



EX22.2b

INTEGRITY COMMISSIONER REPORT FOR ACTION

Office of the Integrity Commissioner - 2017 Operating Budget

Date: December 2, 2016
To: Budget Committee
From: Valerie Jepson
Integrity Commissioner
Wards: All
Reference:

SUMMARY

This report details information related to the 2017 Operating Budget for the Office of the Integrity Commissioner (the "Office" or the "OIC") and recommends a full-year 2017 budget of \$576.6 thousand gross and net for consideration by the Budget Committee. This includes base budget pressures of \$21.7 thousand and enhancements of \$70 thousand.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

Budget Committee recommends to Executive Committee that:

1. City Council approve the 2017 operating budget of \$576.6 thousand gross and net for the Office of the Integrity Commissioner.

FINANCIAL IMPACT

Approval of the Office of the Integrity Commissioner's 2017 operating budget request will result in an inclusion of \$576.6 thousand in the 2017 annual budget of the City of Toronto.

DECISION HISTORY

As provided for by the *City of Toronto Act, 2006* and Chapter 3 of the Toronto Municipal Code, the Integrity Commissioner is independent of the City administration. This report is therefore submitted directly to Budget Committee for consideration and

recommendation to Council. (Reference: *City of Toronto Act, 2006*, s. 158(2), s. 159(1); Chapter 3 of the Toronto Municipal Code, ss. 3-10.)

COMMENTS

1. About the Office of the Integrity Commissioner

The City of Toronto appointed its first Integrity Commissioner on a part-time basis in 2004. Shortly after the Office was created, the Honourable Justice Denise E. Bellamy released her report into the Toronto Computer Leasing, and Toronto External Contract, Inquiries. Justice Bellamy made several recommendations to enhance the role, including that the Commissioner be full-time and have sufficient staff to ensure timely advice-giving and investigations. Justice Bellamy's vision of the role of an Integrity Commissioner was endorsed by the Divisional Court in a recent decision, *Di Biase v. Vaughan (City)* ([2016 ONSC 5620](#)). Although progress has been made, Justice Bellamy's vision has yet to be realized.

On November 16, 2016, the Provincial Government introduced Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2016*. If passed, Bill 68 will materially enhance the scope and duties of the OIC. The potential impacts of Bill 68 on the OIC are discussed below.

Duties of the Integrity Commissioner

At present, the *City of Toronto Act, 2006* and Chapter 3 of the Municipal Code require the Commissioner to perform four main duties:

- Provide confidential advice to 45 members of Council and more than 1000 appointees to Local Boards (Restricted Definition);
- Provide education and outreach to Council and more than 100 Local Boards (Restricted Definition) about the standards of conduct;
- Provide comprehensive advisory and policy reports to Council and more than 100 Local Boards (Restricted Definition) on matters of integrity and ethics; and,
- Complete investigations when there are allegations of breach.

In addition to the above duties, the Commissioner and staff respond to informal inquiries and requests for information from members of the public and other interested groups.

The current Integrity Commissioner has established the following core objectives for the work of the Office (reference: [Report on Activity, January 28, 2016](#)):

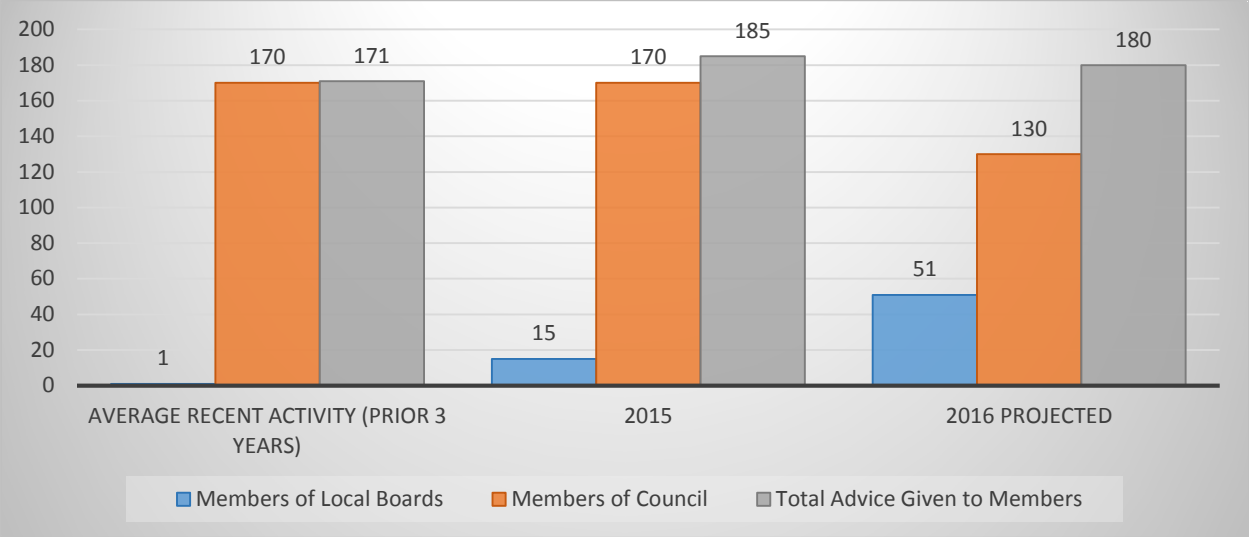
- Provide timely, accurate, consistent and practical responses to requests for advice (policy and compliance) from Members of Council and local boards.
- Carry out investigations in a fair and appropriately thorough manner to respond to formal complaints.
- Provide and deliver education and outreach to stakeholder groups.
- Provide resources for all stakeholders that are consistent, accessible, practical and clear.

- Position the Office of the Integrity Commissioner to perform all duties in as transparent a manner as possible, consistent with the principles of open government, while respecting the secrecy obligations imposed by the City of Toronto Act, 2006.
- Maintain and build on the Office of the Integrity Commissioner's reputation as thought leader in the field of ethics and integrity for elected officials.
- Maintain and build on the Office of the Integrity Commissioner's reputation as a key resource within the City of Toronto for advice, information and guidance about ethics and integrity.
- Build up the Office of the Integrity Commissioner's institutional structures for long term sustainability.

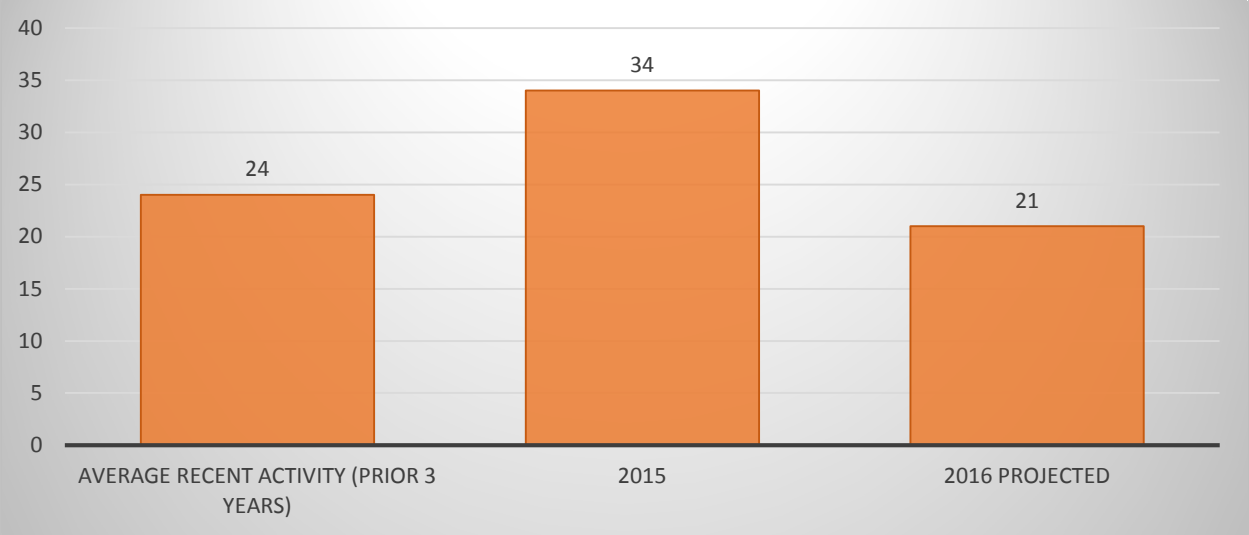
Work of the Office

The following charts provide an overview of the volume of the work of the Office, illustrate the level of responsiveness to advice giving and the efficiency rate at completing investigation files.

Requests for Advice to Members of Council and Local Boards

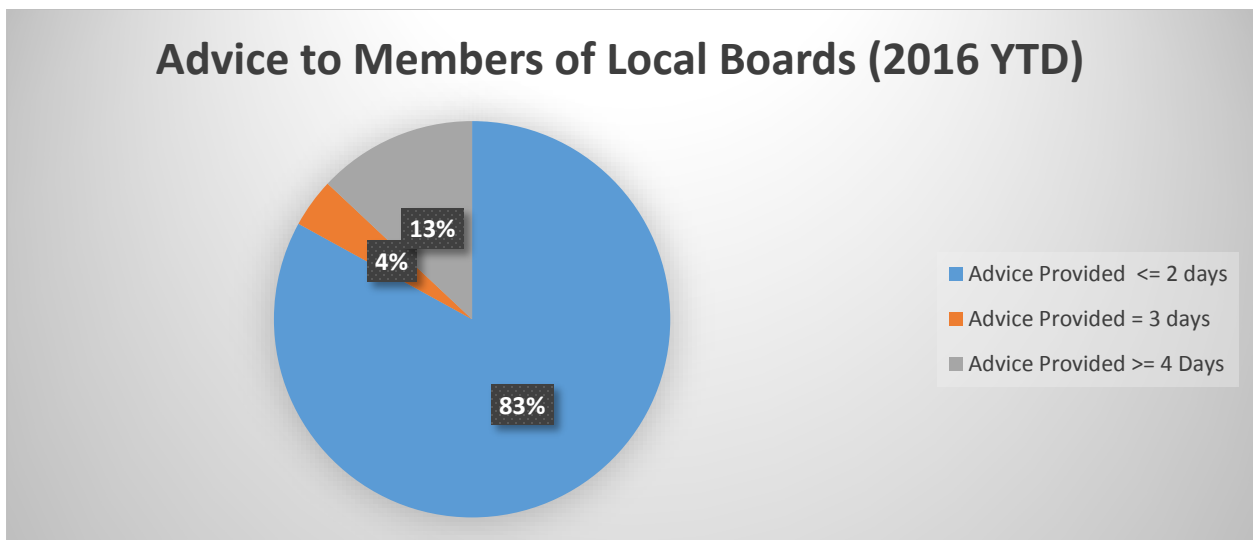
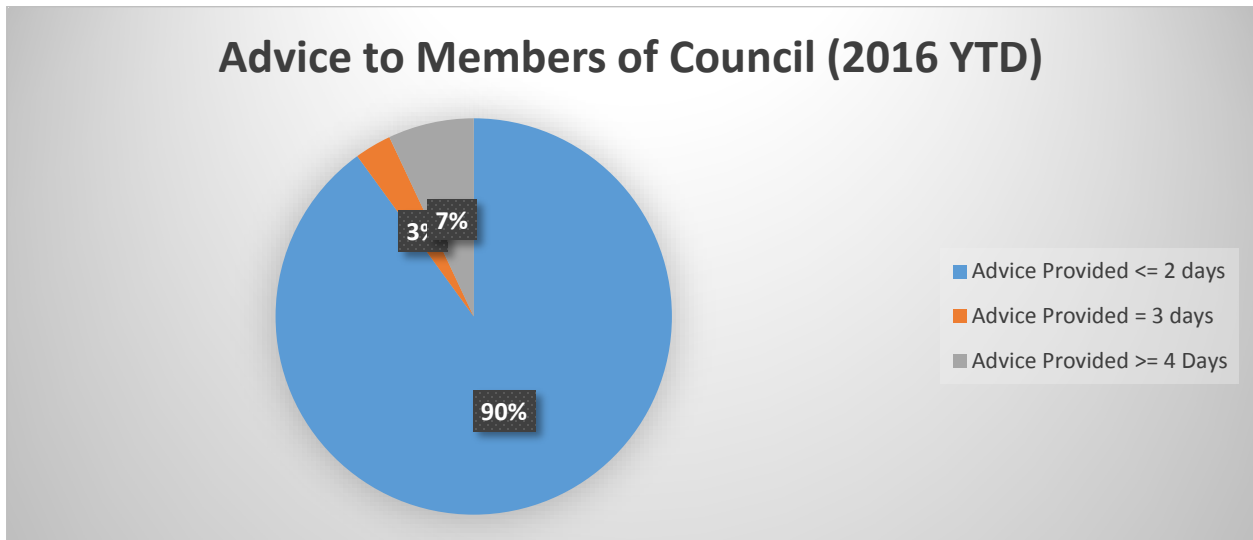


Formal Complaints Received



Response Time for Requests for Advice

A key function of the Office is to provide proactive advice and guidance to members of Council and local boards (restricted definition). Time is often of the essence when such requests are made. The Commissioner prioritizes requests for advice and, as illustrated below, in 2016 has been able to respond substantively to requests for advice on the same day or the next day.

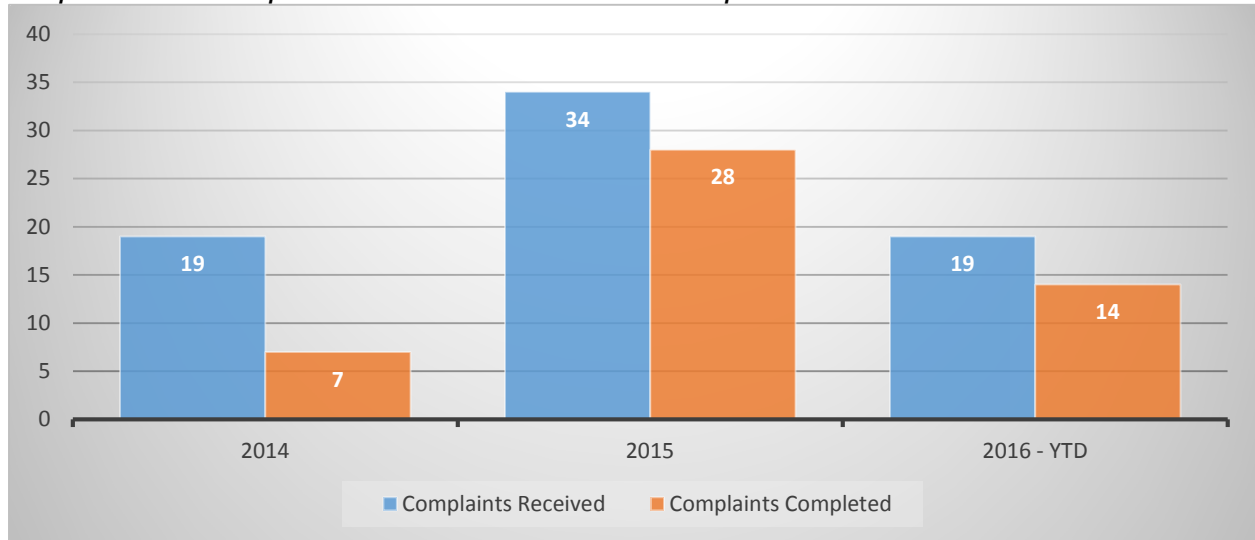


Efficiency of Completing Formal Complaints

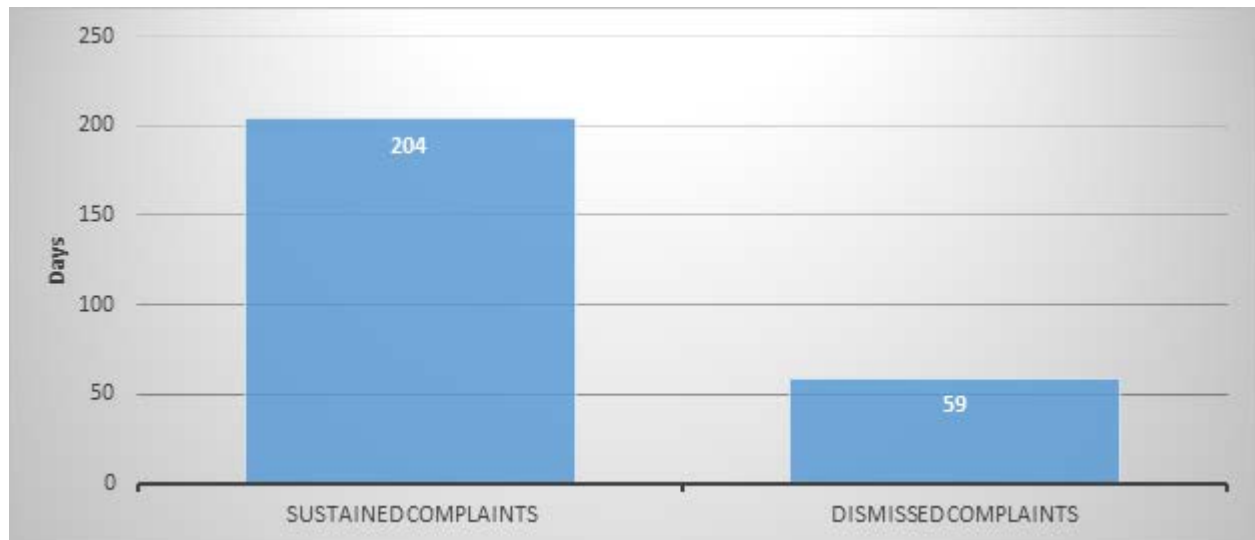
Formal complaints ought to be dealt with in a timely manner. The Office uses best efforts, but struggles to complete complex investigations in as timely a manner as is warranted. While the Office has kept pace with complaint files since implementing the current resource structure in 2015, there is room for improvement.

The following charts provide two measures to gauge the efficiency of the Office's work at responding to formal complaints.

Proportion of Complaints Closed versus Received per Calendar Year



Average time to Complete Complaints since January 1, 2015



Current resources

The Commissioner is supported by two staff: an Integrity Officer, Investigations and Analysis; and, an Intake and Office Assistant.

The largest part of the non-salary component of the budget is for external legal advice, which is required to support the Commissioner in the context of complex investigations involving consideration of administrative law principles. External legal advice is also required to enable the Commissioner to respond to judicial review applications or to deal with issues related to access requests under the *Municipal Freedom of Information and Protection of Privacy Act*.

The Commissioner also requires resources associated with investigation costs, such as corporate searches, provision of conduct money, staff travel, etc. Finally, the Commissioner requires resources to ensure that staff receive adequate professional development.

2. Recent resource requests and enhancements

The following timeline summarizes recent budget requests made by the OIC. This timeline illustrates Council's very recent commitment to improve the capacity of the Office by providing adequate staff resources.

2014

- In 2014, the Commissioner recommended, and City Council agreed, that the position of Commissioner be converted to a full time position. This change took effect in September 2014 at the commencement of the current Commissioner's term.

2015

- For budget year 2015, the Commissioner recommended the addition of two new positions (an investigator and an outreach co-ordinator) and an increase of \$150 thousand for external legal and investigative support.
- Council approved a budget that included the addition of one new position (an investigator).

2016

- For budget year 2016, the Commissioner renewed the request for an outreach co-ordinator and an increase of \$150 thousand for external legal and investigative support.
- Council approved a budget that did not include the requested enhancements.

3. Budget Request

Searching for savings

The Integrity Commissioner has, per Council direction, searched for savings within the existing budget, controlled expenditures where possible, and explored opportunities for efficiency savings. The Commissioner has not identified any possible savings within the current, recently-approved, staff complement.

The OIC faces base budget pressures of \$21.7 thousand, 98.4% of which is attributable to staff costs. The base budget pressures exceed the totality of the non-salary budget

component that is available for spending to the OIC. If the base budget pressures are included in the 2017 budget, the budget will be increased by 4.5%.

Modified enhancement request

The OIC continues to require the previously-requested enhancements (i.e. an outreach coordinator and a contingency budget of \$150 thousand for legal and investigation support). The need for additional resources is heightened because of legislation recently tabled by the Provincial Government, Bill 68, *Modernizing Ontario's Municipal Legislation Act, 2016*. If passed, Bill 68 will result in significant changes to the role of the Integrity Commissioner at the City of Toronto.

A list of key changes is outlined in Appendix A to this Report. The most significant change is that, if passed, the Commissioner will be required to receive and deal with complaints that a member of City Council or a local board (restricted definition) has contravened the *Municipal Conflict of Interest Act* and complete such applications within six months.

If Bill 68 is passed, the Office will be required to prepare and plan new processes to ensure its ability to fulfill new required duties, including establishing new procedures and assessing resources to conduct additional investigations, participate in mandated legal proceedings, and effectively fulfill additional, required duties.

Notwithstanding the ongoing need to improve resources, in consideration of the City Council direction that Accountability Officers identify savings, the Integrity Commissioner makes a reduced enhancement request that consists only of \$70 thousand to fund external investigation and legal support.

Why must the current resource levels be maintained or improved?

Timely and Efficient Response to Advice Requests and Complaints

Core functions of the Integrity Commissioner are to provide advice and to receive and deal with complaints. With current resources, the Commissioner is able to respond to requests for advice from members of Council on the same day or the next day 90% of the time. As illustrated above, there continues to be room for improvement to reduce the length of time taken to investigate complaints.

At current case load levels, the Office is keeping pace. If resources were reduced, the Office would fall behind. Furthermore, there is no buffer in the current budget (through staff or external services) to properly respond to high volumes, large or complex cases or issues, or time sensitive matters.

Rather than adding additional staff to deal with anticipated capacity issues, the Commissioner recommends establishing a non-salary budget for external support. An external support budget will only be utilized to respond to high demand for legal and investigative support and will provide the Commissioner with necessarily flexibility to quickly respond to major or complex investigations.

4. Summary

The Office of the Integrity Commissioner 2017 budget request of \$576.6 thousand net, includes: base budget pressures of \$21.7 thousand and enhancements of \$70 thousand.

Base budget pressures of \$21.7 thousand net, which includes:

Budgetary provisions for progression pay increases, cost of living adjustments (COLA), benefit adjustments, salary budget to actual adjustments and economic factor adjustments for non-payroll items.

New/enhancement request of \$70 thousand, which includes:

A budget for external legal and investigative support costs of \$70.0 thousand.

These result in an increase of \$91.7 thousand or 18.9% from the 2016 Approved Operating Budget of \$484.8 thousand net.

CONTACT

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Signature

Valerie Jepson, Integrity Commissioner

ATTACHMENTS

Appendix A: Key Changes Arising from Bill 68, if passed
Attachment 1: 2017 Operating Budget - Accountability Officers