

Annual Report of the Integrity Commissioner for the Municipality of West Nipissing

1. COMMISSIONER'S REMARKS

I am pleased to present Council with my **2019-2020** Annual Report.

This is my very first Annual Report to Council as Integrity Commissioner for the Municipality of West Nipissing. As such, this report will focus on the activities of my Office for the period of March 1st, 2019 to February 29th, 2020.

Both the Office of the Integrity Commissioner was created as a process for hearing complaints regarding elected officers and I was duly appointed by your Municipality on March 19th, 2019. My term began on March 1st, 2019 and continues until December 1st, 2022 and maybe renewed for a further four (4) years at the Municipality's sole discretion.

Over the past year, I, as Integrity Commissioner having acquired the legislated responsibility of providing advice and education to Members of Council, have in fact participated in the development of a complaint process by assisting in the preparation of the formal Request for Investigation form. I also attended on two separate occasions before Council Members, once in late April 2019 for a morning information session as to the role of the new creation of my Office (i.e. Office of the Integrity Commissioner for the Municipality of West Nipissing) and once again, for an evening information session, this time in mid-May 2019. During both sessions, all Members present also participated in the preparation of the formal complaint form to be duly executed to begin the investigative process. As well, we had the opportunity of reviewing the Rules of Conduct that your Municipality has adopted by way of By-law 2018/96 being a by-law to adopt a code of conduct policy for council, enacted and passed on December 18th 2018, better known as your "Code of Conduct for Council" or as I would often refer to it as the "Member's Rule Book".

I would be remiss if I did not acknowledge the highly efficient and professional administrative support provided to my Office by your Municipality's Clerk/Planner and staff.

My primary focus this past year was the implementation of a formal complaint process. Specifically, the development of a transparent process whereby my Office would receive a formal Request for Investigation form with a sworn affidavit to commence the investigative process. Only once satisfied that an investigation was warranted would I then send the details of the complaint to the Member of Council for his/her reply to the allegation(s) of breach(es). I would then determine if any further investigation was warranted. It should be noted that no formal hearings have been held, to date, as all complaints have been resolved without the necessity of such hearings. The complaints were either withdrawn or resolved amicably by the interested parties.

In March of 2019, I received a first complaint. This complaint was eventually withdrawn by the complainant because the complainant was not satisfied with the delays and bureaucratic process in place at the time. This will be reviewed later in section 4 of my Report.

In my capacity as the new Integrity Commissioner, my work mostly centered around providing Members of Council with guidance regarding their obligations under the Code of Conduct for Members of Council at the beginning of my mandate. The demand for intervention or complaint resolution continued through the year. My Office received several inquiries from individuals expressing a grievance that was either outside my jurisdiction or not in accordance with the established complaint process. In each case, individuals were provided with information on the appropriate complaint mechanism for their grievance or the necessary steps for addressing the complaint under the complaint process.

2. MANDATE

The statutory role of the Integrity Commissioner is set out in Section 223.3 of the *Municipal Act, 2001*:

INTEGRITY COMMISSIONER

223.3(1) Without limiting sections 9, 10 and 11, those sections authorize the Municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the Municipality with respect to any or all of the following:

1. The application of the Code of Conduct for Members of Council and the Code of Conduct for Members of local boards.
2. The application of any procedures, rules and policies of the Municipality and local boards governing the ethical behaviour of Members of Council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to Members of Council and of local boards.
4. Requests from Members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the Member.
5. Requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the Municipality or of the local board, as the case may be, governing the ethical behaviour of Members.
6. Requests from Members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to Members of Council, members of local boards, the Municipality and the public about the Municipality's Code of Conduct for Members of Council and members of local boards and about the *Municipal Conflict of Interest Act*.

As Integrity Commissioner, I have the powers of inquiry and delegation as well as a duty of confidentiality and reporting requirements as follows:

8. I report directly to Council on matters related to the Code of Conduct and other policies, rules or procedures related to ethics for Council;
9. I will also report to Council on matters related to the Code of Conduct for local boards, including adjudicative boards, if any;
10. I, and all those acting under my instruction, must preserve secrecy with respect to all matters that come to my attention; I have the power to undertake investigation into complaints alleging contraventions of the applicable Code of Conduct while respecting confidentiality; and
11. My reports are public and I am permitted to disclose necessary information related to the findings while maintaining confidentiality. I can make recommendations to Council relating to Code of Conduct breaches, but only Council can sanction one of its Members.
12. Council also has the authority to assign additional powers and duties to the Integrity Commissioner.

3. OVERVIEW

In addition to the legislated role of an Integrity Commissioner as set out in Section 223.3 of the *Municipal Act, 2001*, I was assigned both an advisory and education function to the position. These are important functions of the Office that were incorporated into the expanded legal mandate of all municipal integrity commissioners in Ontario as of March 1, 2019.

My workload as Integrity Commissioner during the 2019-2020 reporting cycle (March 1st, 2019 to February 29th, 2020) will most likely be higher than in the next years to come. This is largely due to consultation with Members of Council and staff and work related to the review and implementation of the Code of Conduct for Members of Council. I do however expect the volume of work to stabilize after the initial period of education and adjustment.

4. COMPLAINT INVESTIGATION AND ADJUDICATION

Anyone who identifies or witnesses behaviour or an activity that they believe to be in violation of the Code of Conduct may pursue the matter through the formal complaint process. All complaints received are handled in accordance with the set procedures. There is no fee charged for making a complaint against a Member of Council.

During the 2019-2020 reporting period, my Office received eight (8) formal complaints, four (4) informal complaints which fell within my jurisdiction as Integrity Commissioner. I also received three (3) separate general advice complaints on potential conflict of interest situations. I continue to work on three (3) formal complaints that remain open at the end of this reporting period.

In addition to complaints received through the informal or formal complaint process, my Office also received a number of inquiries that were either related to matters outside of my jurisdiction or did not follow the established complaint procedures.

(A) FORMAL COMPLAINTS

As required by the process, formal complaints are submitted on the appropriate "Request for Investigation Code of Conduct for Council" form, with a signed affidavit, to my attention and must include information to support the allegation(s) made against a Member including dates, locations, the specific sections of the Code of Conduct, other persons present and all other relevant information.

My Office conducts an intake analysis of each formal complaint to determine whether the matter is, on its face, a complaint with respect to non-compliance of a section of the Code of Conduct for Members of Council and not covered by other legislation or other Council policies. I also consider whether the complaint is frivolous, vexatious or not made in good faith, or whether there are sufficient grounds to pursue an investigation.

- 1) The first formal complaint received during this reporting cycle began in March of 2019 as an informal complaint, as will be discussed below, and concerned the involvement of a few Members of Council in general terms. The formal complaint specifically alleged that "various" councillors had contravened a number of sections found in the Code of Conduct. The formal complaint also alleged breaches of other Council policies and legislation outside of my jurisdiction.

After conducting a preliminary intake analysis, I concluded that the supporting documentation did not establish a *prima facie* breach of the Code of Conduct for Members of Council and there were not sufficient grounds to pursue an investigation. I issued a response to the complainant advising of my conclusion and suggested that if the complainant had additional and/or more specific supporting information (as had been indicated in the formal complaint), I would be open to conducting a second intake analysis of the formal complaint.

Shortly thereafter, the complainant contacted my Office, indicating not being satisfied with the bureaucratic delays and process and withdrew the complaint. No supplementary information and documentation was ever received. Hence, the complaint file was closed.

- 2) The second formal complaint, filed in June of 2019, alleged that a Member had contravened a number of sections in the Code of Conduct and referred me to the video-streamed meeting of council on June 4th 2019. After viewing the relevant excerpts of the said meeting, I had determined that there was no such breach and that complainant's file was eventually closed.
- 3) The third complaint was filed in July of 2019, alleging that a Member had been in breach of the Code of Conduct by using non-respectful comments/gestures and unwelcomed remarks or embarrassment towards a Member of Council. Having once again been directed to a live stream of a meeting held on June 11th 2019, I viewed the video stream and determined that the Member in question had not breached the Code of Conduct. No further investigation was warranted. The file was closed.

- 4) The fourth complainant alleged the same types of breaches but by another Member. It was also determined there were no such breaches and the file was again closed.
- 5) The fifth complaint was that of a Member having breached his/her role as a representative of the public and not having considered the well-being and interests of the Municipality at a community consultation meeting in Field, Ontario held on November 26th, 2019. This complaint was investigated and the Member was required to provide a chronology of the events for my better understanding of the dispute. After having determined that there was no breach of the Code of Conduct, the Member was however encouraged to hold a private meeting with the complainant and a fellow-councillor to consider their respective positions on a particular point at issue. Though the parties agreed to disagree, the meeting was beneficial to all. The file was closed.
- 6) The sixth complaint remains open as an on-going investigation. I am now awaiting the Member's chronology of events leading to the alleged Member making improper use of confidential information and interpersonal misbehaviour with inappropriate remarks towards a fellow Member of Council.
- 7) The seventh complaint alleges numerous breaches of the Code of Conduct and I will also be reviewing the Members' chronology. This complaint remains open and has not yet been resolved.
- 8) The eighth and most recent complaint also alleges numerous breaches by a Member and I will be reviewing the Members' chronology of events to make a determination in due course. This complaint also remains open and has not yet resolved.

(B) INFORMAL COMPLAINTS (OR LACK OF FORMAL REQUEST FOR INVESTIGATION)

Informal complaints are generally initiated by email or telephone and are addressed at a high level without a formal investigation. As a first step, my Office tries to separate general grievances from those complaints which qualify for some intervention on my part.

From March 1st, 2019 to February 29th, 2020, I received four (4) informal complaints about matters within my jurisdiction as Integrity Commissioner. I will address each of these complaints as follows:

1. The first complainant had alleged witnessing wrong-doings and/or bad behaviour by a Member. However, because no formal request for Investigation was ever received, I terminated this investigation.
2. The same complainant had also added another "potential" complainant. After having requested that the "potential" complainant provide a request for investigation and not having received same, the complaint process was eventually terminated by the undersigned.
3. The same complainant had added yet another "potential" complainant. After having provided the "potential" complaint the opportunity to provide a request for investigation, it was determined that this person was but a witness to another request for investigation. Hence, this complaint process was also terminated.
4. A fourth and final informal complaint had been made. The complainant provided me with an email alleging a number of breaches by a number of Members. After not having received a duly sworn affidavit with the accepted Request for Investigation form, I had terminated the investigation process.

At the end of the 2019-2020 reporting cycle, there were no more open informal complaints in my Office.

5. INQUIRIES AND ADVICE

Providing written advice and interpretations to inquiries from Members of Council and their staff is a core function of the Integrity Commissioner's mandate.

- **All requests for advice and advice provided shall be in writing** – Under the new subsection 223.3 (2.1) of the *Municipal Act, 2001*, all requests for advice shall be made in writing. Presently, requests for advice are received by way of email and/or telephone call. I encourage Members to continue contacting me informally as the needs arise.

All 3 general legal advice requests have been for potential conflict of interest situations. I would encourage all Members to review the Code of Conduct regularly but more particularly sub-section 5(11) Conflict of Interest.

6. FINANCIAL STATEMENT

The Integrity Commissioner's remuneration consists of an hourly fee of \$250 per hour (in office) or \$300 (on site), a fee of \$100 per hour for travelling to and from the Municipality and all applicable taxes.

Financial Breakdown (March 1st, 2019 to February 29th, 2020)

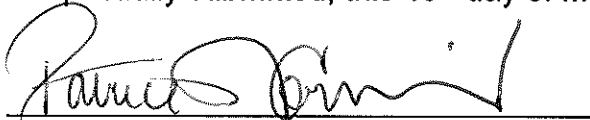
April 2019	\$4,334.47
May 2019	\$3130.33
June 2019	\$794.95
July-August 2019	\$976.90
Sept-October 2019	\$788.75
November 2019	\$289.28
December 2019	\$350.87
January 2020	\$232.22
February 2020	\$1,409.11
<u>Total</u>	<u>\$12,306.88</u>

CONCLUSION

My consultation with Members of Council this past year suggests that Members are satisfied with the assistance they receive through my Office. I do look forward to working with all of you again this year. Rest assured that I will always make myself available for the betterment of The Corporation of the Municipality of West Nipissing.

Looking to the year ahead, education will be a key priority in all aspects of my work.

Respectfully submitted, this 19th day of March, 2020, at Hawkesbury, Ontario.



Patrice J. Cormier, Integrity Commissioner for the Municipality of West Nipissing