


2023

CITY OF VICTORIA | Legislative Services & Legal Services

Council Code of Conduct

Committee of the Whole | August 3, 2023




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Recommendation

That Council instruct the City Solicitor to bring forward a bylaw containing a code of conduct for Council members, and that such bylaw:

1. includes robust rules for conduct and handling of complaints;
2. does not expand on regulations already established by legislation that apply to Council members;
3. provides for an integrity commissioner, whose role is limited to reacting to complaints rather than doing pro-active work;
4. applies to the conduct of Council members and committees of Council only;
5. allows any individual person (i.e. not an organization or anonymous complainant) to make a complaint;
6. includes a freeze on releasing investigation reports during the period beginning 90 days before general voting day;
7. provides that any complaint received regarding a Council member seeking re-election in the period from the first day of the nomination period to the general voting day is to be rejected;
8. includes a list of potential sanctions that may be imposed by Council for breach of the code; and
9. provides that Council may allow for reimbursement of legal fees incurred by a Council member pertaining to a complaint, on a case by case basis.

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1. That the code of conduct includes robust rules for conduct and handling of complaints

- General principles can be difficult to interpret and apply to the specific circumstances of a complaint.
- Having specific rules will be of benefit to whoever is applying the code.

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2. That the code of conduct does not expand on regulations already established by legislation that apply to Council members

- Where legislation establishes rules related to a matter – for example, related to gifts or conflicts of interest – the City's code would not expand on it.
- The code of conduct is not intended to deal with conduct that is illegal; such conduct would be dealt with through the applicable legislation.
- Avoids complicating the code unnecessarily.

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3. That the code of conduct provides for an integrity commissioner, whose role is limited to reacting to complaints rather than doing pro-active work

- Having an integrity commissioner:
 - (a) relieves the Mayor and the City Manager of duties related to administering the code;
 - (b) clarifies the process for complaints;
 - (c) increases perception of neutral and unbiased treatment of complaints;
 - (d) decreases awkwardness for the Mayor and City Manager in dealing with complaints; and
 - (e) potentially provides simpler enforcement for the code.
- Their work would be limited to:
 - (a) investigating complaints and conducting inquiries;
 - (b) reporting to Council as to findings and making recommendations on appropriate remedies; and
 - (c) submitting an annual budget to Council for approval.
- This structure would allow the integrity commissioner to be selected in advance, but only active when a complaint is received. The commissioner would not be a new position – it would be an individual who is engaged by the City only when investigating complaints.

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4. That the code of conduct applies to the conduct of Council members and committees of Council only

- It does not apply to advisory bodies, the board of variance, development advisory bodies, etc.
- The City has time to become familiar with the process and see how many complaints are received.
- The code could be expanded or narrowed in future based on experience.

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5. That the code of conduct allows any individual person (i.e. not an organization or anonymous complainant) to make a complaint

- Complaints are not limited to being made by Council members only.
- Limiting the potential complainants could negatively impact the public's perception of fairness, as members of the public would not be able to make complaints themselves.
- To mitigate the number of problematic complaints received, the code will include a preliminary assessment step: the recipient of complaints is empowered to dismiss or reject complaints that are frivolous, baseless, in bad faith, not related to a breach of the bylaw, or would be more appropriately addressed through another process (for example, an allegation of a criminal nature, or a matter related to an existing human rights complaint).

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6. That the code of conduct includes a freeze on releasing investigation reports during the period beginning 90 days before general voting day

- Releasing the results of an investigation during an election period can impact election results.
- Freeze protects the perception that the complaint process is unbiased and neutral.

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7. That the code of conduct provides that any complaint received regarding a Council member seeking re-election in the period from the first day of the nomination period to the general voting day is to be rejected

- Avoids the potential for the complaint process to impact election results.

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8. That the code of conduct includes a list of potential sanctions that may be imposed by Council for breach of the code

- For example:
 - Motion of censure
 - Revocation of appointments
 - Restrictions on access to documents
 - Restrictions on communications with staff
 - Restrictions on use of City resources
- Including a list:
 - (a) May assist Council, as Council is effectively choosing the appropriate remedy(ies) from the list, rather than having to come up with an appropriate punishment every time.
 - (b) May prevent Council from imposing a remedy that is susceptible to legal challenge.

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9. That the code of conduct provides that Council may allow for reimbursement of legal fees incurred by a Council member pertaining to a complaint, on a case by case basis

- In the event of a complaint made against a member of Council, that Council member may incur legal fees in attempting to respond to the complaint.
- The Legal Services department will not be involved in complaints aside from possibly advising the City Manager and Council with respect to the process.
- This is an option for Council, and there is no obligation to reimburse any member of Council for their legal fees associated with the code – would be determined on an individual basis.

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Questions?

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