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# The Office of the Integrity Commissioner: Complaint and Application Procedures

## Authority

These procedures are issued in accordance with [§3-4.4](#) of [Chapter 3 of the Toronto Municipal Code, Accountability Officers](#).

## Definitions

1. In these procedures,
  - a. the definitions set out in the [City of Toronto Act, 2006, S.O. 2006, c. 11, Sched. A](#), the [Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50](#), and ss. [33](#) and [34](#) of the [Public Inquiries Act, 2009 S.O. 2009, c. 33, Sched. 6](#) apply,
  - b. "applicant" is a person who has made an MCIA application;
  - c. "application form" is a form issued by the Commissioner and made available on the [website](#) of the Office of the Integrity Commissioner for the purpose of making an MCIA application;
  - d. "Code of Conduct" refers to the [Code of Conduct for Members of Council](#), the [Code of Conduct for Members of Local Boards \(Restricted Definition\)](#) or the [Code of Conduct for Members of Adjudicative Boards](#);
  - e. "Code of Conduct complaint" is a request for an inquiry within the meaning of [section 160\(1\)](#) of the *City of Toronto Act, 2006* about whether a member of Council or of a local board (restricted definition), including adjudicative boards has contravened the Code of Conduct applicable to the member;
  - f. "Commissioner" is the Integrity Commissioner;
  - g. "complainant" is a person who has initiated a Code of Conduct complaint or an informal complaint;
  - h. "complaint form" is a form issued by the Commissioner and made available on the [website](#) of the Office of the Integrity Commissioner for the purpose of making a Code of Conduct complaint;

- i. "informal complaint" is a request for the Integrity Commissioner to assist to informally resolve a concern about a possible Code of Conduct complaint without an investigation;
- j. "intake review" is the preliminary review of a Code of Conduct complaint and an MCIA complaint described in these procedures;
- k. "MCIA application" is an application to the Integrity Commissioner for an inquiry, within the meaning of section [160.1\(2\)](#) of the *City of Toronto Act, 2006*, to be carried out concerning an alleged contravention of section(s) [5](#), [5.1](#) and/or [5.2](#) of the *Municipal Conflict of Interest Act*;
- l. "respondent" is a person who is the subject of a Code of Conduct complaint, an MCIA application or an informal complaint.

## Application of These Procedures

2. A complainant who wishes to make a Code of Conduct complaint or an informal complaint or an applicant who wishes to make an MCIA application shall follow these procedures.
3. The Commissioner will apply these procedures with necessary modifications when requests or applications are made by City Council, a local board (restricted definition), or a Toronto accountability officer.
4. The Commissioner may in her discretion waive compliance with any part of these procedures other than those required by the *City of Toronto Act, 2006*, the *Public Inquiries Act, 2009* or Chapter 3 of the Toronto Municipal Code.

## Informal Complaint (No Inquiry; Relating to Code of Conduct only)

5. To initiate an informal complaint, a complainant must write to the Commissioner to request the Commissioner's assistance, and describe with sufficient particularity:
  - a. the name of the complainant,
  - b. the name of the respondent,
  - c. the conduct that the complainant believes to have contravened the Code of Conduct,
  - d. the part(s) of the Code of Conduct that the complainant believes has been contravened, and,
  - e. how the complainant knows about the conduct.

6. The Commissioner will review the informal complaint to determine whether the subject matter involves the Code of Conduct and is suitable for the Commissioner to attempt to settle or resolve without an inquiry and, if that is the case, will proceed to do so.
7. The Commissioner will assess the suitability of the informal complaint for settlement or resolution on an ongoing basis and may decline to assist at any point.
8. The complainant or the respondent can decline to participate in the informal complaint at any time.
9. Making an informal complaint does not preclude a complainant from subsequently filing a Code of Conduct complaint.
10. The Commissioner will not report to City Council about any specific informal complaint, except for anonymized information about the subject matters or statistical information in the Commissioner's annual report.

## **Code of Conduct Complaint and MCIA Application (Inquiries)**

### **Filing**

11. A complainant who wishes to make a Code of Conduct complaint must complete the [complaint form](#) and deliver it to the Office of the Integrity Commissioner by mail, in person or by [email](#).
12. An applicant who wishes to make an MCIA application must complete the [application form](#) and deliver it by mail, in person or by [email](#) to the Office of the Integrity Commissioner within the times prescribed in the *City of Toronto Act, 2006*.
13. A person may file both a Code of Conduct complaint and an MCIA application about the same subject matter, in which case she must file both a complaint form and an application form.

### **Intake Review**

14. The Commissioner will review all Code of Conduct complaints and MCIA applications to verify that they are properly filed in accordance with these procedures and, as applicable, the requirements of the *City of Toronto Act, 2006*.
15. All complaints and applications that are properly filed will be reviewed by the Commissioner to determine whether the subject matter of complaint or application is within the jurisdiction of the Commissioner.

16. The Commissioner may dismiss a Code of Conduct complaint or an MCIA application without conducting any inquiry if:
  - a. there are insufficient or no grounds for an investigation, or,
  - b. the complaint or application is frivolous, vexatious, or not made in good faith.
17. The Commissioner may dismiss a Code of Conduct complaint without conducting any inquiry if:
  - a. there has been a substantial delay between the request and the incidents that are the subject matter of the complaint and because of the delay the investigation would serve no useful purpose,
  - b. the Commissioner is of the opinion that the investigation would serve no useful purpose.
18. The Commissioner will dismiss an MCIA application without conducting any inquiry when the application indicates that the applicant became aware of the alleged contravention more than six weeks prior to the date of filing and therefore did not commence the application in accordance with the requirements of the *City of Toronto Act, 2006*.
19. If a Code of Conduct complaint or MCIA application concerns an allegation of a criminal nature as set out in the [Criminal Code of Canada](#) or an offence under any other Act, the Commissioner will not conduct an inquiry into that component of the complaint or application and the complainant or applicant will be so advised. Allegations of a criminal or quasi-criminal nature may be pursued with the appropriate authority.
20. The Commissioner will inform the complainant or applicant of the outcome of the intake review.
21. If a Code of Conduct complaint or an MCIA application is dismissed at the intake stage, the Commissioner will not inform the respondent of the Code of Conduct complaint or MCIA application unless the Commissioner determines that it is otherwise appropriate to do so.

## **The Inquiry**

22. In the case of a Code of Conduct complaint, the Commissioner will inform the respondent of the substance of the allegations and provide the respondent the opportunity to provide a response within a specified time. The Commissioner may provide the response to the complainant for reply.

23. In the case of an MCIA application, the Commissioner will provide the respondent with a copy of the MCIA application filed and provide the respondent the opportunity to provide a response within a specified time. The Commissioner may provide the response to the applicant for reply.
24. If the same person has made a Code of Conduct complaint and an MCIA application about the same subject matter, the Commissioner may conduct a single inquiry into both.
25. If more than one person makes a Code of Conduct complaint or MCIA application about the same subject matter, the Commissioner may combine these into a single inquiry.
26. When conducting inquiries in relation to Code of Conduct complaints and MCIA applications, the Commissioner may use the powers of investigation set out in [Part V](#) of the *City of Toronto Act, 2006*, including the powers provided in [section 33](#) of the *Public Inquiries Act, 2009*.
27. The Commissioner will seek and share information with and from the complainant, the respondent and witnesses as is necessary to complete the inquiry, in a manner that is procedurally fair, proportionate, and that enables the Commissioner to maintain secrecy with respect to matters in accordance with sub-section [161\(1\)](#) of the *City of Toronto Act, 2006*.
28. Should, during the course of an inquiry into an MCIA application, the Commissioner determine that the subject matter may also, or alternatively, give rise to a possible Code of Conduct contravention, the Commissioner may treat the matter as a Code of Conduct complaint, and if so will inform the respondent, provide an opportunity to provide a response, and proceed as if a Code of Conduct complaint had also been made with respect to the subject matter of the MCIA application.

## Completion of the Inquiry

29. During the course of an inquiry into a complaint or application, the Commissioner may determine that there are insufficient or no grounds for a further investigation, the complaint or application is frivolous, vexatious, not made in good faith, or that the continued investigation would serve no useful purpose and in these circumstances, the Commissioner will so notify the parties and make no report about the matter.

## Code of Conduct Complaint

30. The Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any respondent unless the respondent has had notice of

the basis for the proposed finding and any recommended sanction or remedial action, and an opportunity either in person or in writing to comment on the proposed findings and any recommended sanction or remedial action.

31. If the Commissioner concludes that a respondent contravened the Code of Conduct, the report will contain a recommendation regarding penalty or remedial action and be filed with City Council or the applicable local board (restricted definition) in accordance with Council or the board's procedures.
32. If the Commissioner concludes that the respondent did not contravene the Code of Conduct, the report will be provided to the complainant and respondent. The Commissioner may file all or any portion of the report with City Council or the board, as applicable, should the Commissioner determine that the report contains useful guidance or interpretation about the meaning of the Code of Conduct for members, or for any other similar reason.

### **MCIA Application**

33. At the conclusion of the inquiry or within 180 days from the application date, whichever is earlier, the Commissioner will notify the applicant and respondent whether the Commissioner intends to apply to a judge under [section 8](#) of the *Municipal Conflict of Interest Act* for a determination about whether the respondent has contravened section(s) [5](#), [5.1](#) and/or [5.2](#) of that Act and publish reasons in due course.
34. In making her decision, the Commissioner may consider whether the inquiry established that the conduct at issue was also contrary to the Code of Conduct and, accordingly, whether the matter could be adequately addressed by a report to City Council or the applicable local board (restricted definition).

### **Election Year Procedures**

35. No new informal complaints, Code of Conduct complaints or MCIA applications can be received after the 4<sup>th</sup> Friday in July in an election year.
36. All open inquiries on the 4<sup>th</sup> Friday in July in an election year will be suspended in accordance with the *City of Toronto Act, 2006* and the parties will be so notified and informed of their rights to seek a resumption of such suspended inquiries by the Commissioner.

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