

Clause 16 in Report No. 7 of Committee of the Whole was adopted by the Council of The Regional Municipality of York at its meeting held on April 19, 2018 with the following recommendations being referred to the future Integrity Commissioner:

1. Council adopt the Code of Conduct for Members of Regional Council as set out in Attachment 1.
2. Council adopt the provisions of the Code of Conduct to serve as the required policy with respect to the relationship between members of council and staff.

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Committee of the Whole recommends that consideration of the following recommendations be referred to the April 19, 2018 Regional Council meeting for further discussion.

1. Council adopt the Code of Conduct for Members of Regional Council as set out in Attachment 1.
2. Council adopt the provisions of the Code of Conduct to serve as the required policy with respect to the relationship between members of council and staff.
3. The Regional Clerk be delegated the authority to appoint an Integrity Commissioner, based on the criteria outlined in this report, for a term of five years with the option to renew for one additional five-year term.

Report dated March 13, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council adopt the Code of Conduct for Members of Regional Council as set out in Attachment 1.

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2. Council adopt the provisions of the Code of Conduct to serve as the required policy with respect to the relationship between members of council and staff.
3. The Regional Clerk be delegated the authority to appoint an Integrity Commissioner, based on the criteria outlined in this report, for a term of five years with the option to renew for one additional five-year term.

2. Purpose

The purpose of this report is to ensure compliance with new legislated requirements prescribing that as of March 1, 2019 all municipalities in Ontario must have a Code of Conduct for Members of Council and an Integrity Commissioner.

3. Background

Municipalities have had powers to establish Council codes of conduct and Integrity Commissioners since 2007

The *Municipal Statute Law Amendment Act, 2006 (Bill 130)*, amended the *Municipal Act, 2001*, so that effective January 1, 2007 municipal councils had authority to establish a code of conduct governing ethical behaviour for Members of Council and local boards as well as power to appoint an Integrity Commissioner.

The Integrity Commissioner reports to Council, in an independent manner, on the application of the Code of Conduct.

By March 2019, all municipalities must have a Council code of conduct, an Integrity Commissioner and a policy on Council-staff relations

Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017 received Royal Assent on May 30, 2017. It amended the *Municipal Act* to require that by March 1, 2019 "a municipality shall establish codes of conduct for members of council and its local boards." Additionally, it requires municipalities to appoint an Integrity Commissioner.

Since 2007, about one-quarter of Ontario's 444 municipalities have appointed an Integrity Commissioner.

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The legislation also requires municipalities to adopt a policy on Council-staff relations although it provides no guidance as to the content of such a policy.

Codes of conduct set out behavioural and ethical expectations

The *Municipal Act* and the *Municipal Conflict of Interest Act* set out certain expectations for council members. These include their roles and responsibilities, the obligation to declare conflicts of interest and the requirement to sign a declaration of office when they first take their seat.

A Code of Conduct is supplementary to existing legislation and provides a common ethical standard for acceptable conduct.

The Minister of Municipal Affairs has powers to prescribe minimum requirements for municipal codes of conduct

Since 2007, it was generally up to each municipality to determine the contents of their codes of conduct. With the enactment of the *Modernizing Ontario's Municipal Legislation Act, 2017*, the Minister of Municipal Affairs was given regulation-making authority to prescribe one or more subject matters required to be included in codes of conduct.

In November 2017, the Ministry proposed a regulation to prescribe the following subject matters that a municipality would be required to include in their codes of conduct:

- Gifts, benefits and hospitality
- Respectful conduct, including conduct toward officers and employees of the municipality or the local board
- Confidential information
- Use of property of the municipality or of the local board

At this time the Regulation has not been enacted. However, the Region's draft Code does include these provisions and would therefore comply with the requirements.

The *Municipal Act* also sets out the role and powers of the Integrity Commissioner

Under the *Municipal Act*, the Integrity Commissioner will investigate alleged contraventions by Members of Regional Council of:

1. The Code of Conduct

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2. Any ethical behaviour procedures, rules or policies governing the
Members

3. The *Municipal Conflict of Interest Act*

Integrity Commissioners can also provide advice to Members of Council and local boards respecting their obligations under those items. They may also provide education to the municipality and Members of Council as well as local boards about the Code of Conduct and the *Municipal Conflict of Interest Act*.

4. Analysis and Implications

Seven of the nine local municipalities already have Codes of Conduct and one has a Code of Ethics

The Region does not currently have a code of conduct or an Integrity Commissioner. However, eight of the nine local municipalities have codes of conduct or a code of ethics as do the Regions of Durham, Halton, Niagara and Peel.

Regional staff reviewed each of these codes as well as others in large municipalities to identify common themes. Eleven broad themes were identified in the Codes that were reviewed. These themes were used to form the basis of the draft Code of Conduct contained in Attachment 1.

Table 1 shows a summary of how the Region's draft Code of Conduct compares to existing local codes of conduct or codes of ethics.

Table 1
Comparing draft Regional Code of Conduct provisions with local municipal code of conduct provisions

Provision	Number of local municipal codes with similar provision
Statement of Principles	6
Definitions	6
Conduct at Meetings	6
Staff and Council Relations	7
Use of Regional Property	8
Gifts and Benefits	8

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Provision	Number of local municipal codes with similar provision
Confidentiality	7
Discrimination and Harassment	7
Improper Use of Influence	5
Election Activity	5
Compliance / Penalties	6

The Region requires a standalone code of conduct

Since each local municipality must have a code of conduct and an Integrity Commissioner by March 1, 2019, there were two options for a Regional approach.

First, the Region could take the position that each of its Council Members was bound by their local code of conduct and simply reflect that in its own code. However, the Regional Chair would still require specific provisions since the position is not a member of any of the local councils.

This approach would require that the Region's Integrity Commissioner be familiar with the Code applicable to the Regional Chair as well as nine similar, but different, local codes of conduct. It also means that Regional Council Members would be held to differing standards despite sitting on the same council.

The second option is that Regional Council establishes its own code that is applicable to all Regional Council members. This is the recommended approach because it holds all Members, including the Regional Chair, to the same standard and is more straightforward for an Integrity Commissioner to enforce. Although Council Members will need to be familiar with both the Regional and their local code, each code should be broadly similar.

The Region's proposed Code of Conduct is clear that it applies to Regional Council Members acting in their official capacity as such members. In other cases, the Member's relevant local code of conduct applies.

The Region's Code of Conduct could also satisfy the *Municipal Act* requirement for a policy governing the relationship between members of council and staff

An amendment to the *Municipal Act* requires that all municipalities adopt a policy on staff-council relations by March 1, 2019. The legislation provides no guidance

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regarding the content of such a policy and therefore, provisions in the draft code of conduct could serve to satisfy that policy requirement.

At times there may be ambiguity as to whether a complaint is within the jurisdiction of the Regional Integrity Commissioner

Should an issue arise where it may be unclear whether a complaint falls within the mandate of the Region or the local municipality, both Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration would be given to the following:

1. The municipality in which the complaint was filed
2. The municipality in which the expense/mileage claim was submitted for the event or function
3. The reasonableness for that municipality's Integrity Commissioner to undertake the investigation

An Integrity Commissioner requires a very particular set of skills

Integrity Commissioners enforce behavioural standards and their investigations are often sensitive and subject to public interest and scrutiny. Therefore, it is important that the Integrity Commissioner demonstrate certain experience and knowledge. Required skills and experience include the following:

1. Previous municipal, governance, procedural and/or ethics experience (for example, a former Clerk, CAO, municipal lawyer, similar experience in another level of government)
2. Knowledge of municipal government and the accountability and transparency provisions of the *Municipal Act*
3. Detailed understanding of relevant legislation including the *Municipal Act* and the *Municipal Conflict of Interest Act*
4. Understanding of Council operations and policies
5. Ability to provide services on a part-time, flexible and as needed basis, without competing employment demands
6. Credibility with Regional Council, staff, public and media
7. No specific connection or interest with the Region, specifically a financial or business relationship

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An Integrity Commissioner will be selected through a competitive process

Over the next few months approximately 300 municipalities will be looking for Integrity Commissioners in time for March 2019. The candidate field for suitably-qualified Integrity Commissioners is relatively small and comprises of individuals and firms. Individual candidates may find it very difficult to participate in all the Requests for Proposal that will be issued.

The Region will select an Integrity Commissioner through a fair and transparent competitive process. Delegating responsibility for this process to the Regional Clerk supports the independent, arms-length relationship of the Integrity Commissioner who will be responsible for the application of the Code of Conduct for Members of Regional Council.

It is proposed in addition to the Regional Clerk, the Regional Solicitor and the Executive Director of Human Resources would be involved in the hiring process.

Candidates will be invited to submit proposals, which requests information on their anticipated financial compensation as well as an outline of how they would process complaints. Candidates will be evaluated based on the criteria noted above and their established ability to deliver the services prescribed by the *Municipal Act, 2001*.

Staff seeks authority to appoint an Integrity Commissioner based on the outcome of this process.

An update will be provided to Council on the results of the selection process

It is anticipated that an information report will be provided in September 2018 to inform Council as to who was retained as the Region's Integrity Commissioner and the process that will be enacted for handling complaints.

5. Financial Considerations

The overall cost of an Integrity Commissioner will vary based on activity

Integrity Commissioners typically charge an annual retainer with a second daily or hourly rate for investigations or other services. These fees will be considered as part of the competitive process. However, the overall cost of service is driven by the number and complexity of investigations the Integrity Commissioner carries out. Additionally, Integrity Commissioners may be invited to provide

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educational or advisory functions related to the Code of Conduct or the *Municipal Conflict of Interest Act*. These activities will also incur costs.

Any fees incurred in 2018 will be accommodated within the existing budget. Future funding allocations will be considered as part of Regional Council's budget deliberations.

The funding for the Integrity Commissioner will be considered as part of Regional Council's 2019 Budget deliberations

The Region is not required to have an Integrity Commissioner in place until March 1, 2019. Additionally, new provisions in the *Municipal Act* prevent the Integrity Commissioner acting on any requests for Code of Conduct or *Municipal Conflict of Interest Act* inquiries between nomination day (May 1, 2018) and voting day (October 22, 2018) of a regular election.

Therefore it is recommended that the Integrity Commissioner's term start on January 1, 2019. Delaying the effective hiring date allows the financial implications to be considered as part of the 2019 budget process.

6. Local Municipal Impact

This report establishes a separate Code of Conduct for Regional Council Members. However, it applies only when they are acting in their official capacity as Regional Council Members. In all other cases, their relevant local code of conduct will apply, if they have one. The Region's Code is broadly similar to the existing local municipal Codes of Conduct.

7. Conclusion

The Region does not currently have a Code of Conduct or an Integrity Commissioner. However, all municipalities are required to have both of these in place by March 1, 2019. This report presents a draft Code of Conduct and seeks delegation for staff to appoint an Integrity Commissioner with the skills and experience set out in this report.

Staff recommends the Region has its own Code of Conduct separate from the local codes as this will simplify the framework for the Region's eventual Integrity Commissioner. The Code will apply to Regional Council Members when they are acting in their official capacity as such. If there is any ambiguity over whether a complaint should reside with the Region or a local municipality, it is expected that the relevant Integrity Commissioners can make an appropriate determination.

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The Region's draft Code of Conduct broadly reflects provisions contained in the seven local codes of conduct that are currently in place.

It is recommended that the Integrity Commissioner's term begin on January 1, 2019 to allow time for budget consideration and because an Integrity Commissioner would be unable to conduct an investigation until at least October 23, 2018. Appointing the Integrity Commissioner relatively early in 2018 allows the Region to secure the Integrity Commissioner's services in advance of the significant demand as several hundred municipalities look for similar services.

It is anticipated the Integrity Commissioner would provide training in early 2019 as part of the new Council's orientation process.

For more information on this report, please contact Christopher Raynor, Regional Clerk at 1-877-464-9675 ext. 71300.

The Senior Management Group has reviewed this report.

March 13, 2018

Attachments (1)

#8295323

Accessible formats or communication supports are available upon request



Status: **Final / Archived (select one)**
Approved By: **Council / CAO (select one)**

The Regional Municipality of York

Code of Conduct for Members of Regional Council

Policy No.: (Same as document eDOCS No.)

Original Approval Date: (First time policy was approved by Council or CAO)

Current Approval Date: (Last time policy was approved by Council or CAO)

Last Review Date: N/A

Policy Statement:

This Code of Conduct establishes standards of conduct for Members of Council in the individual conduct of their official duties.

Application (who this policy applies to):

This Code of Conduct applies to the Regional Chair and to Regional Council Members acting in their 'Official Capacity'. This includes, but is not limited to, the conduct of a Regional Council Member in the following circumstances:

- While on Regional property
- When interacting with York Regional staff and/or another Member of Regional Council
- In relation to matters immediately before and/or solely within the purview of York Regional Council

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- In relation to business directly provided by York Region
- During a York Regional event and/or function
- During a non-York Regional event and/or function where the Member has been expressly invited or is participating as a representative of York Regional Council and not on behalf of a local municipality
- While serving on any Board, Committee or other body to which the Member was appointed by Regional Council

In this context, 'Official Capacity' as a Member of Regional Council expressly does not relate to the Regional Council Member's conduct in the following situations:

- While executing their duties as a member of council for a local municipality
- In relation to business that is before the local council and/or within the purview of a local municipality
- When solely representing the council of a municipality other than York Region

Should an issue arise where it may be unclear whether a complaint falls within the mandate of the Region or the local municipality, both the Regional and local Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration should be given to the following:

- The municipality in which the complaint was filed
- The municipality in which the expense/mileage claim was submitted for the event or function
- The reasonableness for that municipality's Integrity Commissioner to undertake the investigation

Purpose:

This Code of Conduct sets a standard of conduct for Regional Council Members to promote good governance and maintain the public confidence.

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Definitions:

Child:

A child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family.

Committee:

Any board, advisory or other committee, subcommittee or similar entity, and as established from time to time by Regional Council.

Council:

York Regional Council.

Member:

A member of Regional Council or a member of a Committee of the Region.

Non-pecuniary interest:

A private or personal interest that a Member may have that is non-financial in nature but that arises from a relationship with a person or entity that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member's decision in any matter in which the non-pecuniary interest arises.

Parent:

A person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child.

Region:

The Regional Municipality of York.

Spouse:

A person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

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Description:

1.0 Statement of Principles

1.1 The following principles will guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve the public in a conscientious and diligent manner
- Members shall always act and are expected to perform their functions with integrity, accountability and transparency, and shall avoid the improper use of influence of their office and conflicts of interest, both apparent and real
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and will bear public scrutiny
- Members will observe and comply with the laws of Canada, Ontario and the laws and policies adopted by Council, including but not limited to the following:
 - Municipal Act, 2001
 - Municipal Conflict of Interest Act
 - Municipal Elections Act, 1996
 - Municipal Freedom of Information and Protection of Privacy Act
- Members will seek to advance the public interest with honesty and refrain from making statements known to be false or with the intent to mislead Council, staff or the public
- Members will refrain from making disparaging comments or unfounded and speculative accusations about the motives of another Member, staff or the public

2.0 Conduct at Meetings

2.1 Members will conduct themselves at all Council, Committee or any other Region related meetings with decorum and in accordance with the Region's Procedural Bylaw or other applicable procedural rules and policies.

3.0 Staff and Council Relations

3.1 Council as a whole approves budget, policy and governance of the Region through its by-law and resolutions. Individual Members do not direct or oversee the functions of the administration or staff of the Region or a Committee.

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3.2 Members shall respect the role of staff in the administration of the business affairs of the Region. Members shall respect that:

- a) Staff provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise
- b) Under the direction of the Chief Administrative Officer (CAO), staff serves Regional Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Members must not make requests or statements or take actions which may be construed as an attempt to influence the independent administration of Regional business. Members shall not attempt to intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity.
- c) Staff carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities

4.0 Use of Regional Property

4.1 Council is the custodian of the Region's assets. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

4.2 By virtue of their office or appointment, Members must not use or permit the use of Regional lands, facilities, equipment, supplies, services, staff or other resources for activities other than the Region's business. No Member shall seek financial gain for themselves, family or friends from the use or sale of Regionally-owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Region.

5.0 Gifts and Benefits

5.1 Gifts to Members risk the appearance of improper influence. Gifts may induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the municipality. No Member shall accept a fee, advance, gift, gift certificate, cash or personal benefit connected directly or indirectly with the performance of his or her duties. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

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5.2 Notwithstanding Section 5.1, Members shall not accept any gift or benefits in their public capacity other than in the following circumstances:

- a) Compensation authorized by law
- b) Such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation
- c) A political contribution otherwise reported by law, in the case of Members running for office
- d) Services provided without compensation by persons volunteering their time
- e) A suitable memento of a function honouring the Member
- f) Food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity
- g) Participating in or consuming food and beverages at banquets, receptions, sporting events or similar functions, if:
 - Attendance serves a legitimate business purpose, or supports a charitable cause in the community, a board of trade or chamber of commerce; and,
 - The person extending the invitation or a representative of the organization is in attendance; and further,
 - The value is nominal.
- h) Gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.)
- i) Any gift or personal benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

6.0 Confidentiality

6.1 Members receive confidential information from a number of sources as part of their work. This includes information the Region receives in confidence that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council, one of its Boards or Committees.

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6.2 No Member shall disclose the content of any such matter, or the substance of deliberations, of a closed meeting and the Member has a duty to hold information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. Members must not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

6.3 Members must not disclose, use or release information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Region that is relevant to matters before the Council, a Committee or a Board.

7.0 Discrimination and Harassment

7.1 York Region is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization, and meeting its obligations under *the Ontario Human Rights Code* and *the Ontario Occupational Health and Safety Act*. It is York Region's goal to provide a healthy, safe, and respectful work environment that is free of any form of harassment or discrimination.

All Members have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination, harassment and violence. In carrying out their affairs, all Members will comply with the Region's Workplace Harassment and Discrimination Policy as well as the Preventing and Managing Violence in the Workplace Policy.

8.0 Improper Use of Influence

8.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties.

8.2 Members should not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person.

9.0 Conflicts of Interest

9.1 Members shall take appropriate steps to avoid conflicts of interest, both apparent and real. Proactive steps to mitigate conflict of interest are important to maintaining public confidence in elected officials. Members may seek guidance from the Integrity Commissioner if they may have a conflict between their responsibilities to the public as a Member of Regional Council and any other interest, pecuniary or non-pecuniary.

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9.2 When a member discloses a pecuniary interest, the member must file a written statement of the member's interest at the meeting, or as soon as possible afterwards. The Region is required to establish and maintain a registry of statements and declarations of interests of members, which shall be available for public inspection.

10.0 Election Activity

10.1 Members of Council are required to conduct themselves in accordance with the Municipal Elections Act, 1996, as may be amended from time to time, and any Region policies. The use of Regional resources, both property and staff time, for any election-related activity is strictly prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

Responsibilities:

Role: Members of Regional Council

Responsibilities: Adhere to the provisions of the Code of Conduct for Members of Regional Council and ensure compliance with all applicable legislation as well as all procedures, rules or policies of the Region governing their ethical behaviour

Role: Regional Integrity Commissioner

Responsibilities: Investigate complaints related to a Member's alleged non-compliance with the Code of Conduct for Members of Regional Council

Provide advice to Members of Regional Council with respect to their obligations under the Code of Conduct and the *Municipal Conflict of Interest Act*.

Provide educational information about the Code of Conduct and about the *Municipal Conflict of Interest Act*.

Non-Compliance:

Allegations of non-compliance with the Code of Conduct may be investigated by the Integrity Commissioner.

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The Integrity Commissioner will establish a process to investigate claims of non-compliance. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation.

Members are expected to cooperate with requests for information during investigations under the Code of Conduct. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code of Conduct or any process for complaints adopted by the Region.

Where a report is received from the Integrity Commissioner that there has been a violation of the Code of Conduct, Regional Council may impose either of the following penalties on the Member as permitted by the Municipal Act, 2001:

- a) A reprimand
- b) A suspension of the remuneration paid to the Member in respect of his or her services on Regional Council for a period up to 90 days

Regional Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following actions in furtherance of any penalty imposed and require that the Member:

- Provide a written or verbal apology
- Return property or make reimbursement of its value or of money spent
- Be removed from the membership of a Committee
- Be removed as chair of a Committee

Reference:

Legislative and other authorities

- [Municipal Act, 2001](#)
- [Municipal Conflict of Interest Act](#)
- [Municipal Elections Act, 1996](#)

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- [Municipal Freedom of Information and Protection of Privacy Act](#)

Contact:

Regional Clerk, Corporate Services Department, 1-877-464-9675 ext. 71320

Approval Information:

Council Approval

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