

Council Policy

Policy Title: Integrity Commissioner Complaints Policy
Policy Number:
Report Number: LGT2016-0951
Adopted by/Date:
Effective Date:
Policy Owner: Integrity and Ethics Office

1. POLICY STATEMENT

- 1.1. Calgary City Council ("Council") is committed to ensuring ethical conduct by Members of Council, and to having an effective mechanism for oversight of the conduct of Members of Council.

2. PURPOSE

- 2.1. In 2016, Council appointed an Integrity Commissioner with a mandate of receiving, investigating, adjudicating and reporting on allegations of misconduct by Members of Council. On 2016 July 4 Council approved Terms of Reference for the Integrity Commissioner, which included a Procedure Protocol for the Integrity Commissioner to receive complaints, to investigate and adjudicate complaints, and to report his findings to Council.
- 2.2. This Council policy prescribes:
- a. how an individual who has witnessed conduct by a member of the City Council ("member"), or by such member's staff, which is believed to be in contravention of the Ethical Conduct Policy for Members of Council ("Code of Conduct") or any other policy governing conduct of members of Council, may report such conduct to the Integrity Commissioner for the City of Calgary ("the Commissioner");
 - b. protections available to that individual where he or she is an employee of the City of Calgary
 - c. how the Commissioner shall respond to such reports;
 - d. how the Commissioner shall investigate allegations made in such reports, and
 - e. how the Commissioner shall report the results of the investigation to City Council.



3. APPLICABILITY

- 3.1. This Council policy applies to any person who has witnessed conduct by a member or a member's staff which he or she believes to be in contravention of the Code of Conduct or any other policy governing conduct of Members of Council.

4. PROCEDURE

4.1 Reporting

- 4.1.1. Any person ("the reporter") who has witnessed conduct by a member or staff which he or she believes to be in contravention of the Code of Conduct may make a report in writing setting out all pertinent information in the reporter's knowledge and request that the Commissioner investigate the conduct.
- 4.1.2. Reports to the Commissioner shall be made to the Integrity Commissioner via the City of Calgary Whistle Blower Program website reporting option or shall be delivered personally or by a postal or courier service to:

Integrity Commissioner
Integrity and Ethics Office
P.O. Box 2100, Station M, #8001A
Calgary, AB T2P 2M5.

4.2 Reporter Protection

- 4.2.1. Reporter protection is extended to any City employee who has knowledge of an activity considered as waste or wrongdoing and reports the activity in good faith. Reporter protection is provided in two areas: confidentiality and retaliation.
- 4.2.2. Every reasonable effort will be made to maintain the confidentiality of the reporter. However, the reporter's identity may be disclosed to ensure that a thorough investigation is conducted. The identity may be disclosed to parties on a need-to-know basis, including as required by law.
- 4.2.3. No City employee or person acting on behalf of The City shall take any action in reprisal, oral or written, against a reporter submitting a

Whistle-blower report in good faith. Where management is informed or becomes aware of possible reprisals against an individual as a result of a report under this policy, the manager must inform the City Auditor. A Reporter who believes he/she is being retaliated against should contact the City Auditor's Office. The allegations of reprisals will be the subject of immediate investigation. Where the investigation substantiates the allegations of reprisals, the City Manager will be informed and the employee(s) deemed violating this policy will be subject to disciplinary action.

- 4.2.4. Protection against reprisal cannot be effectively provided to non-employees or those who choose to keep their identity anonymous to the Integrity Commissioner.
- 4.2.5. Any reporter raising a concern, should do so in good faith. Allegations that are determined to be reported not in good faith may be subject to disciplinary action, up to and including dismissal and/or legal action.

4.3 Initial assessment

- 4.3.1. The Commissioner shall determine whether the conduct described in the report is within the Commissioner's authority to investigate and whether the information given in the report provides reasonable grounds for believing that a violation of the Code of Conduct may have occurred.
- 4.3.2. If the Commissioner, on receipt of the report, or at any time thereafter, is of the opinion that
 - a. the conduct is not within the Commissioner's authority to investigate, or
 - b. the referral of the matter to the Commissioner is frivolous, vexatious or not made in good faith, or
 - c. the investigation is, or might be, hampered or the member might be prejudiced by insufficiency of information identifying the reporter,

the Commissioner shall advise the reporter in writing, setting out reasons, and close the file.

- 4.3.3. The Commissioner may request further information from the reporter before determining whether or not there are reasonable grounds for believing that a violation of the Code of Conduct may have occurred.
- 4.3.4. If the Commissioner is of the opinion that there are no reasonable grounds for believing that a violation of the Code of Conduct may have occurred the Commissioner shall advise the reporter in writing and close the file.

4.4 Complaints about members' staff

- 4.4.1. When the report concerns the conduct of a member's staff, other than staff of the Office of the Mayor, and the file is not closed pursuant to the paragraph 4.3.4, the Commissioner shall advise the reporter that the report is being referred to the Council member concerned. The Commissioner shall refer the report to the Council member concerned and shall take no further action except as directed by the Council member.
- 4.4.2. When the report concerns the conduct of staff in the Office of the Mayor, and the file is not closed pursuant to paragraph 4.3.4, the Commissioner shall advise the reporter that the report is being referred to the City Auditor.

4.5 Referral to the Ethics Advisor

- 4.5.1. When the Commissioner is of the opinion that there are reasonable grounds for believing that a violation of the Code of Conduct may have occurred the Commissioner shall determine whether the circumstances of the report require a formal investigation or whether the issues involved can be more promptly and efficiently resolved informally by the Ethics Advisor. In the latter case the Commissioner shall refer the report to the Ethics Advisor, who will take steps, in consultation with the reporter and the member, to resolve the issue informally.
- 4.5.2. If any concerned party is unwilling to participate in an informal process to resolve the complaint, or if the Ethics Advisor at any time concludes that an informal resolution is not possible, the Ethics

Advisor shall return the file to the Commissioner to commence a formal investigation. The Ethics Advisor will indicate to the Commissioner only that the matter could not be resolved by the Ethics Advisor, and will not provide the Commissioner with any reports or assessment on the issue.

4.6 Investigation

- 4.6.1 A formal investigation shall be commenced by the Commissioner serving personally or by e-mail the member whose conduct is in question ("the member") with the report and any supporting material together with notice of intention to conduct an investigation.
- 4.6.2 The member shall have 10 days, subject to the Commissioner's discretion to extend the timeline, from the date of service of notice of intention to conduct an investigation to deliver to the Commissioner a written response to the report together with any submissions which the member chooses to make.
- 4.6.3 The Commissioner shall provide the reporter with a copy of the response and submissions received from the member on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Commissioner's discretion to extend the timeline.
- 4.6.4 The Commissioner may request any person whose evidence is necessary to the investigation to provide it in an affidavit.
- 4.6.5 The Commissioner may review all books, financial records, electronic data, processing records, reports, files and any other papers, things or property belonging to or used by the City of Calgary and enter any relevant City of Calgary work location which the Commissioner deems necessary for the purpose of the investigation.

4.7 Adjudication and reporting

- 4.7.1. Within 90 days of receiving a report and reviewing all of the information the Commissioner determines is pertinent to the investigation, if the violation alleged in the report is substantiated in whole or in part then:

- a. The Commissioner shall advise the City Clerk that he is prepared to provide the report to Council at the in camera portion of a Council meeting.
- b. The City Clerk will ask the Mayor to include a report from the Integrity and Ethics Office on the in camera portion of the agenda for the next regular or combined Council meeting at which consideration of the report can be accommodated.
- c. No less than 24 hours nor more than 48 hours prior to the start of the Council meeting at which the report is to be considered, the Commissioner will provide a copy of the report, on a strictly confidential basis, to the member or members about whom the complaint was made.
- d. All other Council members shall receive the report on a strictly confidential basis at the time the report is discussed in camera.

4.7.2. If after reviewing all pertinent information the Commissioner determines that no violation of the Code of Conduct occurred, the Commissioner shall advise the reporter and the member of the decision and shall not disclose the fact of the investigation in an annual report, or otherwise, except in the form and context of statistics.

4.7.3. If the Commissioner determines that although a contravention of the Code of Conduct occurred the member took all reasonable steps to prevent it, or that it was trivial or committed through inadvertence or a genuine error of judgment, the Commissioner shall so state in his or her decision and shall recommend that no sanction be imposed.

4.8 General

- 4.8.1 In the period 90 days prior to the date of a Municipal election, the Commissioner may suspend any investigation underway or decline to commence an investigation.
- 4.8.2 The Commissioner may reject any report received (a) more than 180 days after the date of the reported incident, or (b) more than 180 days after the reporter became aware of the incident, or (c) after the date of a municipal election which intervenes between the reported event and the date the report is received by the Commissioner.
- 4.8.3 The Commissioner may reject any report concerning conduct by a Council member during the period of a municipal election which in the opinion of the Commissioner is conduct outside of the legislated duties of Council members.
- 4.8.4 Any person who has not provided the Commissioner with his or her name, current address and phone number shall not be entitled to receive any notice or other communication from the Commissioner notwithstanding any contrary requirement in this Protocol.
- 4.8.5 If any provision of this Council policy conflicts with any provision in any other Policy concerning the conduct of Council members the provision of this Council policy shall prevail.

5. AMENDMENT(S)

Date of Council Decision	Report/By-Law	Description

6. REVIEWS(S)

Date of Policy Owner's Review	Description