

THE CORPORATION OF THE COUNTY OF PRINCE EDWARD

<p>Function/Category:</p> <p>Council and Local Boards</p>	<p>Policy:</p> <p>AD 135</p>	<p>Subject:</p> <p>Code of Conduct for Members of Council and Local Board Members</p>
<p>Effective Date: February 19, 2019 by By-law 4398-2019</p> <p>Replaces Original Policy AD 135 Adopted on October 24, 2017</p>	<p>Revisions:</p>	<p>Administered by:</p> <p>Integrity Commissioner/Clerk</p>

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. DEFINITIONS

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

"Applicant" means a person who has applied for an investigation by the Integrity Commissioner of an alleged contravention of the *Municipal Conflict of Interest Act*;

"Application" means a written request for an investigation with respect to an alleged contravention of 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;

"Code" means this Code of Conduct;

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

"Local Board" is hereby defined as in Section 1(1) and Section 223.1 of the *Municipal Act*, as amended;

"Member" means a Member of Council, including the Mayor, or a Member of a Local Board;

"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.

2. 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.

3. APPLICATION OF CODE OF CONDUCT

This Code applies to every Member. This Code shall be applied to Members who are members of a local board and not members of Council with necessary modifications applied in the discretion of the Integrity Commissioner.

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, having more than a nominal value, 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. 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.

14. ROLE OF THE INTEGRITY COMMISSIONER

14.1 The Corporation of the County of Prince Edward shall appoint an Integrity Commissioner under Section 223.3 of the *Municipal Act, 2001* who is an independent officer and who will report directly to Council and be responsible for carrying out his or her functions in accordance with the *Municipal Act, 2001* and any other functions assigned by Council, in an independent manner.

14.2 The Integrity Commissioner shall provide the following services:

(a) 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.

(b) 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.

(c) 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.

(d) Requests from members of Council and of Local Boards for advice respecting their obligations under the code of conduct applicable to the member. All requests for such advice and the advice in response thereto, shall be provided in writing.

(e) 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. All requests for such advice and the advice in response thereto, shall be provided in writing.

(f) Requests from members of Council and of Local Boards for advice respecting their obligations under the Municipal Conflict of Interest Act. All requests for such advice and the advice in response thereto, shall be provided in writing.

(g) The provision of educational information to members of Council, members of Local Boards, the municipality and the public about the municipality's code of conduct for members of Council and members of Local Boards and about the Municipal Conflict of Interest Act.

15. FORMAL COMPLAINT/APPLICATION PROCESS

15.1 A complaint that a Member has contravened the Code or a corporate policy of the County may be initiated by any person, any Member of Council, or by Council as follows:

1. a complaint shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;
2. a complaint must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);
3. a complaint shall include:
 - (i) an explanation, with specific reference to sections of the Code, as to why the issue raised is alleged to be a contravention of the Code;
 - (ii) any evidence in support of the allegation; and
 - (iii) any witnesses in support of the allegation must be identified.
4. the alleged violation shall have taken place within sixty (60) days of filing the complaint with the Integrity Commissioner;

15.2 If filed with the Integrity Commissioner on or after March 1, 2019, an Application to the Integrity Commissioner to inquire into an alleged contravention of Sections 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act ("MCIA") may be made by an elector as

defined in Section 1 of the MCIA or by a person demonstrably acting in the public interest, as follows:

(a) an Application shall be made in writing and shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier;

(b) an Application must be signed and dated by the complainant who shall be an identifiable individual (complaints may not be submitted by any group, organization or corporation);

(c) an Application shall include:

(i) an explanation, with specific reference to sections of the MCIA, as to why the issue raised is alleged to be a contravention of the Act;

(ii) any evidence in support of the allegation; and

(iii) any witnesses in support of the allegation must be identified; and

(iv) a statutory declaration attesting to the fact that the applicant became aware of the alleged contravention not more than six weeks before the date of Application in accordance with Section 223.4.1(5) & (6) of the Municipal Act, as amended.

(d) an Application may only be made six weeks after the applicant became aware of the alleged contravention and otherwise in compliance with Section 223.4.1(5) & (6) of the Municipal Act, as amended.

15.3 The Integrity Commissioner shall undertake an initial review of a complaint or an Application that has been filed and shall determine whether the matter relates to non-compliance with the Code or other corporate policy applying to Members or compliance with the MCIA. The Integrity Commissioner shall have no power or jurisdiction to investigate or otherwise deal with the complaint or Application, if it is not alleging such a contravention, or if the complaint relates to the following matters:

(i) Criminal Matter – if the complaint relates to an allegation of a criminal nature consistent with the Criminal Code, the complainant shall be advised that pursuit of such an allegation must be made through the appropriate police service;

(ii) Municipal Freedom of Information and Protection of Privacy – if the complaint relates to a matter under the Municipal Freedom of Information and Protection of Privacy Act, the complainant shall be referred to the Clerk.

(iii) Municipal Elections Act – if the complaint relates to the enforcement of the Municipal Elections Act, the complainant shall be referred to the Compliance Audit Process if the matter relates to campaign finances or to such other avenues of investigation as dictated by that Act.

15.4 If the Integrity Commissioner determines that he or she does not have jurisdiction as described in Section 17.3 the Integrity Commissioner shall advise the complainant/applicant in writing accordingly.

15.5 The Integrity Commissioner may dispose of a complaint or Application on the basis that it is not within the jurisdiction of the Integrity Commissioner in a summary manner and may do so confidentially or report same to Council. The Integrity Commissioner may also seek further information or clarification from the complainant/applicant and shall endeavour to apprise the complainant/applicant of subsequent steps and the processing of the complaint or Application and any ensuing investigation.

15.6 If the Integrity Commissioner is of the opinion that a complaint or Application is frivolous or vexatious or is not made in good faith, or that there are no grounds or insufficient grounds for conducting an investigation, the Integrity Commissioner may choose not to investigate or, if already commenced, may terminate any investigation, or may dispose of the complaint/Application in a summary manner. The Integrity Commissioner shall advise the complainant/applicant in writing of his or her decision and reasons for not undertaking an investigation or terminating it.

15.7 If the Integrity Commissioner has decided to commence an investigation (except where otherwise required by the *Public Inquiries Act, 2009*, if applicable), the Integrity Commissioner shall provide a copy of the complaint or Application and supporting evidence to the Member whose conduct is in question with a request for a written response to be provided within ten (10) days. The Integrity Commissioner may provide the response from the Member to the complainant/applicant with a request for a written reply also within ten (10) days. A complainant/applicant may request that his/her complaint remain anonymous and, if approved by the Integrity Commissioner, the name will not be released.

15.8 The Integrity Commissioner shall review the written responses and may, if necessary, discuss the matter with anyone that the Integrity Commissioner considers is relevant to the complaint. The Integrity Commissioner may access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act, 2001* and may access any County workplace relevant to the complaint, including any documents or records under the custody or control of the County.

15.9 Before finalizing a report to Council which recommends sanctions, the Integrity Commissioner shall provide the Member with the basis for their findings and any sanctions that may be recommended. The Member shall have the opportunity to comment further, either in writing, verbally or in person to the Integrity Commissioner on the proposed findings and sanctions.

15.10 Upon conclusion of a complaint investigation, the Integrity Commissioner shall:

(a) issue a report to Council on the findings of the investigation and, where there is a finding of contravention of the Code, the report shall contain the detailed findings, any recommended sanctions, or any settlement; and

(b) provide a copy of the final report to the Member at the same time as the final report is made available to the Clerk and to the complainant at the same time as the report becomes public.

15.11 Upon conclusion of an Application investigation, the Integrity Commissioner may, if he/she considers it appropriate, apply to a Judge under section 8 of the Municipal Conflict of Interest Act for a determination as to whether the member has contravened Section 5, 5.1 or 5.2 of the Act.

15.12 The Commissioner shall:

(a) advise the applicant if he or she will not be making an Application to a judge; and

(b) after deciding whether or not to apply to a judge, provide a written report providing reasons for the decision.

15.13 The Integrity Commissioner's report on a complaint or an Application shall be placed on an agenda for consideration at a public meeting of the Committee of the Whole or Council, in accordance with the Procedure By-law, as determined by the Clerk in consultation with the Integrity Commissioner.

16. ELECTION BLACKOUT PERIOD

16.1 No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period between nomination day and six weeks after voting day, except as provided in s.223.4 and 223.4.1 of the Municipal Act.

16.2 For the purposes of the October 2018 regular municipal election, the provisions contained in paragraph 18.1 shall be interpreted as if the provisions of s.223.4 and 223.4.1 as amended were already in force.

17. PENALTIES

17.1 Upon receipt of a final report with respect to a complaint and the recommendations of the Integrity Commissioner, Council may, where the Integrity Commissioner has determined there was a violation of the Code, impose either of the following two (2) penalties:

(a) a reprimand; or

(b) suspension of remuneration paid to the Member in respect of his or her services as a Member for up to ninety (90) days.

17.2 Council may also take the following actions:

- (a) removal from membership of a committee;
- (b) removal as chair of a committee;
- (c) request the repayment or reimbursement of monies received;
- (d) request the return of property or reimbursement of its value.