

Integrity Commissioner Information Briefing

Presenter: Jim Peacock, Q.C., Integrity Commissioner

Meeting Date: September 10, 2019

Establishment

- March 26, 2019 – Bylaw No. 19/005 was passed by Council
 - Established the Integrity Commissioner position
 - Established a complaint process for allegations of breach of Code of Conduct and other ethical breaches (including actions formerly falling under the Whistleblower Policy)
- The Integrity Commissioner was also appointed on March 26, 2019
 - Jim Peacock, QC – expected to act impartially, neutrally and to display high ethical standards

Role & Duties

- Receive, review, investigate and adjudicate Formal Complaints made under Bylaw No. 19/005
- Determine if the matter alleged is within the jurisdiction of the Integrity Commissioner
- Determine whether to investigate an allegation or dispose of a Formal Complaint
- Ensure that Formal Complaints are fully and fairly investigated

Role & Duties

- Respect confidentiality of information and documentation received and reviewed while investigating
- Provide advice and recommendations to Council regarding amendments to the Code of Conduct and any other policies, rules or procedures governing Members' ethical behavior
- Provide recommendations to Council regarding the imposition of a sanction should a Formal Complaint be substantiated through investigation

Formal Complaints

- All Formal Complaints must be made in writing and be dated
- Anonymous Complaints will not be accepted
- The Formal Complaint must set out:
 - reasonable and probable grounds for the allegation
 - detailed description of the facts giving rise to the allegation
- The Formal Complaint must be received no later than 60 days after the date the person alleging a breach became aware of the conduct

Preliminary Review

- Upon receipt of the Formal Complaint, the Integrity Commissioner will conduct a preliminary review to determine whether an investigation should proceed
- If the Formal Complaint is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or other relevant policy, the Integrity Commissioner will advise the Complainant in writing that the matter is not within the jurisdiction of the Integrity Commissioner

Preliminary Review

- If the Integrity Commissioner believes the Formal Complaint is frivolous or is not made in good faith the Integrity Commissioner will:
 - not investigate, or, where it becomes apparent, terminate the investigation
 - notify the Complainant of the decision in writing

Investigation

- All investigations should be completed and reported to the Complainant as well as to the Member against whom the complaint was made within 90 days after receiving the Formal Complaint (this timeline may be extended depending on circumstances).
- During the investigation, the Integrity Commissioner may speak to anyone, access or examine any other documents or electronic material as part of the investigation
 - Administration must provide any documents in the custody of the Municipality to the Integrity Commissioner if requested

Investigation Report

- An investigation report will be issued by the Integrity Commissioner following the investigation and review
- A report will not be issued to Council unless the Member who is the subject of the complaint has had reasonable notice of the basis for the proposed findings and any recommended sanction
- The Member also has an opportunity either in person or in writing to comment on the proposed findings and any recommended sanction

Investigation Report

- All reports from the Integrity Commissioner to Council, other than annual reports or updates, are confidential and will be considered by Council *in camera*
- Public disclosure of investigation reports will be subject to any exceptions to disclosure as outlined in the *Freedom of Information and Protection of Privacy Act*

Investigation Report

- If the Formal Complaint is substantiated in whole or in part
 - the Integrity Commissioner will also report the findings, terms of any settlement or recommend corrective action to Council
- If the Formal Complaint is dismissed
 - the Integrity Commissioner will not report to Council except as part of an annual or periodic update

Outcome of Investigation

- If the Integrity Commissioner determines that
 - there has been no contravention of the Code of Conduct;
 - that a contravention occurred although the Member took reasonable action to prevent it; or
 - that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith

The Integrity Commissioner will state so in the investigation report and will recommend that no sanction be imposed

Council's Duties & Consideration

- Council must fully cooperate with the Integrity Commissioner and must not influence or attempt to obstruct an investigation
- Council will consider and respond to the Integrity Commissioner's report at the next regularly scheduled Council meeting following receipt
- Council may vary a recommendation to impose a penalty in responding to the Integrity Commissioner's report, subject to the *Municipal Government Act*

Submitting Complaints

Formal Complaints can be submitted by:

- *Completing Complaint Form (available on website)
- *Emailing integrity.commissioner@rmwb.ca
- *Delivering or mailing Formal Complaint to:

Integrity Commissioner
c/o Office of the Chief Legislative Officer
Regional Municipality of Wood Buffalo
7th Floor, 9909 Franklin Avenue
Fort McMurray, AB T9H 2K4

Questions?