

**THE CORPORATION OF THE COUNTY OF PRINCE EDWARD**

<b>Function/Category:</b>  Council	<b>Policy:</b>  AD 135	<b>Subject:</b>  Code of Conduct for Members of Council
<b>Effective Date:</b> <b>October 24, 2017</b>  Final Version (October 12, 2017) Adopted by Council on October 24, 2017 Replaces Original Policy AD 135	<b>Revisions:</b>	<b>Administered by:</b>  Integrity Commissioner/Clerk

The Corporation of the County of Prince Edward is committed to achieving the highest quality of municipal administration and governance by encouraging high standards of conduct on the part of all elected officials. A Code of Conduct aims to ensure public trust and confidence in the County's decision making and operations. Adherence to these standards will protect and maintain the municipality's integrity and fairness in its decision-making process.

The Corporation of the County of Prince Edward Council Code of Conduct is a complement to the following Federal and Provincial existing legislation governing the conduct of Members of Council:

- The Municipal Act, 2001
- The Municipal Conflict of Interest Act
- The Municipal Elections Act, 1996
- The Municipal Freedom of Information and Protection Privacy Act
- the Provincial Offences Act
- the Ontario Human Rights Code
- the Criminal Code of Canada
- the by-laws and policies of Council as adopted and amended from time to time.

**1. APPLICATION**

This Code of Conduct applies to all Members of the Corporation of the County of Prince Edward Council.

## **2. DEFINITIONS**

In this Code of Conduct, the terms "child", "parent" and "spouse" have the same meanings as in the Municipal Conflict of Interest Act:

"Child" means 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 his or her family;

"Council" means the Council of the Corporation of the County of Prince Edward;

"Member" means a member of the Corporation of the County of Prince Edward Council;

"Parent" means a person 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;

"Spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

## **3. GENERAL INTEGRITY**

- Members of Council are committed to performing their functions with integrity, accountability and transparency.
- Members of Council are responsible for complying with all applicable legislation, by-laws and policies pertaining to their position as an elected official.
- Members of Council recognize that the public has a right to open government and transparent decision-making.
- Members of Council shall at all times serve and be seen to serve the interests of their constituents and the County in a conscientious and diligent manner and shall approach decision-making with an open mind.
- Members shall avoid the improper use of the influence of their office and shall avoid conflicts of interest, both apparent and real.
- Members of Council shall not extend in the discharge of their official duties preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was solely for the purpose of advancing a private or personal interest.
- For greater clarity, this Code does not prohibit members of Council from properly using their influence on behalf of constituents.

## **4. CONFIDENTIAL INFORMATION**

By way of their office, Members of Council acquire confidential information from a variety of different sources including confidential personal information related to constituents who have contacted their office.

- Confidential information includes information in the possession of, or received in confidence by the County, that the County is either prohibited from disclosing, or is required to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act ("MFIPPA").
- Members of Council shall not use information that is obtained in his or her capacity as a member and that is not available to the general public to further or seek to further the member's private interest or improperly to further or seek to further another person's private interest.

In accordance with the rules under MFIPPA and the Procedure By-law, Members of Council shall not:

- Where a matter has been discussed in camera, and where the matter remains confidential, disclose the content of the matter or the substance of the deliberations of the in camera meeting; and
- Disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.

## **5. CONDUCT AT COUNCIL/COMMITTEE MEETINGS**

Members of Council shall conduct themselves with decorum at all County Council, Committee and other meetings in accordance with the provisions of the Procedure By-law, this Code, and other applicable law.

## **6. CONDUCT RESPECTING OTHERS**

All members of Council have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies and, where applicable, the County's (HR-136) Harassment & Violence Policy.

## **7. IMPROPER USE OF INFLUENCE**

As an elected official, Members of Council are expected to perform their duties of office with integrity, accountability and transparency. Members of Council should not use the status of their position to influence the decision of another individual to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. Furthermore, no member of Council shall use the influence of his or her office for any purpose other than for the lawful exercise of his or her official duties and for municipal purpose.

In the same manner, Members of Council shall not attempt to influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the Provincial Offences Act or similar legislation.

## 8. CONDUCT RESPECTING STAFF

County Council as a whole has the authority to approve budget, policy, governance and other such matters. Under the direction of the Chief Administrative Officer, County staff serves the Municipal Corporation as a whole and the combined interests of all members as evidenced through the decisions of Council.

Members of Council 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 of Council.

Members of Council are expected to:

- a) represent the public and to consider the well-being and interests of the municipality;
- b) develop and evaluate the policies and programs of the municipality;
- c) determine which services the municipality provides;
- d) ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- e) ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality
- f) maintain the financial integrity of the municipality; and
- g) carry out the duties of council under the Municipal Act, 2001 or any other Act.

Municipal staff is expected to:

- a) implement council's decisions and establish administrative practices and procedures to carry out council's decisions;
- b) undertake research and provide advice to council on the policies and programs of the municipality; and
- c) carry out other duties required under the Municipal Act, 2001 or any Act and other duties assigned by the municipality.

Members of Council shall not:

- Maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff;
- Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
- Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

## **9. USE OF MUNICIPAL PROPERTY AND RESOURCES**

In order to fulfill their roles as elected representatives, Members of Council have access to municipal resources such as property, equipment, services, staff and supplies. No member of Council shall use, or permit the use of County land, facilities, equipment, supplies, services, staff or other resources (for example, County-owned materials, websites, or a Member of Council allotment of Budget) for activities other than purposes connected with the discharge of Council duties or County business.

No Member shall obtain financial gain from the use or sale of County-developed intellectual property, computer programs, technological innovations, or other patent, trademark, copyright held by the County.

## **10. EXPENSES**

Members of Council are required to adhere to any relevant policies, procedures and guidelines with respect to any expenses included in the budget (such as, but not limited to: mileage reimbursement, conference and seminar attendance, and corporate promotional products).

Falsifying of receipts or signatures by a Member of Council is a serious breach of this Code of Conduct and the Criminal Code of Canada and could lead to prosecution.

## **11. GIFTS, BENEFITS AND HOSPITALITY**

Members of Council are expected to represent the public and the interests of the municipality and to do so with both impartiality and objectivity. The acceptance of a gift, benefit or hospitality can imply favoritism, bias or influence on the part of the member. At times, the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official and their role in representing the municipality.

Members of Council shall not accept gifts 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. For these purposes, a gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent is deemed to be a gift to that Member.

## **12. ELECTION-RELATED ACTIVITY**

Members of Council are required to conduct themselves in accordance with the Municipal Elections Act, 1996, as amended, and any of the County's Election-Related policy or procedure in place. The use of municipal resources, both actual municipal property and staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for elected

office. Election-related activity applies not only to a Member's personal campaign for office, but also other campaigns for municipal, provincial and federal office.

### **13. COMPLIANCE WITH THE CODE OF CONDUCT**

Members of Council are expected to adhere to the provisions of the Code of Conduct. The Municipal Act, 2001 authorizes Council, where it has received a report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the Code of Conduct, to impose either of the following sanctions:

- A reprimand.
- 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.

The Integrity Commissioner may recommend that Council request the following:

- Written or verbal public apology;
- Return of property or reimbursement of its value or of monies spent.

### **14. NO REPRISAL OR OBSTRUCTION IN THE APPLICATION OR ENFORCEMENT OF THIS CODE**

Every member of Council must respect the integrity of the Code of Conduct and inquiries and investigations conducted under it, and shall co-operate in every way possible in securing compliance with its application and enforcement. Any reprisal or threat of reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person is prohibited. It is also a violation of the Code to obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objective or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective.

## APPENDIX "A" to Policy AD 135

### COMPLAINT PROTOCOL FOR COUNCIL CODE OF CONDUCT

#### **PART A: INFORMAL COMPLAINT PROCEDURE**

Any individual who identifies or witnesses behaviour or activity by a sitting Member of Council that appears to be in contravention of the Code of Conduct for Members of Council may address the prohibited behaviour or activity themselves in the following manner:

- a) Advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
- b) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
- c) Document the incidents including dates, times, locations, other persons present, and any other relevant information, including steps taken to resolve the matter;
- d) 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
- e) Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B.

Individuals are encouraged to pursue this informal complaint procedure as the first means of remedying behaviour or an activity that they believe violates the Code of Conduct. However, the informal process is not a precondition or a prerequisite to pursuing the formal complaint procedure outlined in Part B.

#### **PART B: FORMAL COMPLAINT PROCEDURE**

##### 1. Formal Complaints

Any individual who identifies or witnesses behaviour or an activity by a Member of Council that they believe is in contravention of the Code of Conduct for Members of Council, may file a formal complaint in accordance with the following conditions:

- a) All complaints shall be made in writing and shall be dated and signed by an identifiable individual.
- b) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct.

- c) Any witnesses in support of the allegation must be identified in the Compliant Form.
- d) If the complainant is a Member of Council, their identity shall not be protected if the Integrity Commissioner finds that the complaint was not made in good faith.
- e) County Council may also file a complaint and/or request an investigation of any of its membership by public motion.
- f) The Integrity Commissioner may request additional information from the complainant.

## 2. Filing of Complaint and Classification by Integrity Commissioner

The complaint shall be filed directly with the Integrity Commission for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other policies.

## 3. Complaints Outside Integrity Commissioner Jurisdiction

If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint is covered by other legislation or complaint procedure under another policy, the Integrity Commissioner shall advise the complainant in writing as follows:

- a. Criminal Matter- 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 Ontario Provincial Police.
- b. Municipal Freedom of Information and Protection of Privacy Act- If the complaint is more appropriately addressed under the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be advised that the matter must be referred to the County Clerk for review under the Act.
- c. Other Policy - If the complaint seems to fall under another policy, the complainant shall be advised to pursue the matter under such policy.
- d. Lack of Jurisdiction - If the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

- e. Matter Already Pending - If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding related to the Municipal Conflict of Interest Act, a Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process.

#### 4. Refusal to Conduct Investigation

If the Integrity Commissioner is of the opinion that the referral of a matter to him or her 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 and, where this becomes apparent in the course of an investigation, shall terminate the investigation. The Integrity Commissioner shall communicate this position in writing to the complainant and the member identified in the complaint.

#### 5. Opportunities for Resolution

Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

#### 6. Investigation

The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act:

- a) Provide the complaint and supporting material to the member whose conduct is in question with a request that a written response to the allegation be provided within 10 business days.
- b) Provide a copy of the response provided to the complainant with a request for a written reply within 10 business days.
- c) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials and may enter any County work location relevant to the complaint for the purpose of investigation and potential resolution.
- d) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.
- e) The Integrity Commissioner shall retain all records related to the complaint and investigation.

## 7. No Complaint Prior to Municipal Election

a) If any inquiry commenced by the Integrity Commissioner has not been completed by nomination day for a regular election, the Integrity Commissioner shall terminate the inquiry on that day. If any such inquiry has been terminated, the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, the person or entity who made the request or the member or former member whose conduct is concerned, makes a written request to the Integrity Commissioner that the inquiry be commenced.

b) Between nomination day and voting day in a regular election, there shall be no requests for an inquiry, no reports from the Integrity Commissioner on Code contraventions and no meetings of Council or a local board to consider imposing any penalties on a member of Council or a local board.

## 8. Recommendation Report

The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the official receipt of the complaint. 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.

Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended corrective action.

Where the complaint is not sustained, except for exceptional circumstances, the Integrity Commissioner shall not report to Council the result of the investigation.

## 9. Member Not Blameworthy

If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct 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 may so state in the report and may make appropriate recommendations pursuant to *the Municipal Act, 2001*.

## 10. Report to Council

Upon receipt of a report, the County Clerk shall include on the next regular agenda of County Council, the report from the Integrity Commissioner.

## 11. Public Disclosure

The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.

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

At the time of the Integrity Commissioner's report to Council, the identity of the person who is the subject of the complaint shall not be treated as confidential information if the Integrity Commissioner finds that a breach has occurred.

All reports from the Integrity Commissioner to Council will be made available to the public on the County's website at [www.pecounty.on.ca](http://www.pecounty.on.ca)

## 12. General Duties of the Integrity Commissioner

The Integrity Commissioner, while in office, shall provide the following services:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council or of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.



**FORMAL COMPLAINT FORM**

Full name of Complainant: \_\_\_\_\_

Permanent place of residence: \_\_\_\_\_

\_\_\_\_\_

Mailing address (if different from above): \_\_\_\_\_

\_\_\_\_\_

I have personal knowledge of the facts as set out in this form because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(insert reasons, e.g. I work for... I attended a meeting at which... etc.).

I have reasonable and probable grounds to believe that \_\_\_\_\_ (specify name of member) has contravened Section(s) \_\_\_\_\_ of the Council Code of Conduct of The Corporation of the County of Prince Edward, the particulars of which are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule "A" form and check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to the exhibits as Exhibit A, B, etc. and attach them to this form.

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Please see the attached Schedule "A"

This form is filed with the Integrity Commissioner for the purpose of requesting that this matter be investigated by the Integrity Commission for The Corporation of the County of Prince Edward and for no other purpose.

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Signature of Complainant

