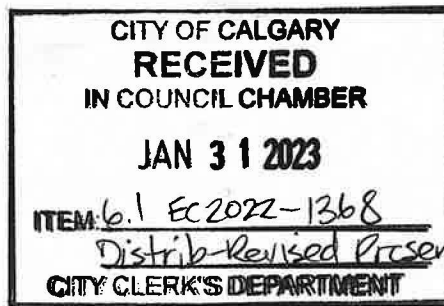


# Proposed Amendments to the *Code of Conduct for Elected Officials Bylaw* (26M2018)



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Integrity and Ethics Office  
Ellen-Ann O'Donnell, Integrity Commissioner  
Emily Laidlaw, Ethics Advisor

# Background

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- 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

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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- Complaints normally can be withdrawn.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.

# \*NEW\* Proposed Amendments January 2023

## \*NEW\* s. 8.1

- Mandate that the *Integrity and Ethics Office* prepare an annual report.
- Appendix B sets out the content required in the annual reports.

Shorten the limitation period for submission of complaints from 180 days to 90 days (s. 73(1))

Clarify that expenses for travel include food, lodging, transportation and entertainment, including conferences where *Members* are not speakers but attend in their official capacity (ss. 34(g)-(h)).

Delete provision on reprisals by City staff (s. 69)

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