



# INTEGRITY COMMISSIONER REPORT ACTION REQUIRED

## Report on Code of Conduct Complaint Protocol

<b>Date:</b>	July 9, 2007
<b>To:</b>	City Council
<b>From:</b>	Integrity Commissioner
<b>Wards:</b>	All
<b>Reference Number:</b>	

### **SUMMARY**

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This Report makes recommendations for revision of the Code of Conduct Complaint Protocol (“Complaint Protocol”). The principal reasons for this are the need to harmonize the Complaint Protocol with various provisions in the *City of Toronto Act, 2006* as well as motions passed by Council at its meeting of February 5, 6, 7, and 8, 2007, respecting legal costs incurred during an inquiry by the Integrity Commissioner and any subsequent judicial review proceedings..

It also recommends other adjustments to reflect current practice under and the Integrity Commissioner’s experience with the existing Complaint Protocol as well as to simplify the Complaint Protocol’s language.

### **RECOMMENDATIONS**

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#### **The Integrity Commissioner recommends that:**

1. The Code of Conduct Complaint Protocol be revised to include the following:
  - a. Providing that the Integrity Commissioner may participate in the informal complaint resolution process with the consent of the parties; and

- b. Revising the cost payment provisions to clarify that the tariff in the Indemnification Policy for Members of Council also applies to the payment of legal costs of a local board member or a complainant; that costs paid in advance are not subject to repayment based on the outcome of the inquiry; and that any denial of costs based on the Integrity Commissioner's conclusion does not apply if the conclusion is overturned on judicial review.
2. The revised Code of Conduct Complaint Protocol attached to this report be approved

## **FINANCIAL IMPACT**

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This recommendation has no direct financial implications, beyond those resulting from Council's direction at its meeting of February 5, 6, 7 and 8, 2007 to amend the costs provisions of the Complaint Protocol in accordance with the principles that it identified.

## **DECISION HISTORY**

At its September 25, 26, 27 and 28, 2006 Meeting, Council approved various changes to the 1999 *Code of Conduct for Members of Council* ("Code of Conduct"): [http://www.toronto.ca/city\\_council/pdf/members\\_code\\_conduct.pdf](http://www.toronto.ca/city_council/pdf/members_code_conduct.pdf). Those changes were in response to the terms of the *City of Toronto Act, 2006* and the *Report of the Toronto Computer Leasing Inquiry/Toronto External Contracts Inquiry* ("Bellamy Commission").

However, Council made the coming into effect of the revisions to the Code of Conduct conditional on incorporation into the Complaint Protocol of various changes with respect to legal costs. (As well, other recommendations for change to the Code of Conduct were made subject to further reports. Finally, Council required the Integrity Commissioner to report back to it on the implementation of the changes, their impact, and whether further changes to the Code of Conduct were necessary. Work on these other matters is still in progress and will be the subject of an omnibus report some time in the fall.)

At its Meeting of February 5, 6, 7, and 8, 2007, Council approved (Item CC2.5, as amended and adopted <http://www.toronto.ca/legdocs/mmis/2007/cc/bgrd/cc2.5.pdf>) the various changes to the legal costs provision of the Complaint Protocol. As a result of Council's conditions being met, the Consolidated Code of Conduct came into effect on February 8, 2007, the last day of that meeting of Council.

This report is in response to Council authorizing at its Meeting of February 5, 6, 7 and 8, 2007, the City Manager, in consultation with the Integrity Commissioner, the City Solicitor, and the Deputy City Manager and Chief Financial Officer to revise the Code of Conduct, Complaint Protocol and indemnity policies, as necessary, to incorporate various amendments approved at that meeting and any other technical revisions to reflect the

inclusion of members of local boards in these policies, to post the revised policies on the applicable City and Integrity Commissioner websites, and to file a copy with the City Clerk.

## **ISSUE BACKGROUND**

As a consequence of the passage and coming into effect of the *City of Toronto Act, 2006*, it became necessary to make changes to the Complaint Protocol to harmonize it with various provisions of Part V of that Act.

At its meeting of February 5, 6, 7 and 8, 2007, Council also approved new provisions for inclusion in the Complaint Protocol dealing with entitlement to legal costs with respect to both inquiries by the Integrity Commissioner and any subsequent judicial review application.

The Revised Complaint Protocol attached to this Report incorporates these changes. It also includes other revisions, some reflecting the Integrity Commissioner's experience with the operation of the existing Complaint Protocol and others of a technical nature.

## **COMMENTS**

As recently as its meeting of April 25, 26 and 27, 2006, Council approved amendments to the Complaint Protocol in response to recommendations from a committee it appointed to evaluate the original version. However, with the enactment and coming into force on January 1, 2007 of the *City of Toronto Act, 2006*, further changes became necessary.

In particular, amendments were needed to extend the operation of the Complaint Protocol to members of local boards (restricted definition) who are now subject to the Integrity Commissioner's jurisdiction. As well, the Complaint Protocol had to incorporate the additional investigative powers that the *City of Toronto Act, 2006* conferred on the Integrity Commissioner (including the authority to conduct an inquiry under the terms of the province's *Public Inquiries Act*) as well as the confidentiality provisions of that Act.

As already outlined, Council itself conditioned the coming into effect of the Consolidated Code of Conduct on the incorporation into the Complaint Protocol of enhanced cost provisions for the legal expenses of members subject to an Integrity Commissioner's inquiry including those of subsequent judicial review proceedings.

The revised Complaint Protocol now before Council for approval not only responds to these imperatives but also includes technical amendments (including simplification of language) and updates to reflect current practices (such as an amendment to set ninety days from the making of a complaint as the expected but not mandatory time limit for an Integrity Commissioner inquiry). Other new or amended provisions in the revised Complaint Protocol presented for Council approval include the following:

- Authority for the Integrity Commissioner to participate in the informal process with the consent of the parties;
- Clarification that the tariff in the Indemnification Policy for Members of Council also applies to the payment of any legal costs under the Complaint Protocol;
- Provision that, if costs are payable in advance to assist the Integrity Commissioner in an inquiry, those costs are not subject to repayment based on the outcome of the inquiry; and
- Clarification that the provisions denying costs based on the Integrity Commissioner's conclusion do not apply if the conclusion is overturned on judicial review.

## **CONTACT**

David Mullan, Integrity Commissioner,  
City Hall, 15<sup>th</sup> Floor, West Tower,  
100 Queen Street West,  
Toronto, Ontario M5H 2N2  
Tel: 416-397-7770  
Fax: 416-392-3840  
dmullan@toronto.ca

## **SIGNATURE**

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David J. Mullan, Integrity Commissioner