



2014-2018

CITY COUNCIL HANDBOOK

 **TORONTO**

**VOLUME 3:
ACCOUNTABILITY AND TRANSPARENCY**

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VOLUME 3: ACCOUNTABILITY, INTEGRITY AND TRANSPARENCY

Introduction

City Council Handbook volume 3 contains information provided by the City of Toronto's four accountability officers on the accountability, integrity and transparency framework that governs the City and their agencies. The four accountability officers are: the Integrity Commissioner, Lobbyist Registrar, Ombudsman and Auditor General.

The accountability officers are appointed under Part 5, Accountability and Transparency, of the *City of Toronto Act, 2006*. Chapter 3 of the Toronto Municipal Code provides the framework for these offices at the City of Toronto.

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Office of the Integrity Commissioner

375 University Avenue, Suite 202
Toronto, Ontario
M5G 2J5

Valerie Jepson
Integrity Commissioner

Tel: 416-397-7770
Fax: 416-696-3615
vjepson@toronto.ca
toronto.ca/integrity

November 2014

Dear Mayor and Councillors,

Congratulations and welcome to the 2014-2019 term of Toronto City Council. I wish you every success in your new or continuing role.

As the Integrity Commissioner I am responsible for assisting with advice, education and complaint resolution under the *Code of Conduct for Members of Council* (the *Code*). I am available to you and your staff to provide confidential advice and guidance on issues, conflicts and complaints that may arise during the course of your work. In the pages that follow you will find more information about the *Code*.

This is an exciting time for you. In these early days you will be busy establishing your offices, setting policies and procedures for your constituency office, selecting your staff, familiarizing yourself with City Hall.

I encourage you to spend at least as much time thinking and planning about how you will meet the challenge of ensuring that you and your staff act with integrity and in accordance with the high standards of conduct expected of you by the citizens of Toronto. In the words of my predecessor, I encourage you to find ways to "build in" integrity into your office processes – Integrity by Design. I would like you to think of my office as one of your most important resources to help you with building your integrity framework.

It is a privilege for me to carry out my duties and I look forward to meeting with you in person to discuss my role more fully.

Yours truly,



Valerie Jepson
Integrity Commissioner

VJ/ww

At a glance

The Most Important Thing – Seek Advice

Citizens expect members of Council to meet the **highest standards of conduct** when carrying out their public functions. This means serving constituents in a **conscientious and diligent** manner; acting with **integrity**; avoiding conflicts of interest and improper use of influence; arranging your private affairs in a way that **promotes public confidence** and will bear close public scrutiny.

The standards have been written down in legislation and other binding documents. But, your obligation is more than mere compliance. You are required to **serve the public interest** by upholding the letter and spirit of the written standards.

The work of the City of Toronto and, specifically, of members of Council is complex and often involves multiple competing interests. It will **not always be easy** to know how to act properly and in accordance with the **high standards that are expected of you**.

The Office of the Integrity Commissioner is your number one resource to meeting these high expectations. The Integrity Commissioner, Valerie Jepson, is **available** to you and your staff to **answer questions** and **provide advice** about how to meet the standards expected of you.

It is a **sign of strength** to ask questions and seek advice. To seek advice, call or email the Integrity Commissioner or her Office. Here's how:

- **Call or email** the Office at 416.392.3826 or integrity@toronto.ca.
- **Call or email** the Commissioner directly at 416.397.7770 or yjepson@toronto.ca.

Duties of the Integrity Commissioner

The Integrity Commissioner has the following duties:

Advisory Role

The Integrity Commissioner provides written and oral advice to individual members of Council about their own situations respecting the Code of Conduct for Members of Council (the "Code of Conduct") and other by-laws and policies governing ethical behavior, including general advice about the *Municipal Conflict of Interest Act*. In the 2013-2014 year, the Commissioner responded to 189 requests for advice.

The Integrity Commissioner provides the full Council with opinions on issues of ethics and integrity and related policy matters. For example, the Integrity Commissioner reported and made recommendations to Council in February 2014 about proper use of social media during the 2014 election campaign.

Investigative Role

Complaints about breaches of the Code of Conduct are made to the Integrity Commissioner pursuant to the Council-approved Complaints Protocol. Complaints can be dealt with through a formal or informal process. When carrying out a formal complaint investigation, the Commissioner can summon evidence and examine under oath.

Should the Integrity Commissioner find a contravention, she can recommend various penalties for imposition by Council. The available penalties range from suspension of remuneration to a reprimand or apology.

In the 2013-2014 year, the Commissioner received 17 formal complaints and 124 informal complaints.

Educational Role

The Integrity Commissioner is responsible for providing educational programs to members of Council and their staff. This is carried out in group settings, one-on-one meetings, annual reporting and through the webpage of the Office of the Integrity Commissioner.

In addition, there is a high demand for information about the Code of Conduct from members of the media, public and the Toronto Public Service about the work of the Office of the Integrity Commissioner. In the 2013-2014 year, the Commissioner responded to 569 such inquiries.

Quick Facts about the Office of the Integrity Commissioner

The Office was established in 2004. Until September 2014, the Commissioner was appointed on a part-time basis. Including the current Integrity Commissioner, there have been four Integrity Commissioners: David Mullan (July 2004-2008); Lorne Sossin (Acting, 2008-2009); Janet Leiper (September 2009-2014); and Valerie Jepson (2014-2019).

Resources

The Best Source – www.toronto.ca/integrity

There are several sources that establish the standards of conduct expected of members of Council. The best and most up-to-date source is the website of the Office of the Integrity Commissioner. The website contains comprehensive information about standards of conduct including investigation and policy reports issued by the Integrity Commissioner, sample inquiries and Frequently Asked Questions. Check the website often to keep pace with information and resources designed to help you.

Key Sources

The following list describes the key sources that establish the standards of conduct that you must meet.

1. The *Municipal Conflict of Interest Act*.

The *Municipal Conflict of Interest Act* is a provincial statute that applies to all municipalities in Ontario. It regulates the conduct of members of council when participating in a meeting of City Council or a committee. The Integrity Commissioner can provide you with general advice about the *Municipal Conflict of Interest Act* but you may be required to seek your own legal advice about compliance with this Act.

2. The Code of Conduct for Members of Council (Code of Conduct)

This Code of Conduct is a document approved by City Council. The Code of Conduct deals with a number of areas of potential conflict between your public role and your private interests, including gifts or benefits, dealing with confidential information, using City property, improper use of influence, conduct respecting the Toronto Public Service, conduct respecting lobbyists and adherence to policies and procedures.

The Code of Conduct has been and can be amended. Always be sure that you are using the most up to date version.

3. Complaint Protocol for Members of Council (Complaint Protocol)

The Complaint Protocol is a document approved by City Council. It sets out the procedural rules for making a complaint to the Integrity Commissioner. You will need to review the protocol if you wish to make a complaint about another member of Council or if a complaint is made about you.

The Complaint Protocol has been and can be amended. Always be sure that you are using the most up to date version of the Code.

4. Policies

The Code of Conduct (Part XV) requires that members of Council observe the terms of all policies and procedures established by City Council.

4(a) List of important corporate policies. Many of these policies are included in Volume 1 of this Handbook. Members of Council should pay special attention to the following policies: Council Member-Organized Community Events Policy; Constituency Services and Office Budget Policy; Human Resources Management and Ethical Framework for Members' Staff and, rules governing members of Council providing references for employment or appointment with the City of Toronto (links and information about these policies is on the website of the Integrity Commissioner).

5. Interpretation Bulletins

The Integrity Commissioner can issue interpretation bulletins about the Code or policies.

5(a) List of Interpretation Bulletins. The Integrity Commissioner has issued several joint interpretation bulletins with the Lobbyist Registrar. These bulletins are included in the Lobbyist Registrar section of the Handbook. Members of Council should review all interpretation bulletins issued by the Lobbyist Registrar.

5(b) Legal Fees Incurred by Members of Council not covered by the City (May 2013). This interpretation bulletin addresses whether the Code of Conduct permits members to receive contributions to legal fees from other individuals.

6. Receipt of Gifts or Benefits - Disclosure Forms

The Code of Conduct contains several restrictions against receipt of gifts and benefits. Members of Council should consult with the Integrity Commissioner, if possible, prior to accepting any gift or benefit. Members are required to disclose receipt of certain gifts and the current forms are provided here for your information.

7. Poster - Integrity Matters Here

As part of the Integrity by Design project, a poster was developed to assist with raising awareness and sparking a dialogue about the importance of integrity. A sample of the poster is enclosed here. As a first step and a sign of your commitment to encourage a culture of integrity at your office, consider requesting a full size copy of this poster to post in your workspace.

**Remember – your best source is the website of the Office of the Integrity Commissioner:
www.toronto.ca/integrity.**

OFFICE OF THE INTEGRITY COMMISSIONER

List of Important Corporate Policies:

- Council Member-Organized Community Events Policy
Please refer to City Council Handbook – Volume 1 section 2 YOUR BUDGETS.
APPENDICES 2E Council Member-Organized Community Events Policy
- Constituency Services and Office Budget Policy
Please refer to City Council Handbook – Volume 1 section 2 YOUR BUDGETS.
APPENDICES 2A Constituency Services and Office Budget Policy
- Human Resources Management and Ethical Framework for Members' Staff
Please refer to City Council Handbook – Volume 1 section 3 YOUR STAFF.
APPENDICES 3A Human Resources Management and Ethical Framework for Members' Staff
- Rules governing members of Council providing references for employment or appointment with the City of Toronto (links and information about these policies is on the website of the Office of the Integrity Commissioner)
Please refer to City Council Handbook – Volume 1 section 8 SERVING YOUR CONSTITUENTS.

OFFICE OF THE INTEGRITY COMMISSIONER

INTEGRITY COMMISSIONER AND LOBBYIST REGISTRAR JOINT INTERPRETATION BULLETINS

- Lobbying and Donations to Council Member-Organized Community Events

Please refer to City Council Handbook – Volume 1 section 2 YOUR BUDGETS.

APPENDICES 2E Council Member-Organized Community Events Policy

APPENDICES 2G Accounting for Donations to Council Member-Organized Community Events

APPENDICES 2E Joint Interpretation Bulletin - Lobbying and Donations to Council Member-Organized Community Events (June 2011)

APPENDICES 2G Memorandum - Donations to Council Member-Organized Community Events-Procedures (June 2009)

- Lobbying and Municipal Elections at the City of Toronto

Please refer to City Council Handbook – Volume 1 section 8 SERVING YOUR CONSTITUENTS.

- Lobbying and Procurements

Please refer to City Council Handbook – Volume 1 section 8 SERVING YOUR CONSTITUENTS

Lobbyist Registrar

- 2.1 [Welcome letter](#)
- 2.2 [Presentation on lobbying, transparency and ethics at the City of Toronto](#)
- 2.3 [FAQs for Members of council and their staff](#)
- 2.4 Office of the Lobbyist Registrar Interpretation bulletins
(all link to City website)
- 2.4A [Applications for Approvals and Licences](#)
- 2.4B [BIAS](#)
- 2.4C [Consultation](#)
- 2.4D [Exemptions from the lobbying by-law](#)
- 2.4E [Grant applications](#)
- 2.4F [Grass root campaigns](#)
- 2.4G [Late registrations and updates](#)
- 2.4H [Lobbying and donations to Council Member-organized community Events](#)
- 2.4I [Lobbying and municipal elections at the City of Toronto](#)
- 2.4J [Lobbying and procurements](#)
- 2.4K [Lobbying by contractors with the City](#)
- 2.4L [Negotiating settlements & claims](#)
- 2.4M [Not-for-profit Organizations](#)
- 2.4N [Planning and development applications](#)
- 2.4O [Pre-registration and post-registration requirements](#)
- 2.4P [Registration of clients of consultant lobbyists](#)
- 2.4Q [TABIA](#)
- 2.5 [Compliance Inquiry Procedure](#)
- 2.6 [Toronto Municipal Code Chapter 140. Lobbying](#)

Dear Mayor and Councillors:

Welcome to Toronto City Council! I hope that your term will be enjoyable and productive.

The materials in this section of the Council Handbook are intended to provide you with information about the City's lobbyist registration system and the obligations of lobbyists. I hope that you will find this information useful as a guide for your interactions with lobbyists.

The Office of the Lobbyist Registrar promotes the transparency and integrity of City government decision-making through a public, online lobbyist registry and regulation of lobbyists' conduct. We can provide you and your staff with information and advice regarding the City's Lobbying By-law, the registration of lobbyists and their code of conduct.

Please feel free to call us at 416-338-5858 or my direct line at 416-338-5865 with any questions or concerns you may have about lobbyists and lobbying. Please also visit our website at www.toronto.ca/lobbying to search the lobbyist registry and for more information.

Best wishes,



Linda L. Gehrke
Lobbyist Registrar
City of Toronto

LLG:ba

Frequently Asked Questions (FAQs) for Members of Council and their Staff

This page contains questions selected specially for members of Council and their staff.

For more information about the Lobbyist Registry and Lobbying By-law, please visit the Office of the Lobbyist Registrar public website at www.toronto.ca/lobbying.

Who are lobbyists?

Lobbyists are required to register and report their lobbying activities when they lobby the City's public office holders.

There are three types of "lobbyist": "consultant lobbyist", "in-house lobbyist" and "voluntary unpaid lobbyist".

"Consultant lobbyists" undertake for payment to lobby on behalf of a client.

"In-house lobbyists" are officers or employees of an individual, corporation or organization, as well as sole proprietors and partners in a business, who are paid as part of their duties to lobby on behalf of their employer, corporation, organization or business.

"Voluntary unpaid lobbyists" undertake to lobby without payment on behalf of, or for the benefit of the interests of, a for-profit entity or organization.

Who is a public office holder?

The Lobbying By-law requires a lobbyist to register before lobbying a public office holder and to report their lobbying activities in the City's lobbyist registry.

The City's public office holders include:

- Members of Council and their staff;
- All City employees; and
- Members and staff of the City's local boards (restricted definition) and the Board of Health.

Who is a senior public office holder?

Section 140-9 prohibits a former senior public office holder from lobbying for twelve months after ceasing to hold office or to be employed by the City, a local board (restricted definition) or Board of Health.

Senior public office holders include:

- Members of Council and their staff;
- City officials, including the City Manager and Deputy City Managers, accountability officers, Chief Corporate Officer, City Solicitor, Medical Officer of Health, and Treasurer;
- General managers, executive directors and directors;
- Employees in management positions who are in a position to influence programs and services and have direct contact with members of Council;
- Employees who are not in management positions but are in direct contact with members of Council and provide advice to members of Council;
- Employees who are in direct contact with members of Council in the operation of Council and Committees of Council;
- Employees who work on municipal elections in a supervisory capacity or who are employed in the Elections Services section of the City Clerk's Office;
- Members of a local board (restricted definition) and their staff;
- Members of the Board of Health; and
- Officials or employees of a local board (restricted definition) who are in similar management positions or who have similar duties described for City employees who are senior public office holders, above.

Who must register before communicating with me?

Lobbyists need to register before they communicate with you about a subject defined as "lobbying" in Chapter 140 (the Lobbying By-law).

"LOBBY" is defined as:

To communicate with a public office holder on any of the following subject matters:

- A. *Development, introduction, passage, defeat, amendment or repeal of a by-law, bill or resolution on any matter, by Council, a local board (restricted definition), the Board of Health, or a committee, another body or individual under delegated authority.*
- B. *Without limiting Subsection A, the following:*
 - (1) *Development, approval, amendment or termination of a policy, program, directive or guideline.*
 - (2) *Procurement of goods, services or construction and awarding a contract.*
 - (3) *Approving, approving with conditions, or denying an application for a service, grant, planning approval, permit or other licence or permission.*

- (4) *Awarding any financial contribution, grant or other financial benefit by or on behalf of the City, a local board (restricted definition) or the Board of Health.*
 - (5) *Transferring from the City, a local board (restricted definition) or the Board of Health any interest in or asset of any business, enterprise or institution.*
 - (6) *Determining the model and method of delivering a service.*
- C. *The matters noted in Subsections A and B with necessary modifications, if considered by a local board (restricted definition), the Board of Health or another body or individual under delegated authority.*
- D. *In relation to a consultant lobbyist referred to in Article II or an individual as referred to in § 140-28B, to arrange a meeting between a public office holder and any other person.*

Typically, people do not have to register to communicate with you about a listed subject when they . . .

- Are constituents communicating about a neighbourhood or public policy issue or an application concerning their principal residences, or
- Communicate in a public process (such as a hearing, committee meeting, or other public forum), or
- Communicate within approved channels as part of an application or procurement process, or
- Are exempt from the Lobbying By-law. For example, not-for-profit community services and public office holders in other municipal, provincial and federal governments are exempt. See the [OLR Interpretation Bulletin: Not-for-profit Organizations](#).

Must the client of a consultant lobbyist register before meeting with me?

Yes. The client must register before meeting or communicating with you. See the [OLR Interpretation Bulletin: Registration of Clients of Consultant Lobbyists](#).

The consultant lobbyist must register before they arrange a meeting with you.

When must a lobbyist register?

Lobbyists must register before they meet, write to or speak with you.

Must a lobbyist report their lobbying activities?

Yes. A lobbyist must report all lobbying activities including meetings, phone calls and written communications within 3 days after they occur.

What questions should I ask people who wish to meet or speak with a member of Council?

You should ask them whom they represent and the subject of the meeting; and whether they and others who will attend the meeting with them are registered in the City's Lobbyist Registry with an approved subject matter. You may ask them for their registration number and their subject matter's registration number.

If it appears that the purpose of the meeting is to lobby and they are not registered, you should refer them to the Office of the Lobbyist Registrar at 416-338-5858 and to the OLR website (www.toronto.ca/lobbying) for more information.

TIP: Call the Office of the Lobbyist Registrar or search the Lobbyist Registry at www.toronto.ca/lobbying to find out if someone is registered.

What are my responsibilities as a public office holder to ensure a lobbyist is registered?

The onus for ensuring registration lies with the lobbyist, not with the public office holder. You are not obligated to ensure that a lobbyist is registered, *but please note: The Code of Conduct for Members of Council, Article XIII provides that members should not knowingly engage in communications with an unregistered lobbyist about subjects defined as "lobbying"*. Members of Council may seek further advice from the Integrity Commissioner regarding the provisions respecting lobbying in their respective Code of Conduct.

TIP: Inform people about the Lobbyist Registry and Lobbying By-law in your written communications. Below is a sample paragraph to put at the bottom of your letters and emails:

Toronto's Lobbying By-law requires lobbyists to register before communicating with public office holders. For more information, please go to the website of the Office of the Lobbyist Registrar at www.toronto.ca/lobbying.

Can lobbyists invite me to events?

Lobbyists must not offer, provide or give gifts or entertainment of any kind to public office holders. If there is a charge for the event, lobbyists can't provide tickets free of charge; however, you may be able to purchase tickets yourself.

If an event is free but includes a meal or entertainment, lobbyists should not invite you, especially if the reason it's free is because a business interest is paying for everything.

Lobbying during civic and other public events is prohibited.

A lobbyist has offered to sponsor a community event that I am organizing. Is this permitted?

Members of Council and their staff are not permitted to solicit or receive sponsorships or donations from lobbyists. For more information, see the [Joint Interpretation Bulletin: Lobbying and Donations to Council Member-Organized Community Events](#). For advice on a member of Council's obligations, contact the Integrity Commissioner. To find out if a potential sponsor or donor is a lobbyist, contact the Office of the Lobbyist Registrar.

A group of residents would like to meet with me to discuss their concerns. Should they be registered?

No. Community groups do not need to register unless they have a commercial or business interest in the subject matter.

Typically, constituents do not need to register to talk with you about personal, neighbourhood or public policy issues – unless it's for their commercial benefit.

For more information on lobbying and when people should register, please see [The Basics](#) on the public site.

A resident is calling me to discuss a minor variance application for her property. Should the resident be registered as a lobbyist before our meeting?

No. Typically homeowners do not have to register when communicating about applications concerning their principal residences – unless it's for their commercial benefit.

Similarly, unless it's for their commercial benefit, constituents do not need to register to talk with their Councillors about personal, neighbourhood or public policy issues.

If the resident were communicating about a rental property in the capacity of landlord, however, she would have to register because she would have a business interest in the decision.

For more information on lobbying and when people should register, please see [The Basics](#) on the public site.

A developer is calling me to discuss a site plan application. Should the developer be registered as a lobbyist before our meeting?

Yes. Developers must register before discussing a development or planning application with a member of Council. The only exception is a meeting to provide general information only about a proposed or pending application.

For more information, see the [OLR Interpretation Bulletin: Planning & Development Applications](#).

Someone called me to talk about something they would like to sell to the City – what should I do?

You should refer the caller to the Office of the Lobbyist Registrar for information and advice on registration as a lobbyist and the restrictions on communications during an active procurement process.

Vendors and potential vendors must register before communicating with you about procurements selling of goods or services to the City.

If there is an active procurement underway, the caller may be prohibited from communicating with you. *No lobbying is permitted about a City procurement process from the time the procurement is issued until its award.*

See the [OLR Interpretation Bulletin: Lobbying and Procurements](#).

When I see somebody who has a new technology or services that the City may want, I like to call them and have them explain exactly how it works. How will the Registry affect my need and the needs of other public office holders to be informed?

Responding directly to a written request by a public office holder is not lobbying.

Other forms of communication should be registered, if they concern products or services that could be sold to the City or a procurement or contract award.

Lobbying about an active procurement process of the City is prohibited, and most local boards have similar blackout policies. See the answer to the question above.

A bidder called to talk with me about a competitive bid – is this okay?

This is not okay, unless you are the designated staff for the bid.

TIP: Contact the Office of the Lobbyist Registrar for advice before speaking with someone who calls you about a competitive bidding process. See the [OLR Interpretation Bulletin: Lobbying and Procurements](#).

I am organizing a roundtable to consult stakeholders about a particular subject. Participation in the roundtable is by invitation only. Must the participants register?

Public consultations held by public office holders are exempt from registration. Roundtables and consultations that are not open to the public require registration if the participant is a for-profit business and the subject of the roundtable falls within the definition of “lobbying”. For example, a roundtable that may result in the purchase of goods or services or the development, change or repeal of a program, policy or by-law;

or will create an environment that is favourable for the sale of this product to the City by the participant's business, registration will be required.

TIP: When inviting participants to a roundtable, ask them to contact the Office of the Lobbyist Registrar *in advance of their attendance* for information and advice on whether and how to register.

I am feeling uncomfortable about attending a meeting with someone I think is a lobbyist – what should I do?

Call the Office of the Lobbyist Registrar at 416-338-5858 for advice.

TIP: If you think the person may be a lobbyist, refer them to the Office of the Lobbyist Registrar for information and advice on whether they should register.

To whom should I report illegal lobbying?

You should report unregistered and prohibited lobbying to the Lobbyist Registrar.

If I talk to the Lobbyist Registrar or her staff, is our conversation confidential?

Yes. We provide confidential advice. The Registrar's inquiries and investigations are confidential. However, when the Registrar reports to City Council regarding an inquiry or investigation, that report must be made public.

TIP: See the Office of the Lobbyist Registrar public site, www.toronto.ca/lobbying, for more FAQs and Interpretation Bulletins.

Ombudsman

- 3.1 [Welcome letter](#)
- 3.2 [The City of Toronto Ombudsman: Role and Mandate](#)
- 3.3 [Defining Fairness in Local Government](#) (links to Ombudsman website)

Fiona Crean, Ombudsman
375 University Avenue, Suite 203
Toronto, ON M5G 2J5
Tel: 416-392-7061
TTY: 416-392-7100
fcrean@toronto.ca
www.ombudstoronto.ca

Dear Mayor and Councillors,

Welcome to the 2014-2018 term of Toronto City Council. I look forward to working with you and supporting Council as one of its four Accountability Officers.

My office is a place of last resort for residents to complain about unfair treatment on the part of the public service. I can investigate any decision or recommendation, or any act done or omitted by the City's administration, and many of its agencies, boards, commissions and corporations. These entities include all city divisions and organizations such as the TTC, Toronto Community Housing and Toronto Hydro.

The Ombudsman's function is to act as a champion for administrative fairness, ensuring that residents are treated fairly by their local government. We work with the public and the administration to find solutions, not just to individual complaints, but by pointing to changes that will prevent similar problems in the future.

We provide individuals an alternative to the courts. We protect employees from unfounded complaints. We provide advice and make recommendations to improve City policies and processes.

Once again welcome and please find attached some further information about my role and mandate.

Yours sincerely,



Fiona Crean
Ombudsman

The office opened in April 2009. It receives complaints from affected persons. The Ombudsman can initiate an investigation and conduct systemic investigations, particularly when they are in the public interest. The office can also have issues referred to it for investigation by City Council.

The City of Toronto Ombudsman

Role and Mandate

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1.0 Role and Mandate of the Legislated Ombudsman

The Ombudsman is an office of last resort for investigating any decision or recommendation, or any act done or omitted by the City's administration, and many of its agencies, boards, commissions and corporations.

The office opened in April 2009. It receives complaints from affected persons. The Ombudsman can initiate an investigation and conduct systemic investigations, particularly when they are in the public interest. The office can also have issues referred to it for investigation by City Council.

The Ombudsman's function is to act as a champion for administrative fairness, ensuring that residents are treated fairly by their local government – procedurally, substantively and equitably.

Procedural fairness concerns how the decision is made – the process followed before, during and after a decision is made.

Substantive fairness concerns the fairness of the decision itself.

Equitable fairness has to do with how we treat parties to a complaint; it is about making sure that people are treated fairly, not necessarily identically.

The Ombudsman is an alternative to the courts and adjudicative bodies who render decisions and issue rulings. Its jurisdiction includes all City divisions, many agencies and entities such as the TTC, Toronto Community Housing and Toronto Hydro.

The Office's core mandate is to shine a light on maladministration and recommend improvements to the administration of the City of Toronto and its public services. In protecting the public's right to receive fair, equitable and competent public service, the Ombudsman is also the protector of the public servant unjustly criticized but unable to speak out.

There are four universally accepted criteria that are fundamentally necessary for a government to say it truly has an ombudsman. The Ombudsman must have:

- The power to investigate, enter facilities, review documents, compel witnesses, and decide whether and how to take on an investigation;
- The ability to offer services without charge, to be accessible to all parts of the public, to keep confidentiality by, for example, being exempt from access to information and privacy legislation;
- The transparency of ombudsman procedures and conduct that is fair, impartial and objective;
- Independence from both government and elected bodies, financially and politically. This is usually guaranteed by a statutory base to establish permanence and freedom from functional control.

Why?	To ensure that residents of Toronto are treated equitably and fairly by their City government
Who do we serve?	Residents and members of the public.
How do we do what do we do?	<ul style="list-style-type: none"> a) Conduct investigations both individual and systemic b) Engage in variety of dispute resolution mechanisms appropriate to the circumstances c) Provide informal complaints resolution d) Provide expert knowledge and resources on issues of fairness e) Report to Council and through it to the public f) Conduct education and outreach g) Provide preventative services to improve fairness h) Provide information and referrals

2.0 Legal Parameters

The Ombudsman is a creature of the *City of Toronto Act 2006* (COTA) and the Municipal Code. Part V of COTA lists the broad powers and protections given to the Ombudsman, including:

- The power to gather evidence;
- The ability to compel disclosure of information;
- It can summon and examine witnesses under oath;
- It conducts the work in private as required.

COTA establishes a duty of confidentiality on the part of the Ombudsman that prevails over the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

The Ombudsman was established with a clear principle of independence that is balanced with direct accountability to City Council. Council adopted a comprehensive policy framework for the City's Accountability Officers and codified it in Chapter 3 of the Municipal Code, reinforcing both the arms-length relationship to the public service and the independent status within the City's governance system.

The Ombudsman is an Officer of City Council directly accountable to it. The Ombudsman is responsible for the management of her office, the administration of services it provides, the use of public funds and the office's performance in fulfilling the mandate.

The Ombudsman may be appointed for a term of five years renewable once for a second five year term. Appointment or removal can only be achieved through a 2/3rds majority vote and then, only for cause.

3.0 Constituencies Served

3.1 The Public

While the Ombudsman's core work is the resolution of complaints through informal means or by formal investigation, the Office engages in problem solving in many other ways as well. The Ombudsman has a responsibility to inform the public at large and marginalized communities in particular, about the services of the Office, and the public's rights and responsibilities in relation to city government. To that end, extensive public speaking and information sessions are undertaken across the city with a cross-section of groups and organizations.

3.2 Toronto City Council

Ability to Deal with Systemic Problems: A complaint of a constituent may be the result of a systemic problem in the agency involved, or even in other parts of the city government. Councillors may be dealing with similar individual complaints, each not knowing that others have similar concerns. The Ombudsman is able to combine complaints and do systemic investigations that deliver greater economy and efficiency.

Anonymity: There may be times when a Councillor wants to investigate a complaint, but it would be inconvenient for the Councillor's name to be associated with the complaint. All complaints handled by the Ombudsman are confidential.

Investigative Resources: The Ombudsman can investigate and facilitate the discussions that are necessary to resolve the complaint. When a Councillor finds that dealing with a complaint may require a great deal of time and effort, it is useful to remember that the Ombudsman is available to deal with such complaints.

Statutory Powers to Make Recommendations: Even when a Councillor does obtain the information behind a complaint, there is still the question of getting the City administration to respond appropriately to the complainant and make necessary changes in the way business is done. The Ombudsman has the power to make recommendations and to pursue implementation of the recommendations. If they are not implemented, a report can be tabled at Council asking it to support the recommendations. In this way, the Ombudsman may assist Councillors by using powers that are not available to them.

Assisting a Complainant to Accept the Results of an Inquiry: A Councillor may have to tell a constituent that a complaint cannot be supported, or find that the constituent is not

satisfied with the way the complaint is resolved. Referring the matter to the Ombudsman can be a useful backup.

Referral of a Matter to the Ombudsman: The Ombudsman may also receive a complaint from one or more Councillors, as well as the Mayor.

3.3 Toronto Public Service

Beyond complaint resolution and investigations, the office offers a variety of resources and advice to the public service. This includes:

- Policy advice
- Prevention strategies through policy and program improvements
- Problem solving and mediation
- Information sessions
- A variety of informal interventions.

4.0 Profile of Complainants 2009 - 2014

Toronto's population is now close to three million people. It is a diverse community; half of the residents were born outside Canada; a third speak one or more of 162 languages in their homes. These statistics define the work of Toronto's Ombudsman, since it means that a person with a complaint is quite likely dealing with a public servant of a different cultural background, who has a different expectation of what should have happened, and what should happen to end the dispute.

The main areas of complaint have not changed much since the office opened in 2009. The Toronto Community Housing Corporation (TCHC), Municipal Licensing & Standards (MLS) and Revenue Services have consistently occupied the top spots on the list.

The main complaints at TCHC are about:

- Maintenance delays
- Deteriorating living conditions
- Security complaints
- The wait times for access to accommodation and unit transfers.

The top issues at MLS are:

- Inconsistent by-law enforcement
- Notices of violation
- And the conduct of some staff.

Complaints about Revenue Services revolve around:

- High water bills
- Errors in property tax bills
- Parking ticket disputes
- Difficulty in resolving appeals or addressing complaints with staff.

The vast majority of complaints are resolved without the need for a formal investigation. The office's involvement ranges from information exchange and clarification, to shuttle diplomacy, mediation and other forms of complaint resolution.

Investigations are reserved for contentious, complex issues that may be systemic in nature. To date, over 300 recommendations have been implemented or are in progress. The public service's compliance with these recommendations has been strong. City Council's leadership is critical to the success of the Ombudsman's mandate and work.

Some key results from Ombudsman investigations can be summarized as:

- Improvements in existing or the creation of new legislation, policies and procedures;
- Improvements in the way the public service communicates, both internally between divisions and externally with the public;
- An increase in fairness, accountability and transparency

Such results show demonstrable improvements in public administration through the strengthening of accountability and good governance, greater transparency and improvements in service delivery.



Fiona Crean
Ombudsman
September 30, 2014

Appendix I: Origin of the Ombudsman

Origin of the Ombudsman

Ontario:

In 1978, the Ontario Legislature grappled with the question of the independence of its recently created ombudsman office.¹ After returning from an extensive international study tour, the legislative committee responsible for the Ombudsman said that any discussions about the exercise of the Ombudsman's duties should always be done in an open forum and involve consultation with the Ombudsman. In return, the Ombudsman respects the role of the governing body.

The Committee expressed its concern that the Legislature did not understand the role and function of the Ombudsman:

[The Ombudsman] must be placed in a position where he is not constantly looking over his shoulder, concerned with the Committee's, the Legislature's, and the government's reaction to a particular course of conduct. . .]

Because of this high degree of independence, the Ombudsman must be appointed through an open and rigorous process. The independence is demonstrated by giving the Ombudsman:

- A long term of office – one that outlives any particular elected government; protection from reduction of salary
- Adequate resources to operate
- Freedom to choose staff, set policies and procedures
- Freedom from having to take instructions.

This independence requires reciprocal action. The Ombudsman must always ensure that investigations are thorough and fair; that conclusions are well-founded and objective; that the recommendations are appropriate.

As Justice Dickson said in the Supreme Court of Canada decision on *Friedman*:²

The vital necessity is the impartial investigation of complaints... What every form of government needs is some regular and smooth-running mechanism for feeding back the reactions of its disgruntled customers, after impartial assessment, and for correcting whatever may have gone wrong...[The Ombudsman] can bring the lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds.

¹ *The Ombudsman Act* received Royal Assent on July 3, 1975 and was proclaimed in force on July 10, 1975.

² *British Columbia Development Corporation v. Friedmann (Ombudsman)*, [1984] 2 SCR 447.

City of Toronto:

When the Joint Province-City Task Force reported in 2005, it said:

A modernized *City of Toronto Act* requires new – or strengthened – measures to promote transparency and accountability...To ensure high standards of professionalism and ethics, Toronto requires strong oversight functions. The Task Force therefore recommends that the new Act require (not simply allow) the City to have an empowered and independent integrity commissioner, ombudsman, auditor general, and a lobbyist registry.³

In creating COTA, the provincial government took explicit steps to ensure the people of Toronto had the tools they needed to keep the City government accountable. The City is required by law -- provincial law -- to have an ombudsman in place.

³ http://www.toronto.ca/david_miller/pdf/toact_finalreport111405.pdf

Auditor General

- 4.1 Welcome letter
- 4.2 Auditor General's Office



Auditor General's Office

Jeff Griffiths, CPA, CA, CFE
Auditor General

Metro Hall
55 John St. 9th Floor
Toronto, Ontario M5V 3C8

Tel: 416-392-8461
Fax: 416-392-3754

Dear Mayor and Members of Council,

Welcome to the 2014-2018 Council term. As the Auditor General for the City of Toronto, I am responsible for assisting City Council in holding itself and city administrators accountable for the quality of stewardship over public funds and for achievement of value for money in city operations.

Attached is a short document that provides more background on the role and responsibilities of my office.

If you have any questions, please do not hesitate to contact my office anytime.

A handwritten signature in black ink, appearing to read "Jeff Griffiths".

Jeff Griffiths
Auditor General

AUDITOR GENERAL'S OFFICE

In May 2002, City Council approved an independent Auditor General's Office for the City of Toronto in conjunction with the implementation of a new audit framework. The *City of Toronto Act, 2006* (the *Act*) subsequently formalized the establishment of the Auditor General. Section 177 of the *Act* requires that "The City shall appoint an Auditor General".

The 2002 audit framework established three levels of audit services for the City of Toronto. This framework is consistent with best practices in most major cities.

- The Auditor General's Office was created in order to report directly to and provide assurance strictly for City Council. The *Act* has not changed this requirement.
- A separate Internal Audit Division reporting to the City Manager was established to provide assurance and management consulting advice for the City's Executive Management Team.
- As required by the *Act*, an external auditor is appointed by City Council to perform the annual statutory audit of the City's financial statements including Agencies and Corporations and provide an opinion on the fairness of the information presented in these financial statements.

Chapter 3 of the Municipal Code sets out duties and responsibilities of the City's Accountability Officers. As indicated above, the *City of Toronto Act, 2006* mandates the appointment of an Auditor General who reports to City Council. Under Section 178 (1) of the *Act* "*the Auditor General is responsible for assisting City Council in holding itself and city administrators accountable for the quality of stewardship over public funds and for achievement of value for money in city operations.*"

The audit process is an independent, objective assurance activity designed to add value and improve an organization's operations. The audit process assists an organization in accomplishing this objective by bringing a systematic, disciplined approach in evaluating and improving the effectiveness of risk management, control and governance processes.

In carrying out its audit activities, the Auditor General's Office is independent of management, and has the authority to conduct financial, operational, compliance, information systems, forensic and other special reviews of City divisions, and those local boards provided for under the *Act* and such City-controlled corporations and grant recipients as City Council may specify. The Auditor General reports to Council through the Audit Committee.

Specific responsibilities of the Auditor General include:

- Conduct audit projects identified by the Auditor General through the Auditor General's risk assessment process. Such projects are included in the Auditor General's annual work plan.
- Conduct forensic investigations including those involving suspected fraudulent activities.

- Conduct special assignments identified by the Auditor General, or approved by a two-thirds majority resolution of Council.
- Manage the Fraud and Waste Hotline Program as well as the referral of certain concerns and issues to divisional management.
- Oversee the work and the contract of the external auditors performing annual financial statement audits.
- The follow up of recommendations contained in audit reports.