



## Municipal Integrity Commissioners

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### Best Practice Guide

Ombudsman Ontario

2023

# Municipal Integrity Commissioners: Best Practice Guide

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## Introduction

An integrity commissioner is a municipal accountability officer who is responsible for applying the rules governing the ethical conduct of members of municipal councils and local boards (including codes of conduct), and for providing advice and education on those rules.

The *Municipal Act, 2001*<sup>1</sup> provides the framework within which municipal integrity commissioners are appointed and carry out their functions.

Every municipality must establish a code of conduct for members of councils and local boards [s. 223.2], and appoint an integrity commissioner or use the services of an integrity commissioner from another municipality [s. 223.3(1.1)]. Integrity commissioners must function in an independent manner and report directly to municipal council [s. 223.3].

The functions of integrity commissioners include:

- Applying the code of conduct and any procedures, rules and policies governing the ethical behavior of members of councils and local boards, including conducting investigations and inquiries<sup>2</sup> into complaints about alleged contraventions of a code of conduct;
- Conducting inquiries concerning alleged contraventions of the *Municipal Conflict of Interest Act*;
- Providing advice to members respecting their obligations under the code of conduct, procedures, rules or policies governing the ethical behavior of members, and the *Municipal Conflict of Interest Act*; and
- Providing educational information about the code of conduct and the *Municipal Conflict of Interest Act* [s. 223.3(1)].

## *Municipal Conflict of Interest Act*

In 2019, integrity commissioners were given the authority to review allegations of conflict of interest under the *Municipal Conflict of Interest Act (MCIA)*.<sup>3</sup> Previously, these matters could only be dealt with through court applications. While individuals who believe the *MCIA* has been contravened can still apply to a judge for a determination on the matter directly, the legislation now provides for integrity commissioners to conduct an inquiry into an alleged contravention and provides them with the discretion to bring the matter to a judge themselves.

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<sup>1</sup> SO 2001, c 25. See Part V.1, Accountability and Transparency. The *City of Toronto Act, 2006*, SO 2006, c 11, Sched. A contains the provisions concerning the City of Toronto's integrity commissioner. This guide only refers to the section numbers in the *Municipal Act, 2001*.

<sup>2</sup> While the *Municipal Act, 2001* refers to "inquiries," the word "investigation" is often used interchangeably. We have adopted this practice in this guide.

<sup>3</sup> RSO 1990, c M.50.

The *Municipal Conflict of Interest Act* sets out rules to prevent members of councils and local boards from influencing, discussing, or voting on any matter that is before the body for consideration, if they have a pecuniary interest in the matter. The interest can be direct or indirect, and the *MCIA* provides that the pecuniary interest of a parent, spouse, or child of the member is also their pecuniary interest [*MCIA*, s. 3]. Any member who has a pecuniary interest in a matter is required to disclose the interest before it is considered, and is prohibited from attempting to influence voting or to vote on the matter [*MCIA*, s. 5].<sup>4</sup> If the matter is considered in a closed meeting, the member must leave the meeting. The *MCIA* sets out specific exceptions for circumstances where a member is not barred from influencing, discussing or voting on a matter despite a pecuniary interest [*MCIA*, s. 4].

Members who have a pecuniary interest in a matter are also barred from using their office to attempt to influence a municipal employee, officer, or other delegate responsible for making a decision or recommendation on the matter [*MCIA*, s. 5.2]. Additional rules apply to the special powers granted to heads of council in cases where the head has a pecuniary interest in a matter [*MCIA*, s. 5.3].

Any member who declares a conflict is required to file a written statement of the interest and its general nature [*MCIA*, s. 5.1].

## Ontario Ombudsman role

The Ombudsman is an office of last resort, and recognizes that municipal issues are generally best addressed locally. The Ombudsman does not act as an integrity commissioner for municipalities. However, the Ombudsman can review and investigate complaints about municipal integrity commissioners once they have completed their process or declined to review a complaint.<sup>5</sup> The Ombudsman can also initiate an investigation on his own motion.<sup>6</sup>

If an integrity commissioner receives a complaint about their own conduct relating to a review or inquiry concerning code of conduct or *MCIA* matter, they may wish to consider referring the individual to the Ontario Ombudsman.

When reviewing decisions of municipal integrity commissioners, the Ombudsman's Office does not act as an appeal body and the Ombudsman does not substitute his decisions for those of commissioners. Instead, what the Ombudsman's Office looks at includes whether commissioners:

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<sup>4</sup> There is an exception in the *MCIA* if the discussion is about whether a penalty should be imposed on a member where the integrity commissioner has found that the member violated the code of conduct: *Municipal Conflict of Interest Act*, RSO 1990, c M.50, s 5(2.1), 5.2(2). In such cases, the member is not prevented from participating at the meeting where the penalty is being considered or attempting to influence the decision on the matter, but is not entitled to vote on the matter.

<sup>5</sup> This can include complaints declined by an integrity commissioner because the time for bringing a complaint has passed. *Ombudsman Act*, RSO 1990, c O.6, s 14(4.4).

<sup>6</sup> *Ibid*, ss 14(2), 14(4.5).

- Acted in accordance with relevant legislation or procedure, including with respect to timelines;
- Considered the issues before them;
- Followed a fair practice;
- Obtained and considered relevant information; and
- Provided sufficient and adequate reasons to support their decisions, based on the available evidence.

Based on our experience in this area, the Ombudsman has developed this best practice guide as a resource tool for integrity commissioners.

The Ombudsman has also produced a separate guide to help municipalities develop codes of conduct, establish complaint/inquiry protocols, and appoint integrity commissioners. These guides are also available to the public to help individuals better understand the requirements and best practices for codes of conduct and integrity commissioners.

**Note:** Unless otherwise indicated, all references to legislative provisions are to the *Municipal Act, 2001*. The *City of Toronto Act, 2006* will apply instead to matters involving that city.

## Best Practices for Integrity Commissioners

Integrity commissioners play a vital role in local government by providing advice, education, and complaint resolution to municipal councils and local boards. Their findings are significant for the public because they help determine whether local officials are acting ethically and meeting the high standards expected of them.

Integrity commissioners who carry out their duties in accordance with their legislative authority, terms of reference, and complaint/inquiry protocols can foster public confidence in the accountability of municipal governance. The courts have explained that the level of procedural fairness owed by an integrity commissioner is low because their function is investigative, not adjudicative – they can only make findings and recommendations, and their reports cannot cause councillors to be removed from office.<sup>7</sup> However, by following best practices for a fair process, commissioners can increase the acceptance of their findings by members and the public.

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<sup>7</sup> *Dhillon v. The Corporation of the City of Brampton*, 2021 ONSC 4165 at para 49 [*Dhillon*]; *Chiarelli v. Ottawa (City of)*, 2021 ONSC 8256 at para 74.

## 1. Know your authority

Under the *Municipal Act, 2001*, every municipality must establish a code of conduct and should, as a best practice, adopt a protocol setting out procedures for complaints and applications to the integrity commissioner. The code and complaint/inquiry protocol are established locally and, aside from four subject areas prescribed by regulation, their content varies from municipality to municipality.

Integrity commissioners should know the scope of their authority and should avoid overstepping their mandate. For example, they should not involve themselves in matters within the jurisdiction of other accountability officers, closed meeting investigators, or workplace harassment investigators.

Integrity commissioners must act within their legislated mandate and limit their reviews to issues within their legal authority. They should be familiar with the scope of their authority under the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act*, their municipality's code of conduct, and any relevant terms of reference, complaint/inquiry protocols, local procedures, rules or policies governing ethical conduct. They should also understand the roles of other accountability officers, and of the Office of the Ombudsman.

Although integrity commissioners can review complaints regarding the ethical conduct of council or local board members, they do not oversee the council or local board itself. As the court noted in a 2021 case regarding the City of Ottawa, the council “is not responsible to and is not subject to having its decisions reviewed by the commissioner.”<sup>8</sup>

When commissioners choose to delegate their authority to investigate a complaint (as permitted by the *Municipal Act* s. 223.3(3)), they should ensure that relevant local processes are followed and that the parties are informed in writing.

## 2. Follow the local code of conduct and complaint/inquiry protocol

Municipalities should adopt protocols to help integrity commissioners carry out their role and inform the public of what to expect. If a municipality does not have a complaint/inquiry protocol, the integrity commissioner may wish to encourage them to do so in accordance with the Ombudsman's guide, Codes of Conduct, Complaint/inquiry Protocols, and Appointing Integrity Commissioners: Guide for Municipalities.

If a municipality has established procedures for inquiries, the commissioner should follow them. If there is a need to depart from an established procedure, the commissioner should inform the relevant parties and provide an explanation in writing.

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<sup>8</sup> *Ibid* at para 68.

Among the most common complaints the Ombudsman's Office receives about integrity commissioners is that they take too long to review complaints. Complaint protocols should include timelines for these reviews, and integrity commissioners should adhere to them.

If a time extension is required, the commissioner should inform all relevant parties and provide reasons to support the extension along with a new expected completion date. Undue delays can be unfair for the participants and undermine confidence in the process.

### **3. Be familiar with the strict requirements for complaints involving the *Municipal Conflict of Interest Act (MCIA)***

The provisions in the *Municipal Act, 2001* regarding conflict of interest matters are separate and distinct from those related to code of conduct complaints. Integrity commissioners must familiarize themselves with the formal requirements for *MCIA*-related matters. For example:

- A conflict of interest application must be set out in the prescribed form, which includes a statutory declaration from the applicant [s. 223.4.1(6)].
- There is a strict statutory timeline of 180 days for the integrity commissioner to complete the inquiry [s. 223.4.1(14)]. This has significance for applicants, as they have a right to apply to court themselves under certain circumstances.

If an integrity commissioner decides not to apply to a judge for a determination as to whether the member violated the *Municipal Conflict of Interest Act*, the applicant must be informed [s. 223.4.1(16)]. There is no timeframe set out in the *MCIA* for making this notification, but it is important to do so promptly, as complainants who wish to make an application to a judge themselves have only six weeks to do so, from either the expiry of the 180-day period or the date the integrity commissioner advises that they will not be applying to a judge (whichever comes first) [*MCIA* s. 8(3)].

If the commissioner does not promptly advise the applicant of their decision not to apply to a judge, the applicant may not realize that the six-week limitation period has started. Conversely, if the commissioner does intend to bring the matter to court but does not promptly publish their reasons and intention to do so, the applicant might begin to take steps to do so themselves.

Note that the 180-day time period begins when a complete application is received, regardless of whether the commissioner engages in any preliminary or informal review of the matter. The legislation does not provide for a commissioner to extend the time frame or to postpone commencing an inquiry.

## 4. Assess the complaint or application

When a code of conduct complaint or application relating to the *MCIA* is received, the integrity commissioner should understand the events that form the allegation(s), as well as the specific parts of the code of conduct or *MCIA* that have allegedly been contravened. If there are multiple concerns or allegations, the integrity commissioner should carefully consider and assess each one and determine at the outset whether each falls within their authority.

### *Seeking additional information*

Integrity commissioners should ensure that they fully understand the basis of allegations before dismissing them. This may include communicating with complainants/applicants, and providing them with the opportunity to submit more evidence. Members of the public may be unfamiliar with how to frame complaints or applications, and unclear about the type of information required to support their allegations. We have heard from several who told us about integrity commissioners who dismissed their complaints for lack of evidence without giving them an opportunity to provide additional clarification or materials.

The courts have recognized that commissioners have the authority to communicate with complainants to clarify or obtain additional information about a complaint.<sup>9</sup> In a 2016 case involving the City of Brampton, the court noted: “[T]o the extent a Complaint Form does not contain the required information, it is open to the integrity commissioner to contact a complainant and supplement the information provided. There is nothing that restrains an integrity commissioner from doing so”.<sup>10</sup>

If a complaint or application is unclear or if information is missing, the commissioner should ask for clarification.

### *Early termination of an inquiry (e.g., frivolous or vexatious complaints)*

The Ombudsman’s position is that integrity commissioners should have the discretion to refuse to conduct an inquiry, in order to ensure they use the municipality’s resources efficiently. Many complaint/inquiry protocols empower integrity commissioners to dismiss complaints or applications at an early stage in the process if they are frivolous, vexatious, not made in good faith, or lack sufficient evidence.

Complaints or applications that lack sufficient evidence should be distinguished from those that are considered frivolous or vexatious. The courts have defined “frivolous” to mean a complaint “readily recognizable as devoid of merit, as one having little prospect of success,”<sup>11</sup> and “vexatious” as one made to “annoy or embarrass the opposite party”

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<sup>9</sup> *Michael Di Biase v. City of Vaughan*, 2016 ONSC 5620 at para 32 [*Di Biase*].

<sup>10</sup> *Dhillon*, *supra* note 7 at para 42.

<sup>11</sup> *Pickard v. London Police Services Board*, 2010 ONCA 643 at para 19.



or conducted in a “less than diligent” manner.<sup>12</sup> Prior to making a determination that a complaint or application is frivolous or vexatious, the integrity commissioner should assess the information provided by the complainant/applicant.

Generally, integrity commissioners can also dismiss a complaint or application if it is clear that even if the allegations are proven, there would be no breach of the code of conduct or the *Municipal Conflict of Interest Act*. Some can also be dismissed for lack of jurisdiction. Where appropriate, integrity commissioners should inform complainants/applicants in these cases and make referrals.

When declining to conduct an inquiry or review a matter further, the commissioner should provide reasons for that decision in writing to the complainant/applicant. The commissioner should explain the decision based on the applicable rules and the evidence reviewed, and go beyond merely referring to provisions of complaint protocols.

Before dismissing a matter, the integrity commissioner should ensure the municipality’s complaint/inquiry protocol provides for this and follow any applicable procedural requirements.

## 5. Identify the issues

In reviewing complaints, integrity commissioners should identify the issues to be considered at the outset, to avoid unnecessary complications and delay. In a 2016 judgment involving the City of Vaughan (*Di Biase v. Vaughan*), the court observed that integrity commissioners have the power to reformulate code of conduct complaints from members of the public.<sup>13</sup>

“In exercising the powers conferred upon her, the integrity commissioner must be able to interpret and reformulate complaints submitted by members of the public who may lack specific knowledge of the Code of Conduct and the Complaints Protocol and who may therefore not be familiar with how to identify and formulate alleged breaches.”<sup>14</sup>

The Ombudsman’s 2019 report, *Inside Job*, which detailed his investigation of a municipal hiring process and a local ombudsman’s review of it, identified best practices for municipal ombudsman investigations. These can be applied to other accountability officers, including integrity commissioners. As the report explains, the first step in an investigation should be to establish a clear plan that outlines the issues or allegations to be investigated:

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<sup>12</sup> *York University v. Markicevic*, 2017 ONCA 651 at para 32; *Henderson v. Wright*, 2016 ONCA 89 at para 20.

<sup>13</sup> *Di Biase*, *supra* note 9 at para 39.

<sup>14</sup> *Ibid* at para 42.

“Identifying and framing the issues is one of the most important aspects of any investigation. The issues set the course for the investigation; they lead to the questions that must be answered in order to address the issues, which in turn lead to findings.”<sup>15</sup>

Commissioners can decide not to review or investigate some issues raised in a complaint, but continue to review or investigate others. In *Di Biase v. Vaughan*, the court noted that even though the commissioner was required to refer some issues raised in the complaint to the police, she was entitled to continue with her inquiry into the other matters raised.<sup>16</sup>

## 6. Seek out and keep records of all relevant evidence

The *Municipal Act, 2001* provides wide discretion for integrity commissioners to determine what information they need to address complaints in a meaningful and appropriate way, and states they shall have access to all information they believe is “necessary” for their review [s. 223.4(3)]. This includes the discretion to determine which witnesses to interview and what documentation to obtain. They may also choose to conduct an inquiry using powers under the *Public Inquiries Act, 2009*, such as issuing summonses and holding hearings.<sup>17</sup>

As a best practice, integrity commissioners should obtain all evidence relevant to the allegations before them – particularly in cases where that evidence could determine the outcome of the investigation. Thorough evidence gathering typically requires that investigators speak with complainants/applicants, respondents and other relevant parties, and request relevant documents from all sources, such as meeting minutes, personal notes, emails, files, and social media posts. There may be many potential sources of evidence, including municipal staff and members of the public, depending on the issue raised.

In addition to ensuring that commissioners have the necessary evidence for their decisions, these steps help demonstrate the fairness of the investigation process itself.

In *Inside Job*, the Ombudsman noted that investigators are sometimes faced with conflicting evidence or dubious witness statements, which might require them to assess whose version of events is more credible and reliable.<sup>18</sup> Seeking out other sources of evidence can help corroborate or refute witness statements.

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<sup>15</sup> Ontario Ombudsman, *Inside Job: Investigation into matters relating to the Regional Municipality of Niagara’s hiring of its Chief Administrative Officer, and its administration of his contract* (November 2019) at para 257, online: <<https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/reports-on-investigations/2019/inside-job>> [*Inside Job*].

<sup>16</sup> *Di Biase*, *supra* note 9 at paras 200–01.

<sup>17</sup> *Public Inquiries Act, 2009*, SO 2009, c 33, Sched. 6, ss 33–4.

<sup>18</sup> *Inside Job*, *supra* note 15 at para 271.

When providing reasons for their decisions, integrity commissioners should explain the key evidence they considered in making their findings, why they chose to obtain (or not obtain) certain evidence, their reasons for any findings about witness credibility or reliability, and how the key evidence relates to their findings.

Integrity commissioners should keep detailed and thorough records of investigations, including evidence gathered, and notes from discussions with complainants and witnesses.

## 7. Provide an opportunity to respond to allegations

Individuals under investigation have the right to be heard and to speak to the complaints made against them. Unless a complaint is dismissed at an early stage, integrity commissioners should ensure that council or local board members who are the subject of complaints or applications have the opportunity to be interviewed or provide statements. As the court in a 2021 case involving the City of Hamilton found, sending the member a summary of the complaint and supporting evidence, if appropriate, can indicate that a fair process was followed.<sup>19</sup>

It may not be necessary to provide certain details to the member under investigation, such as the identity of the complainant or witnesses. However, the member should be provided with sufficient information in order to meaningfully respond to the allegations. This increases the fairness of the process and ensures the integrity commissioner has the necessary information to reach a decision.

### *Preliminary reporting process*

Members of council or local boards who are under investigation should also be given an opportunity to respond to any adverse findings against them and any recommended penalties or remedial actions. This can safeguard the procedural fairness of the integrity commissioner's process.

The courts have recognized the ability of members to review and comment on a draft report as part of a procedurally fair process.<sup>20</sup>

Through a preliminary reporting process, additional facts or contradictory evidence may come to light and be considered by the integrity commissioner before a final report is made public.

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<sup>19</sup> *Kroetsch v. Integrity Commissioner for the City of Hamilton*, 2021 ONSC 7982 at paras 64, 66.

<sup>20</sup> *Ibid* at para 64.

## 8. Communicate with the parties

Integrity commissioners should communicate with the parties involved in a complaint or application as appropriate. For instance, they should acknowledge receipt of complaints, applications, responses, etc. generally and manage the parties' expectations with respect to communications during an inquiry. They should also communicate their decisions and supporting reasons, including their decisions not to investigate or to apply to a judge.

## 9. Preserve confidentiality

Integrity commissioners are required to preserve the secrecy of all matters that come to their knowledge in the course of their work [s. 223.5(1)].

However, they may disclose information:

- Where required by law in a criminal proceeding [s. 223.5(2)];
- With respect to advice provided to a member, with that member's consent [s. 223.5(2.1)–(2.2)];
- During an inquiry respecting the *Municipal Conflict of Interest Act*, if the integrity commissioner holds a public meeting, applies to a judge, or when publishing reasons [s. 223.5(2.3)];
- In summary form when providing a periodic report to the municipality on their activities, without including confidential information that could identify an individual [s. 223.6(1)]; and
- When reporting to the municipality or local board as to whether a member has contravened the code of conduct [s. 223.6(2)].

In *Di Biase v. Vaughan*, the court found the integrity commissioner had “significant autonomy regarding the disclosure of her investigation,”<sup>21</sup> and noted that section 223.6(2) of the *Municipal Act, 2001* “recognizes that when deciding how much information must be disclosed, the integrity commissioner may take into account specific local concerns associated with such disclosure that require confidentiality or protection of informants' identities.”<sup>22</sup> Disclosing evidence in a report that, in the integrity commissioner's opinion, is necessary does not constitute waiver of the integrity commissioner's discretion to maintain confidentiality of their investigation.<sup>23</sup>

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<sup>21</sup> *Di Biase, supra* note 9 at para 120.

<sup>22</sup> *Ibid* at para 121.

<sup>23</sup> *Watson v. The Corporation of the Municipality of Stirling-Rawdon*, 2021 ONSC 2436 at para 14.

In the 2016 decision in *Dhillon v. Brampton*, the court found a councillor was not entitled to additional disclosure after he was told the “substance of the case and provided with sufficient particulars to enable him to respond to the allegations of the incident,” and given a preliminary version of the commissioner’s report.<sup>24</sup>

Because the extent of disclosure is within the discretion of the commissioner, complainants/applicants and witnesses should be told if their identity will be disclosed, including when it is necessary to disclose a complainant’s name to the member whose conduct is under review.

## 10. Issue a public report with reasons

When integrity commissioners report to council at the conclusion of their inquiries, the *Municipal Act, 2001* provides that they can disclose “such matters as in the commissioner’s opinion are necessary for the purposes of the report” [s. 223.6(2)]. The municipality or local board is required to ensure that reports received from the commissioner are made available to the public [s. 223.6(3)].

Similarly, commissioners are required to “publish written reasons” after they decide to apply – or not apply – to a judge under the *Municipal Conflict of Interest Act* [s. 223.4.1(17)].

Integrity commissioners should issue their findings in writing. It is important that their reports include:

- Summaries of the complaint, the investigative process and the evidence obtained during the investigation
- The relevant conduct standard or other applicable rules
- An explanation that clearly explains how the commissioner weighed the evidence against that standard, and
- A clear conclusion based on the evidence.

When reporting on a review of allegations against more than one council or local board member, it is a best practice for the integrity commissioner to issue separate reports for each member, clearly separating the allegations, issues, analysis, and conclusions that are made with respect to each one.

Integrity commissioners can disclose anything they deem necessary in their reports to council, however, as noted in *Di Biase v. Vaughan*, they may choose to protect the identity of witnesses, based on specific local concerns.<sup>25</sup>

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<sup>24</sup> *Dhillon*, *supra* note 7 at paras 57–8.

<sup>25</sup> *Di Biase*, *supra* note 9 at para 121.

Municipal councils may require integrity commissioners to provide periodic or annual reports on their work. In such reports, integrity commissioners can summarize advice they have provided to members, but shall not disclose confidential information “that could identify a person concerned” [s. 223.6(1)].

## 11. Know the rules for election years

During municipal election years, integrity commissioners must terminate any ongoing inquiries on nomination day [s. 223.4(7), s. 223.4.1(12)], and they may not be relaunched unless the complainant/applicant or respondent makes a written request within six weeks of voting day [s. 223.4(8), s. 223.4.1(13)].

During the period between nomination day and voting day, no requests for inquiries regarding potential contraventions of the code of conduct or applications for inquiries under the *MCIA* may be made to a commissioner [s. 223.4(9)(1), s. 223.4.1(3)]. They also cannot report on any alleged code contraventions during this period, nor can councils or local boards consider imposing penalties for code violations [s. 223.4(9)(2)–(3)]. The commissioner is also not permitted to apply to a judge under the *Municipal Conflict of Interest Act* during this time period [*MCIA*, s. 8(5)].

Integrity commissioners should familiarize themselves with the statutory requirements for election years and plan ahead as much as possible to complete reviews and investigations before nomination day.

As a best practice, integrity commissioners should advise complainants in advance if an inquiry might be affected by the election period. They should also inform affected complainants and members when investigations must be terminated due to an election.

For any *Municipal Conflict of Interest Act* inquiries that are terminated, integrity commissioners should explain to applicants that they may apply to the courts themselves under the *MCIA* within six weeks of the termination [*MCIA*, s. 8(3)].

## Case Examples

Our Office received a complaint about an integrity commissioner whose informal method of reviewing complaints was not part of the municipality’s code of conduct. After we raised the issue with the integrity commissioner, they<sup>26</sup> agreed to work with the municipality to ensure that their practices were reflected in its written procedures. This increased the transparency of the process for the public and for members of council. We reviewed a case where an integrity commissioner declined to investigate a resident’s complaint, saying she did not understand it. When we asked why she didn’t ask the complainant for clarification, the commissioner said she felt it would have compromised her independence, and that commissioners are limited to asking

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<sup>26</sup> Where possible, we confirm the gender of people referred to in case examples, but in some cases, to protect an individual’s identity, gendered or non-binary pronouns are randomly chosen.

“administrative or procedural questions.” We explained that it is a best practice for commissioners to provide complainants with the opportunity to clarify their requests before dismissing their matters. After we raised this matter with the municipality, it agreed to amend its protocol to clarify that the commissioner can ask for clarification.

A man complained to us after an integrity commissioner declined to review his complaints, but did not provide any detailed reasons. When we asked the commissioner about this, he explained that he had received confidential information from the municipality that he could not disclose. We provided best practices to the commissioner about how to provide more information about the rationale for his decisions, without disclosing confidential information.

We reviewed a case where an integrity commissioner dismissed a man’s complaint about a councillor. The complaint alleged that the councillor violated his oath of office by making inappropriate comments on social media. The integrity commissioner’s decision stated that the oath of office was not part of the municipality’s code of conduct and was outside of his authority. When we spoke with the integrity commissioner, he clarified that he actually could consider the oath, as it forms part of the ethical framework for elected officials. However, in this case, the conduct did not violate the oath or the code of conduct. The commissioner agreed to speak to the resident to explain the error and the basis for discontinuing his review of the complaint.

A councillor whose conduct was investigated and found in violation by an integrity commissioner complained to us that the commissioner never interviewed him or provided an opportunity to comment on a preliminary report. We suggested to the integrity commissioner that they amend their process in future to ensure that members who are the subject of investigations are provided with the opportunity to comment on the allegations against them before the commissioner’s findings are made.

A woman complained to us that the integrity commissioner seemed to have forgotten about her complaint – twice. The commissioner initially met with her to discuss her complaint about a councillor, but then she heard nothing for more than six months. When she finally reached him, he told her his understanding was that she didn’t want to proceed with the matter. She then made a second complaint about the councillor, and again met with the commissioner – but heard nothing further. When we made inquiries, the integrity commissioner told us he again thought the woman did not want to pursue the complaint. We explained that it is a best practice to communicate with complainants about the status of their matter. The commissioner said he would consider the complaint again if the woman wanted to pursue it.

A woman emailed an integrity commissioner to say she felt he had not addressed all of her complaints, but did not hear back. When we spoke with the commissioner, he said he believed he made it clear that his investigation was complete, but understood that it is a best practice to answer such inquiries to indicate that no further response would be forthcoming.



An integrity commissioner abruptly stopped communicating with a woman after she sued the municipality. We shared best practices with the municipality and the commissioner about ensuring that its complaint protocol addresses the need to communicate with complainants when investigations are closed, including because of related litigation.

A woman told us that an integrity commissioner dismissed her complaint about a councillor's comments on social media. But eight months later, he issued findings that the councillor had breached the code of conduct. We spoke to the commissioner, who explained that after he dismissed the woman's complaint, he received several more that were similar. He noted that he did send the woman a copy of his report, but acknowledged that he could have communicated with her more clearly. He later wrote to her to explain the situation directly.

A woman told us that she raised a conflict of interest complaint with an integrity commissioner just after the statutory time limit for filing complaints. The commissioner encouraged her to focus her complaint on other issues, which she did almost a year later. At that point, the commissioner accepted her *MCI/A* complaint, but then took seven months to make a finding, exceeding the 180-day timeframe in the Act for completing such reviews. We reminded the commissioner to be aware of the applicable timelines and to take care to clearly communicate them to complainants.

A man told us he had heard nothing from the integrity commissioner, more than eight months after submitting his complaint. After we spoke with the commissioner, he explained the reason for the delay and provided the man with an expected completion date.

An individual contacted us to complain about a report issued by a municipal integrity commissioner. We found that, in the report, the commissioner failed to link their decision to the grounds set out in the municipality's code of conduct. We noted that the commissioner should specify the applicable section of the code of conduct when providing reasons.

We reviewed a case where an integrity commissioner investigated a councillor's conduct but failed to keep written records of his meetings with the complainant or witnesses. This made it difficult for him to respond to the complaint, and could cause problems if the matter was subject to a future court proceeding. We shared best practices about record-keeping with the commissioner.