

Information about Sanctions

When the Integrity Commissioner reports a violation of the *Code of Conduct for Elected Officials Bylaw* (26M2018) (“Bylaw”) to Council, the report contains sanction recommendations. Pursuant to section 91 of the Bylaw, Council must decide whether to adopt the Integrity Commissioner’s recommendations as to sanctions or whether to substitute a different sanction.

Section 92 of the Code lists possible sanctions Council may impose, but the list is not exhaustive. As set out in Attachment 3, we recommend that s. 92 of the Bylaw is amended to make this clear.

On June 15, 2022, at the Intergovernmental Affairs Committee meeting with Council, the Integrity and Ethics Office was requested to provide information about additional possible sanctions under the Bylaw. This attachment provides a summary of the principles of sanctions and a list of possible sanctions.

Principles of Sanctions

The purpose of sanctions is remedial. The objectives are general and specific deterrence, rehabilitation and maintaining public confidence. Punitive sanctions are unlikely to withstand a court challenge.

Sanctions must not interfere with a Member of Council’s ability to perform their duties and obligations.

Sanctions should have a rational connection to the nature of the Bylaw violation.

Sanctions must be proportionate the seriousness of the Bylaw violation.

When considering sanctions, aggravating and mitigating factors particular to the Council Member and the specific violation(s) should be weighed and considered.

Sanctions can be combined or compounded for non-compliance.

Additional possible sanctions under section 92 of the Bylaw

1. Require a written acknowledgment that the conduct violated the Bylaw.
Publication of the acknowledgment.
2. Require a pledge to recommit to the Bylaw and publication of the pledge.
3. Require withdrawal of inappropriate statements with a public unequivocal retraction.
4. Limitation of access/use of confidential Council or City information.
5. Removal of confidential electronic and other records from the Council Member’s possession.
6. Removal of Council Member privileges not directly required to perform duties.
 - Limit travel and/or other expenses e.g. meals, mileage or other out of pocket expenses

- Limit ability to accept certain gifts of hospitality, such as event tickets
 - Limit conference attendance or other activities wherein the Councillor would represent the City.
7. Require the return of municipal property.
 8. Limit access to certain municipal facilities, for example, parking and recreational facilities.
 9. Community Service.
 10. Increased duties and workload.
 11. Financial penalties.

Types of financial penalties and limitations.

- Reduction of Compensation

Section 93 of the *Code of Conduct Bylaw* provides for a suspension or reduction of remuneration where there is a reduction in duties. At present it is not recommended to reduce a Member's remuneration when removing the Member from boards or committees. Under the current *Members of Council Remuneration Policy* (CC035), there is no mechanism for quantifying the value of committee or board work. Therefore, there is a risk that a pay reduction for removal might be viewed by a court as arbitrary and unenforceable.

There is nothing to prevent Council from amending the *Remuneration Policy* to provide a quantified breakdown between compensation for Council work, and compensation for committee work, and representing the City in other forums. Other jurisdictions do so, typically through honoraria or stipends.

- Repayment of funds improperly obtained is a reasonable sanction.

Examples:

Reimbursement of expenses improperly claimed contrary to the *Councillors' Budgets and Expenses Bylaw* (36M2021).

Reimbursement of the cost of resources used improperly, for example during campaigns.

Repayment of a financial benefit obtained in violation of the Bylaw by a Member of Council, a family member or related business.

Return of a gift in breach of the gift sections of the Bylaw.

- Fines

It is not recommended that Council impose sanctions in the form of fines. Sanctions are intended to be remedial rather than punitive and must not prevent the Council Member

from fulfilling their duties. There is a risk that a court would view fines as punitive and disruptive of a Council Member fulfilling their core duties.

The Integrity and Ethics Office is preparing an Interpretation Bulletin on sanctions for Council's reference.