

## **Appendix "A"**

### **Complaint Protocol for Code of Conduct (Council and Local Boards)**

#### **Application:**

This process applies to members of Hilton Township Council and its local boards as defined in section 223.1 of the *Municipal Act* (members).

#### **Integrity Commissioner**

The Township of Hilton Township Integrity Commissioner shall be responsible for the provision of services as established by Council which will include the following:

1. To provide written and oral advice to members and Township staff concerning the interpretation of and compliance with the Code of Conduct for Council and Local Boards governing the ethical behaviour of the members (the "Code");
2. To provide Council and its local boards with specific and general opinions and advice on the interpretation of the Code, including revisions thereto;
3. To conduct inquiries into a request made by Council, a local board, a member, a member of Township staff or any person demonstrably acting in the public interest into whether a member has contravened any application provision of the Code;
4. To attempt to settle any complaint between the complainant and the member before commencing an inquiry.

#### **Procedure for Making a Complaint**

##### **Informal Complaints**

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

1. advise the member in writing that the behaviour or activity appears to contravene the Code of Conduct identifying the specific provision of the Code of Conduct that is alleged to have been contravened;
2. 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;
3. document the incident(s) including dates, times, locations, other persons present and any other relevant information, including steps taken to resolve the matter;
4. if applicable, confirm to the member satisfaction with the response of the member; or, if applicable, advise the member of dissatisfaction with the response; and
5. if applicable, consider the need to pursue the matter in accordance with the formal complaint procedure.

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.

##### **Formal Complaints**

1. All complaints or requests for inquiries shall be submitted to the Township Clerk's Department and sworn before a commissioner of oaths in the form provided in Appendix "B" and the Clerk shall forthwith forward the complaint to the Integrity Commissioner.
2. All complaints or requests for inquiries must clearly state:
  - a. The member to whom the complaint relates
  - b. The nature of the alleged contravention
  - c. The specific provision(s) of the Code allegedly contravened;
  - d. Names of any witnesses to the alleged contravention; and
  - e. Written material in support of the alleged contravention.

3. Upon receipt of a complaint or request for inquiry, the Integrity Commissioner shall first determine if it is within his/her jurisdiction and whether there is a procedure under other legislation or Township policy to deal with the complaint. If it is determined that other procedures apply, the Integrity Commissioner shall refer the complainant to the appropriate person or agency to follow that process. This would include such matters as:
  - a. The grievance provisions of a collective agreement;
  - b. The complaint provisions under the *Ontario Human Rights Code*;
  - c. A complaint of alleged criminal activity;
  - d. Procedures under the *Municipal Act*, the *Municipal Conflict of Interest Act* or the *Municipal Elections Act*;
  - e. The complaint provisions of the *Workplace Violence and Harassment Prevention Policy*.

Where it has been determined that a complaint should be dealt with under one of the above processes, it will no longer be considered or dealt with by the Integrity Commission and the time limits within the above processes will apply accordingly.

4. Upon receipt of a complaint or request to conduct an inquiry within his/her jurisdiction the Integrity Commissioner will deliver a preliminary information report to an open meeting of Council including the following:
  - a. The opinion of the Commissioner as to whether the inquiry is appropriate and whether it can be conducted within the law applicable to such an inquiry;
  - b. An indication as to whether it is the Commissioner's intention to conduct the inquiry under sections 33 and 34 of the *Public Inquiries Act*;
  - c. A preliminary indication of the members of staff and/or consultations needed to assist the Commissioner;
  - d. An estimated cost of the inquiry;
  - e. The estimated time required to complete the inquiry and prepare a final report;
  - f. Where appropriate, the Commissioner may recommend that the alleged infraction be reported to the police and that the inquiry be suspended until the police investigation is completed.
5. 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 inquiry, the Integrity Commissioner shall not conduct an inquiry and shall state the reasons for not doing so in the preliminary report.

### **Procedure for Obtaining Advice**

Where a member or employee is seeking to obtain advice from the Integrity Commissioner he/she shall submit to the Township Clerk the completed form provided (Appendix "C").

All advice of the Integrity Commissioner to members or employees shall be confirmed in writing. No solicitor/client relationship will exist in the giving of such advice.

Where the Integrity Commissioner learns of a violation through the request for advice from any member, he or she is required to report such a violation to Council.

The Integrity Commissioner may decline to give advice if he/she determines that it will put him/her in conflict with his/her duty to Council as a whole.

### **Confidentiality**

The Integrity Commissioner shall carry out all inquiries in a manner which will ensure that the individual to whom the complaint relates is treated fairly and all complaints shall be treated as confidential to the extent possible and in accordance with the *Municipal Act*.

All records of investigations shall be kept confidential and access limited to those in the Township with a need to know for the purposes of conducting a full investigation.

### **Intake Procedures**

Upon receipt of a complaint involving a member other than the Reeve, the Clerk shall immediately advise the Reeve.

Upon receipt of a complaint involving the Reeve, the Clerk shall immediately advise the individual who was acting Reeve at the time of the allegation who is authorized to act in the place of the Reeve.

The Integrity Commissioner may attempt to settle any complaint. Except where otherwise required by the *Public Inquiries Act*, the Commissioner shall provide a copy of the complaint and supporting material to the member with a request for a written response to the allegation within ten days and provide a copy of such response to the complainant with a request for a written response also within ten days.

## **Investigations**

After the presentation of the information report to Council, the Integrity Commissioner shall take all steps necessary to promptly investigate the complaint within his or her jurisdiction, including entering any Township office for such purpose and consultation with Township staff with access to all information and records described in subsections 3 and 4 of section 223.4 of the *Municipal Act* and may retain independent professional services if required.

The Integrity Commissioner shall make every effort to complete an investigation within 30 days.

If the Integrity Commissioner requires more than 30 days to complete an investigation, the following shall be notified accordingly:

1. The complainant;
2. The individual to whom the complaint relates
3. The Reeve in the case of a complaint concerning another member; or the individual who was acting Reeve at the time of the allegation in the case of a complaint concerning the Reeve.

A complaint involving an alleged contravention that has already been thoroughly investigated will not be re-investigated unless new evidence is presented.

## **Reporting the Results of an Investigation**

The Integrity Commissioner shall report his/her findings to an open meeting of Council. Where the inquiry relates to a local board the report will be submitted both to Council and to the local board.

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 judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

The Commissioner shall give a copy of the final report to the complainant and the member whose conduct is concerned 15 days prior to the Council meeting at which it will be considered.

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.

## **Actions by Council**

In reviewing the final report Council will determine whether it will impose any of the following penalties on a member if the Integrity Commissioner reports that it is his/her opinion that the member has contravened the Code:

1. Issue a motion of reprimand;
2. Suspension of the remuneration paid to the member in respect of his or her services as a member for a period of up to 90 days;
3. Request the member involved to return any gift or benefit received in contravention of the Code of Conduct;
4. Request the member involved to repay the value of the benefit;
5. Remove the member from committee or local board appointments;
6. Request an apology; or
7. Withhold confidential materials/matters for a period of time.

All reports to Council by the Integrity Commissioner on the investigation of complaints are public documents.

The Integrity Commissioner shall be responsible for ensuring the above procedures are followed with respect to requests for inquiries and for conducting investigations. Township Council shall be responsible for determining penalties where appropriate.

### **Protection from Retaliation**

Any employee who files a complaint of a contravention of the Code of Conduct will not be subjected to any form of penalty or reprisal provided the complaint is made in good faith and in the reasonable belief of the complainant that a contravention of the Code has occurred.

### **Limitation Period**

The Integrity Commissioner shall not proceed with an inquiry in regard to a complaint more than 60 days after the event or series of events which are the subject matter of the complaint were discovered by the complainant. An event or series of events is discovered on the earlier of the date upon which the complainant first knew:

- that the event(s) had occurred and by whom; and
- that the event(s) may have constituted a contravention of the Code.

The onus of proof as to the date of discovery lies with the complainant.

Where the Integrity Commissioner decides not to proceed with an investigation of a complaint received more than 60 days after the date when the event(s) occurred, the Integrity Commissioner shall prepare and file a report setting out that decision.

### **Complaints in Municipal Election Years**

Despite any other provision of this process, if the Commissioner has not completed an inquiry before nomination day for a regular election as set out in section 31 of the *Municipal Elections Act, 1996*, the Commissioner shall terminate the inquiry on that day.

If an inquiry is so terminated, the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the *Municipal Elections Act, 1996*, the person or entity who made the request or the member or former member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced.

The following rules apply during the period of time starting on nomination day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996*, and ending on voting day in a regular election, as set out in section 5 of that Act:

1. There shall be no requests for an inquiry about whether a member of council or of a local board has contravened the code of conduct applicable to the member.
2. The Commissioner shall not report to the municipality or local board about whether, in his or her opinion, a member of council or of a local board has contravened the code of conduct applicable to the member.
3. The municipality or local board shall not consider whether to impose the penalties referred to in subsection (5) on a member of council or of a local board.

**Appendix "B"**

**Request for Investigation  
Code of Conduct for Members of Council and Local Boards**

Name of Requestor:	
Address:	
Telephone:	
Email address:	
<b>It is an offence under the Criminal Code of Canada to knowingly swear/affirm a false affidavit.</b>	
I,	<i>(full name)</i>
of	<i>(municipality of residence)</i>
in the Province of Ontario, <b>MAKE OATH AND SAY</b> (or affirm)	
1. I have personal knowledge of the facts as set out in this affidavit.	
2. I have reasonable and probable grounds to believe that: <i>(specify name of member of Hilton Township Council or local board)</i>	
has contravened section(s) <i>(specify)</i>	
of the Code of Conduct for Members of Council and Local Boards.	
The particulars are as follows: <i>Provide information such as date, time, location of conduct, names of all persons involved, including witnesses, and information as to how they can be reached. If you require more space attach a second page.</i>	
3. This affidavit is made for the purpose of requesting that this matter be investigated and for no improper purpose.	
Attached are copies of documents and records relevant to the requested inquiry.	
SWORN (or affirmed) before me at the Township of Hilton, in the District of Algoma, this      day of              20	
A Commissioner, etc.	
	Requestor's signature

Deliver request to: Township of Hilton, Clerk's Department, 2983 Base Line, Hilton Beach ON P0R 1G0



## Appendix "C" Request for Advice

Note: Should the Integrity Commissioner determine that a member of Council or a local board has violated any provisions governing ethical behaviour pursuant to the Code of Conduct for Council or local boards, he/she is obligated to report such violation, with any recommendation for sanction, to Council.

### Request for Advice

Name of Requestor:	
Address:	
Telephone:	
Email address:	
Advice requested (Provide as much detail as possible relating to the issue. Attach second page if required.)	
Signature of Requestor	Date received by Integrity Commissioner
Date	Date reply issued