

Proposed Amendments to the *Code of Conduct for Elected Officials Bylaw* (26M2018)

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CITY OF CALGARY
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Distrib-Presentation
CITY CLERK'S DEPARTMENT

Background

- Comprehensive review of *Code of Conduct Bylaw*.
- Review mandated by:
 - *Code of Conduct for Elected Officials Regulation*
 - *Code of Conduct Bylaw*
- Past reviews: 2020, 2021

Theme of Proposed Amendments

1. Procedural amendments to clarify the process of complaints;
2. *New* provisions e.g.
 - a) Improper use of influence directed at City or Member's staff;
 - b) Enabling the Integrity Commissioner to initiate investigations;
 - c) A duty to cooperate with investigations.
3. "Clean-up" amendments:
 - a) Scope and application of *Bylaw*;
 - b) Typos, inconsistencies.

Procedural Amendments: Part 3, ss. 63 onward

STEP 1 Complaints Intake Process (ss. 64-69)

- Every reasonable effort to maintain complainant confidentiality.
- Complaints normally can be withdrawn.
- Discretion to Integrity Commissioner to continue investigation without further participation of the complainant, to dismiss anonymous complaints.
- ***NEW*** Integrity Commissioner may initiate investigations.

Procedural Amendments: Part 3, ss. 63 onward

STEP 2 Initial Assessment (ss. 72-76.1)

- If reasonable grounds to believe a violation has occurred, notice of investigation issued. Otherwise, complaint dismissed.
- ***NEW*** Written advice of Ethics Advisor must be considered by Integrity Commissioner.

Procedural Amendments: Part 3, ss. 63 onward

STEP 3 Formal Investigation (ss. 81-87)

- Complainant/Member have 10 business days to respond to Integrity Commissioner notice.
- ***NEW*** Documents provided by Integrity Commissioner are confidential except for obtaining legal or other confidential professional advice.

Procedural Amendments: Part 3, ss. 63 onward

STEP 4 Informal Resolution (SS. 87.1 – 87.2)

- Any time after formal investigation commenced, Integrity Commissioner may refer a complaint to the Ethics Advisor to resolve. Complainant and Member must consent.
- If informal resolution not possible, complaint returned to Integrity Commissioner to continue investigation.
- If resolved, the complaint is dismissed.

NEW Cooperating with Investigations (ss. 87.3-87.5)



Once notified of investigation, Member must preserve evidence until investigation complete.



Obstruction of the investigation is a presumed violation of the *Bylaw*.



Failure to cooperate in an investigation weighed in finding and report to Council.

Procedural Amendments: Part 3, ss. 63 onward

STEP 5 Adjudication (ss. 88-92)

- If the Integrity Commissioner determines that a Member violated the *Bylaw*, the decision is reported to Council.
 - No violation = no report to Council.
- Report provided to Council, City Clerk and City Solicitor and General Counsel 24-48 hours before start of Council meeting.
- Clarify that Council may impose other sanctions that Council deems reasonable in the circumstances.

Principles of Sanctions

Constraints on Sanctions

- Sanctions must remedial, not punitive.
- Rationally connected to the violation.
- Proportionate to the seriousness.
- Must not interference with Member's ability to perform their duties.

Examples of Alternative Sanctions

Limit access to confidential information.

Removal of privileges (travel, hosting etc.)

Increased duties/workload.

Community service.

Retraction.

Financial Sanctions

Available

- Repayment of funds improperly obtained.

Unavailable

- Fines

Currently Unavailable

- Temporary reduction of compensation corresponding to removal from boards and committees;
- To enable must amend compensation process.

Highlights of Other Amendments

Scope and Application:

- *Bylaw* does not apply to Mayor's staff (amend s. 77 and delete s. 78)

NEW Undue Influence (s. 40.1, 77)

- A Member must not directly or indirectly influence City employees or Members' staff to do something which if done by the Member would be a violation of the Bylaw.
- Member will be investigated if their staff's conduct was undertaken on their behalf, directly or indirectly.

Orientation Training

- Mandatory Indigenous relations and anti-racism training.

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