for a total of seven bulletins since 2022):

1. January 2023: [Personal Interests and Conflict of Interest](#)
2. February 2023: [Government vs. Personal Use of Twitter](#)
3. March 2023: [Open Meeting Principle](#)

In addition to informing the public through the web page, we also provided information to the media in response to requests for information and the Office was referenced in or by the media throughout the year, including the following:

- *CBC* article titled [“Surrey’s former ethics commissioner says more provincial oversight needed for office to be effective”](#)
- *CBC Radio* segment titled [“Inside the office of Surrey’s first ethics commissioner”](#)
- *Business in Vancouver* article titled [“Ex-committee appointee apologizes for breaking Vancouver code of conduct”](#)

- *Vancouver Sun* article titled [“Vancouver mayor’s complaint against council colleague goes nowhere”](#)
- *Vancouver is Awesome* article titled [“Vancouver council given opportunity to impose sanctions against Christine Boyle”](#)
- *CBC* article titled [“Vancouver council upholds integrity commissioner report into councillor’s ‘inappropriate’ online comments”](#)

Lastly, to foster awareness of the Office and the importance of codes of conduct in municipal governance, the Office participated in three professional development events:

1. Panel discussion for the Institute of Public Administration of Canada titled “Local Government in BC – Ethics, Accountability, and Codes of Conduct”
2. Workshop for Municipal World Sessions titled “Civility and Respectful Leadership”
3. Workshop for the Government Finance Officers Association titled “Ethics & Leadership: The Political/Administrative Interface”

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.

Complaint Process

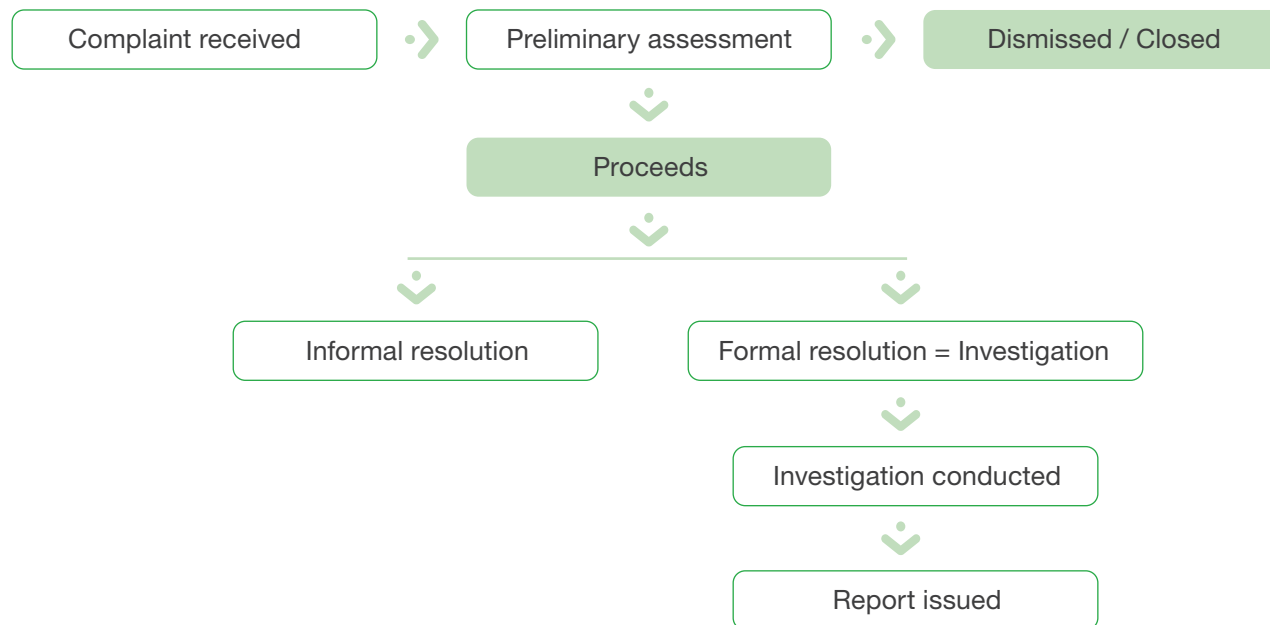


Figure 1: Complaint Process

Summary of Complaint Statistics

The Office received 12 complaints from November 1, 2022 to October 31, 2023, and one complaint remained open from the 2022 reporting period.

As illustrated in **Figure 2**, the majority of the current reporting period complaints were dismissed (10 or 84%). One complaint was closed. Complaints were dismissed or closed for various reasons, as illustrated in **Figure 3**, namely because they were found not to be breaches of the Code of Conduct By-law after the preliminary assessment (3 or 28%) or at the completion of the investigation (2 or 18%),¹ or they did not fall under the jurisdiction of the Code of Conduct By-law (5 or 45%). One complaint was closed upon receipt as it was a duplicate complaint (1 or 9%).

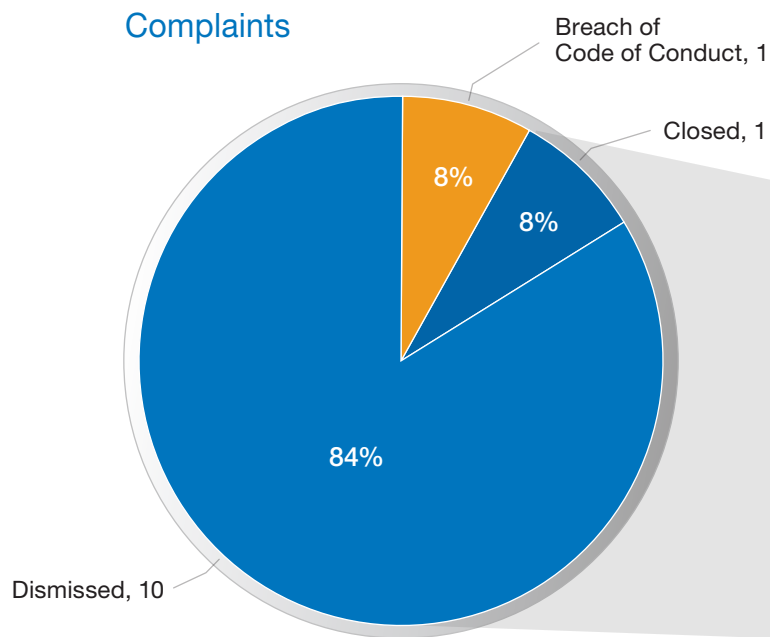


Figure 2: Complaints

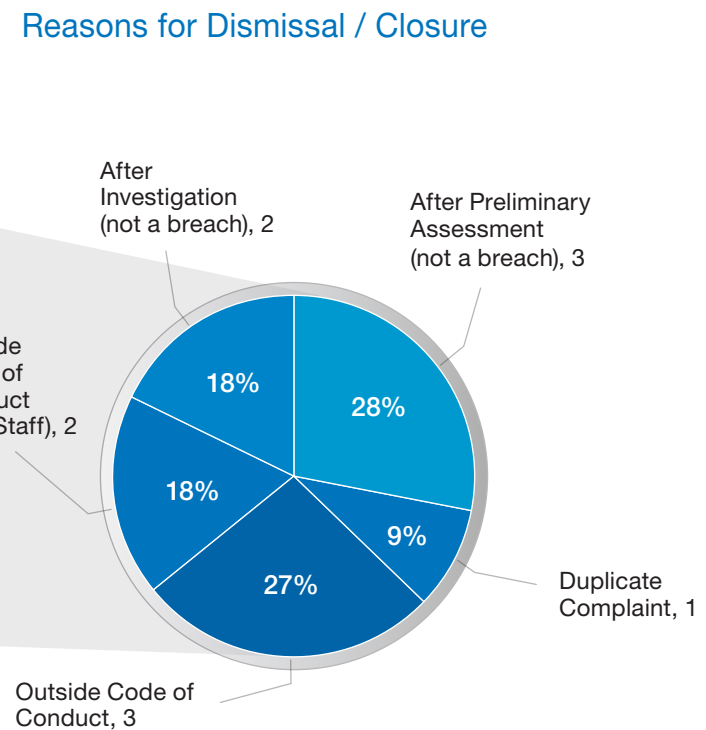


Figure 3: Reasons for Dismissal

¹ The one investigation ongoing from the 2022 reporting period was closed in February 2023 with a finding of not a breach.

The Integrity Commissioner published three reports for the complaints that were dismissed due to there being no breach of the Code of Conduct By-law:

1. February 17, 2023: [Complaint against Councillor Sarah Kirby-Yung](#)
2. September 29, 2023: [Complaint against Councillor Christine Boyle](#)
3. October 17, 2023: [Complaint against Councillor Brian Montague](#)

As of the date of publishing this report, there was one complaint where a breach of the Code of Conduct By-law was found. As is required, a formal investigation report for this complaint was published on the web page:

1. October 3, 2023: [Complaint against Councillor Christine Boyle](#)

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 304 days, with an average length of 63 days. Files with lengthier time frames were first assessed for possible mediation, and then progressed to formal investigation.

Complaint Process Duration Days	
Shortest Duration	1
Longest Duration	304
Average Duration	63

In one instance, the time frame from receipt to disposition was lengthened due to the parties agreeing to engage in an informal resolution process. In another, time was required to allow a participant to obtain consent of Council to provide privileged information to the Integrity Commissioner for the purpose of the investigation.

As was the experience in 2022, in 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 handled complaints regarding what would and would not constitute appropriate speech and fair comment in the context of political speech ([Investigation Report COVIC-005](#)), personal versus government use of social media platforms ([Bulletin 2023-02](#)), and the circumstances under which a Council Member may disclose how they voted during an *in camera* Council meeting ([Investigation Report COVIC-004](#)).

The Office also received complaints alleging Council Members acted in a conflict of interest. Determining what constitutes a conflict of interest under the Code of Conduct By-law is highly context-dependent and can, in practice, be challenging for Council Members to assess. While none of the complaints were founded, they did provide the Office with an opportunity to clarify the application of the rules around conflicts of interest, including in [Investigation Report COVIC-003](#) (where a Council Member's spouse was Board Chair of a non-profit involved in consultations before Council), and [Bulletin 2023-01](#) (addressing circumstances in which a personal interest was not a conflict because it was an interest held in common with citizens of the City).

We also explored using a bulletin, with wording agreed to by the parties, as a tool for reaching a consensual resolution of a complaint. While this resolution was ultimately unsuccessful, we hope to revisit the use of a bulletin in this way for achieving an informal resolution in the future.

Budget Summary

The Office had an annual budget of \$200,000 for the 2023 calendar year. As of October 31, 2023, fees for services for 2023 were \$129,080. The breakdown of services delivered, and their relative costs, is illustrated in **Figure 4**.

2023 Budget Recommendations

We recommend that the same budget amount be applied for 2024. We anticipate a similar cost breakdown, and we recommend provisioning for the development of a second e-learning course for Advisory Board Members and an online fillable complaint form.

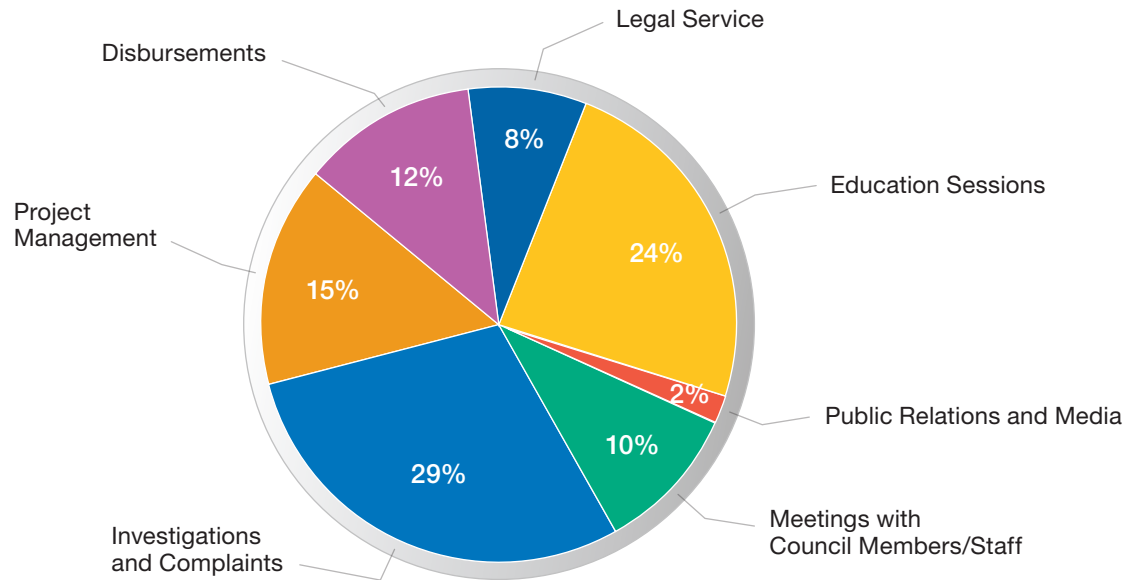


Figure 4: Cost Breakdown

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 the end of the second year, reflecting on the practical application of the Code of Conduct By-law in action, we have identified the following recommendations that will further improve the operation of the Code of Conduct By-law and the Office.

Recommendation 1

Through the handling of inquiries and complaints to the Office in the last two years, we recognize that the scope of the Integrity Commissioner's role in providing oversight of the conduct of Council and Advisory Board Members is not always clear. We recommend this be mitigated through amendments to the Code of Conduct By-law.

Our understanding is the intention of Council in establishing the Office was for the Integrity Commissioner to oversee the ethical conduct of Council and Advisory Board Members, not to scrutinize political or policy decisions. The language in Part 2: Standards and Values of the Code of Conduct By-law could be modified to ensure that this intention is clear and that anything related to imposing specific obligations or expectations in terms of conduct on Council and Advisory Board Members be moved out of Part 2. Specifically, we recommend the following revisions to the Code of Conduct By-law:

- Amend Part 2 to state the Standards and Values are principles intended to inform the interpretation of the provisions in the Code of Conduct By-law and the role of Council and Advisory Board Members
- Add to Part 3: Communications and Confidentiality explicit obligations around Advisory Board Members' public communications, which at a minimum includes expectations that all communications by them or on their behalf are respectful and do not discriminate, harass, or defame any person, recognizing that free and open debate is guaranteed under the *Charter of Rights and Freedoms*

Recommendation 2

We recommend that the Code of Conduct By-law be amended to allow for notices of outcome to be provided to those whose complaints have been rejected due to the operation of section 6.8 of the Code of Conduct By-law (which states that the Integrity Commissioner must not accept multiple complaints on the same matter). Although the Office does not address multiple complaints that are of the same subject matter, and answers only the first filed complaint, providing other complainants with notice of the outcome would be beneficial in serving the public interest for education, transparency, and accountability. While formal investigation decisions are published on the web page, preliminary dispositions that dismiss a complaint without need for formal investigation are not, and in the case of multiple complainants, those who file subsequent complaints on the same matter have no means of knowing the outcome of the matter if it does not proceed to formal investigation.

Recommendation 3

We recommend that a process be implemented to ensure Advisory Board Members are notified when a formal report or a bulletin is published to the Integrity Commissioner web page. At present, there is a mechanism used to ensure Council Members are informed when these are published, but there is no mechanism for similar communication to Advisory Board Members. Providing them with notification supports their continued education of their obligations under the Code of Conduct By-law.

Recommendation 4

Council may wish to consider the feasibility of amending the Code of Conduct By-law to include sanction provisions for reduction in remuneration and/or restriction from holding roles that enhance remuneration in appropriate circumstances when a breach of the Code of Conduct By-law is found.

Closing Comments

The Office is proud to support the ethics regime of Council and Advisory Board Members. The public is not served when the mission and mandate of Council and City staff are compromised due to poor governance. Council continues to demonstrate the best in governance practice by voluntarily adopting the Code of Conduct By-law that sets standards for Council and Advisory Board Members' conduct, and creates transparency and accountability when breaches of the Code of Conduct By-law are found to have occurred. This commitment was strengthened in 2023 through Council's adoption of the recommendations we made for continued improvements to the Code of Conduct By-law.

Our first term ends on December 31, 2023. On July 25, 2023, we were reappointed by Council for a second term. In 2024, we will work to prioritize opportunities for alternative dispute resolution and explore ways to improve our processes and make them more inclusive. We are excited to have our colleague Michelle Cameron joining the Office in June 2024 to support these goals. Michelle is Dakelh and a registered member of Ts'il Kaz Koh Nation in Northern British Columbia. She has worked extensively with Indigenous Peoples in Canada developing inclusive processes, including creating the Indigenous peacemaking circle (an alternative resolution process) on behalf of the University of British Columbia's Investigations Office, and delivering an ambitious outreach strategy on behalf of the RCMP Civilian Review Complaints Commission across the province, which engaged approximately 2,000 First Nations, Métis, and Inuit community members.

With our thanks, appreciation, and endless optimism, we look forward to continuing our service in 2024.