



# Committee Report

<b>To:</b>	Warden Milne and Members of Grey County Council
<b>Committee Date:</b>	May 11, 2023
<b>Subject / Report No:</b>	CCR-CW-09-23
<b>Title:</b>	Code of Conduct Update and Guideline for Electronic/Hybrid Meetings
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<b>Reviewed by:</b>	Kim Wingrove
<b>Lower Tier(s) Affected:</b>	
<b>Status:</b>	Recommendation adopted by Committee as presented per Resolution CW78-23; Endorsed by County Council June 8, 2023, per Resolution CC38-23.

## Recommendation

1. That report CCR-CW-09-23 regarding a code of conduct update and guidelines for electronic meetings be received; and
2. That By-law 5107-21, a by-law to adopt a policy respecting a code of conduct for council members, be amended to include clarification on participating in and collecting more than one per diem for meetings held concurrently; and
3. That Council supports the guidelines noted in Report CCR-CW-09-23 regarding electronic/hybrid meetings.

## Executive Summary

As part of accountability and transparency measures, the Municipal Act requires municipalities to establish a code of conduct for members of the Council and its local boards. In order to remain effective and relevant, the code should be reviewed and updated regularly. Since the code's last update, the province has amended rules regarding electronic participation. This report brings forward best practices for participation in electronic and hybrid meetings in light of those rules as well as a proposed amendment to Grey County's Code of Conduct as a result of direction given to staff in 2022 to include wording that restricts a member from participating in and collecting more than one per diem for meetings held simultaneously.

## Background and Discussion

## What does the code of conduct cover?

### *Code of conduct breaches and complaints*

If Councillors have questions about whether an action is compliant with the code, they can contact the municipality's Integrity Commissioner (IC) with questions. Members are able to consult with the County's ICs on the code, as well as receive advice on the Municipal Conflict of Interest Act and on potential conflicts that a member may have. Members can rely on the written advice provided by the County's integrity commissioners where any complaint is investigated, as long as all known facts are disclosed to the IC and those facts are unchanged from when the advice was provided.

Any person can file a complaint with the IC if they are concerned that a councillor has breached the code. Both the informal and formal complaint procedures are noted in the code document.

The ICs attend Council annually to present their annual report outlining statistics and any complaints that have been submitted and resolved.

Conduct of staff is governed by their employment contract and Grey County's operating policies.

### Code of Conduct Update

Grey County's current code of conduct was passed in 2019 and further amended in 2021. It was developed in part with Grey County's integrity commissioners, Principles Integrity and provides a guide for acceptable conduct of members of council.

Since the current code of conduct has been implemented and updated, changes in how municipalities hold and run meetings has taken place. Prior to the COVID-19 pandemic, the Municipal Act permitted municipalities to include provisions in its procedural by-law that allowed members to participate in a council meeting through electronic means (except closed meetings), however members were not counted in quorum. Grey County's procedural bylaw however did not permit electronic participation outside of the Accessibility Advisory Committee.

In March 2020, the Municipal Act was amended and municipalities could update procedural by-laws to allow members participating through electronic participation to be counted towards quorum and also participate in a meeting that is closed to the public during a declared emergency under the Emergency Management and Civil Protection Act. Later in 2020, the requirement for a declared emergency to be in effect was removed and electronic participation has been permitted since and is anticipated to be the case going forward.

In June 2022, as a result of a complaint and subsequent investigation by the IC, Council directed staff to bring forward an amendment to the Code of Conduct that includes policy clarifications around per diems and participation in more than one meeting at the same time. The attachment to this report provides for that amendment on page 20 of this report. It proposes to insert the following language under Rule 9 – Member Conduct:

*Members will not simultaneously participate in more than one meeting, or collect more than one per diem for attendance in meetings held simultaneously.*

Should the recommendation and proposed wording be endorsed, a by-law will be brought

forward amending the code to formalize that direction.

## Guideline for Electronic and Hybrid Meetings

The purpose of streaming meetings online and providing for Council to participate electronically is to support broader access to proceedings for the public and to make the best use of elected officials' valuable time. In order to meet these goals, staff wish to bring forward some electronic meeting best practices for council to embrace in the new environment to assist in affirming one another's expectations and maintaining respect for the office of councillor. Further, it provides staff the opportunity to explain why some practices are not ideal. Rather than formalizing them in a policy or the code of conduct, the preferred approach is to outline such in the form of a guideline or a staff report and provide opportunity for additional feedback on the information.

### *Cameras*

When participating electronically, members should have cameras on.

- Council is a deliberative body and it is important to be able to replicate the Council Chambers as much as possible. The Chair and Clerk's staff have to be aware of members presence for quorum purposes, conflict of interest and procedural matters. When members cannot be seen during the meeting, it is difficult to know if they are present and participating. If a member must step away for an extended period of time, it is recommended that a member leave the meeting and rejoin afterwards. Sending an email or message to the Clerk is beneficial. It is recognized that if your absence will be brief, it may be more practical to turn off your camera momentarily.

When participating electronically in a closed meeting, members must have cameras on.

- Clerk's staff need to verify a secure location as much as possible given the circumstances and record who is present in the meeting. If a member isn't able to have a camera on during the meeting, it is recommended the member send communication to the Clerk to advise if they are still present, or leave the meeting and rejoin at a later time when the camera is able to be on.

### *Location and Safety*

When participating electronically, members should be in a stable location

- Internet connection should be reliable
- Avoid participating or appearing in a meeting while driving or riding in a moving vehicle.
- Be aware of the public's perception of your location and what it may look like to see members participating in a meeting from that location.
- If a member will be late arriving and wishes to hear the discussions, members are encouraged to use the livestream link from the County's website and then join the meeting upon arrival in the Chambers or other meeting location rather than participate/join during travel.

When participating electronically, members should use a device suitable for a council meeting

- Though the procedural by-law may provide for use of a phone to participate in a council meeting, it generally does not work well. Phone participants do not have the same tools available as other members and the rights of members of an assembly become

unbalanced. Further, Clerk's Department staff are unavailable to reconnect members from a dropped call during a meeting.

### *Absences and Alternates*

Conflicts arise and are unavoidable at times. The Municipal Act allows a municipality to appoint an alternate member to attend County Council and represent a municipality during an absence. As per current council compensation policy, members may miss three council meetings before being deducted pay.

### **Legal and Legislated Requirements**

There are no legal or legislated requirements as part of this report.

### **Financial and Resource Implications**

There are no financial and resource implications as part of this staff report.

## Relevant Consultation

- Internal
- External

## Appendices and Attachments

Proposed Amendment to Code of Conduct

# Corporate Policy

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## Code of Conduct Update and Guideline for Electronic/Hybrid Meetings

**Approved by:** Council

**By-law:** 5107-21

**Replaces:** G-GEN-006

**Section: Governance**

**Policy: 3-20**

**Date Approved:** February 11, 2021

**Last Revision Date:** February 11, 2021

**Scheduled for Review by: 2026**

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Schedule A By-law 5107-21

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# Grey County Code of Conduct for Councillors

## A. General Introduction

Members of Grey County Council recognize their obligation to serve their constituents and the public in a conscientious and diligent manner understanding that as leaders of the community, they are held to a higher standard of behaviour and conduct.

Members recognize that ethics and integrity are at the core of public confidence in government and in the political process; that elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real. They recognize the need to uphold both the letter and the spirit of the law including policies adopted by Council.

This Code of Conduct ensures that Members of Council share a common basis and understanding for acceptable conduct of Members of Council, in concert with and beyond the minimum standards of behaviour set out in the existing legislative framework.

This Code of Conduct is consistent with the principles of transparent and accountable government, and reflective of the County's core values Leadership, Teamwork, Communication, Respect and Fiscal Responsibility.

## B. Framework and Interpretation

1. This Code of Conduct applies to all Members of Council ("Members"). The Code does not replace Member's roles and responsibilities required by various policies and procedures such as the Procedural By-law or Respectful Workplace Policy.
2. This Code of Conduct is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.
3. Commentary and examples used in this Code of Conduct are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document by the Integrity Commissioner and supplementary materials may also be produced as deemed appropriate.
4. Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.
5. Members can seek clarification of this Code at any time. Elected Officials seeking clarification of any part of this Code should consult with the Integrity Commissioner. The process of contacting the Integrity Commissioner is attached as Schedule "B" to this Code.
6. The Municipal Act, 2001 is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is



intended that the Code of Conduct operate together with and as a supplement to the following legislation:

- *Municipal Act, 2001*;
- *Municipal Conflict of Interest Act (MCIA)*;
- *Municipal Elections Act, 1996*;
- *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*;
- *Criminal Code of Canada*.
- *Ontario Human Rights Code*

## C. Definitions

1. “Family” includes “child”, “parent” and “spouse” as those terms are defined in the *Municipal Conflict of Interest Act* (set out below for ease of reference), and also includes:

- step-child and grand-child;
- siblings and step-siblings;
- aunt/uncle, niece/nephew, first cousins
- in-laws, including mother/father, sister/brother, daughter/son
- any person who lives with the Member on a permanent basis.

“Child” means 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;

“Parent” means a parent 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;

“Spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

2. “Complaint” means an alleged contravention of the Code of Conduct.
3. “Confidential Information” means information in the possession of the County that:
  - The County is either prohibited from disclosing or is required to refuse to disclose under the Municipal Freedom of Information and Protection of Privacy Act or other legislation;
  - Concerns personnel, labour relations, litigation, property acquisitions;
  - Security and protection of the property of the County;
  - Is Personal information or information which would reasonably be considered confidential related to any customer, supplier or business that works with or for the County; or
  - Referred to as confidential in the County’s Procedural By-law.
4. “Member” means a member of the Council of Grey County, including the Warden.
5. “Social Media” means publicly available, third party hosted, interactive web technologies used to produce, post and interact through text, images, video and audio to inform, share, promote, collaborate or network.

6. "Staff" includes the Chief Administrative Officer, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.
7. "Nomination Day" means the last day for filing or withdrawing a nomination as provided for by the Municipal Elections Act, 1996.
8. "Transparency Disclosure" means being open and clear to the public regarding any interests, direct or indirect, regarding the business of Grey County.

## D. Guiding Principles

1. Members of Council will serve the public and their constituents in a conscientious and diligent manner.
2. Members of Council should be committed to performing their functions with integrity impartiality and transparency.
3. Members of Council will perform their official duties and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.
4. There is a benefit to municipalities when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise.

## Specific Rules

### Rule No. 1 Avoidance of Conflicts of Interest

In this Rule:

- a. "disqualifying interest" means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.
- b. "non-disqualifying interest" means an interest in a matter that, by virtue of the relationship between the Member of Council and other persons or bodies associated with the matter, is of such a nature that reasonable persons fully informed of the facts would believe that the Member of Council could participate impartially in the decision-making processes related to the matter so long as:

The Member of Council fully discloses the interest so as to provide transparency about the relationship; and  
The Member of Council states why the interest does not prevent the Member from making an impartial decision on the matter.

1. Members of Council will not participate in the decision-making processes associated with their office when prohibited to do so by the *Municipal Conflict of Interest Act*.
2. Members of Council will not participate in the decision-making processes associated with

their office when they have a disqualifying interest in a matter.

3. For greater certainty:

- a. Members of Council will not participate in the decision-making processes associated with their office when they have a direct, indirect or deemed pecuniary interest in a matter, except in compliance with the *Municipal Conflict of Interest Act*.
- b. Members of Council will not participate in the decision-making processes associated with their office when they have an interest that though in compliance with the *Municipal Conflict of Interest Act*, is nevertheless a disqualifying interest by virtue of the nature of the relationship between the Member and other persons or bodies to be affected by the decision.

4. Treatment of Non-Disqualifying Interests:

- a. Members of Council may participate in the decision-making processes associated with their office when they have a non-disqualifying interest provided, they file at their earliest opportunity a Transparency Disclosure in a form and manner established by the County Clerk acting in consultation with the Integrity Commissioner.
- b. Transparency Disclosures are public documents and will be available for public viewing on the County web site.
- c. The determination of whether an actual disqualifying interest or an actual non-disqualifying interest exists, when challenged, is subject to the determination by the Integrity Commissioner of whether a reasonable person fully informed of the facts would believe that the Member of Council could not participate impartially in the decision-making processes related to the matter.

5. Members who seek advice from the Integrity Commissioner with respect to the application of this Rule may rely on the provisions of Part B. "Framework and Interpretation" (paragraph 3) and the Rule 17, "Acting on Advice of Integrity Commissioner."

6. Members of Council will avoid any interest in any contract made by him/her in an official capacity and will not contract with the County or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.

7. Members of Council, while holding public office, will not engage in an occupation or the management of a business that conflicts with their ability to diligently carry out their role as a Member of Council, and will not in any case profit directly or indirectly from such business that does or has contracted with Grey County.

8. Despite paragraph 7, a Member of Council may hold office or a directorship in an agency, board, commission or corporation where the Member has been appointed by County Council or by the Council of a lower tier municipality, or by the Federal or Provincial Government. It is strongly recommended that the Member disclose this prior to or during the Boards and Committee appointments held annually.

9. Despite paragraph 7, a Member of Council may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity

Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.

## Rule No. 2 Gifts, Benefits and Hospitality

In this Rule:

- a. "Gift" means money, fee, advance, payment, gift, gift certificate, promise to pay, property, travel, accommodation, entertainment, hospitality or any other personal benefit connected directly or indirectly with the performance of a Member's duties of office, but excludes:
  - i. Compensation authorized by law;
  - ii. Political contributions otherwise reported by law, in the case of Members running for office;
  - iii. Services provided by persons volunteering their time;
  - iv. Contributions of value that are specifically addressed in other provisions of this Code
  - v. Gifts provided to Grey County and which are logged, archived and/or publicly displayed as such.

A Gift provided with the Member's knowledge to a Family Member 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.

- b. "Token of Appreciation" means such gifts or benefits which normally accompanies the responsibilities of office and are received as an incident of protocol or social obligation, or which are a suitable memento of a function honouring the Member.
- c. "Official Hospitality" means 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 at a conference, seminar or event where the Member is either speaking or attending in an official capacity at an official event (such as at meetings of AMO, FCM, or conducted by providers of continuing education).
- d. "Business Hospitality" means food and beverages consumed at banquets, receptions or similar events, if:
  - i. attendance serves a legitimate business purpose;
  - ii. the person extending the invitation, or a representative of the organization is in attendance; and
  - iii. the value is reasonable and the invitations infrequent;
- e. "Publications" means communication to the offices of a Member, including subscriptions to newspapers, and periodicals.

1. Members will not accept any Gift unless expressly permitted by this Rule.
2. Members will not accept any Gift involving the use of property or facilities, such as a vehicle, office, club membership or vacation property at less than reasonable market value or at no cost. Notwithstanding this exclusion, with specific approval provided by Council, a Member may be sponsored to attend educational site visits connected with an identified project.
3. Gifts identified in Column B of Table '1' may be accepted by a Member provided the Gift is disclosed in accordance with the conditions set out in Column 'C'.
4. Gift Disclosure, where required in Column C of Table 1, is to be accomplished by filing within 30 days of receipt of the gift or reaching the annual limit, a Councillor Information Statement in a form prescribed by the Integrity Commissioner and providing same to the County Clerk for posting on the County's web site.
5. Gifts identified in Column B will not be accepted, without the Integrity Commissioner's specific approval, when the conditions set out in Column 'D' are applicable.
6. In providing advice to a Member about their obligations respecting Gifts, or an assertion that this Rule has been breached, or in providing consent, where required, that a Gift may be accepted, the Integrity Commissioner will determine whether the receipt of the Gift or might, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he/she will call upon the Member to justify receipt of the gift or benefit.
7. Should the Integrity Commissioner determine the receipt of a Gift was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the County, or a County agency, board or commission. Any such direction ordered by the Integrity Commissioner will be a matter of public record.

TABLE '1'

Gift Treatment and Disclosure

A	B	C	D
<u>Type of Gift</u>	<u>Examples</u>	<u>Gift Disclosure</u>	<u>Gift No Longer Allowable</u>
Token of Appreciation	Plaques, Pens, Mugs, Vase, Event Photos, and similar	No need to record - Deemed Zero Value	Actual Value of a single gift is over \$500  (allowable with IC approval)
	Perishable (includes flowers, food)	No need to record - Deemed Zero Value	Excludes Alcohol with actual value over \$100
	Gift to County	Not a 'Gift'. No need to record. County staff (identify) to record and take possession unless otherwise on public display. Deemed Zero Value	N/A
Course of Business	Publications	No need to record - Deemed Zero Value	N/A
	Art	\$100	\$500
	Business Meals	\$100	\$500
	Business Hospitality	\$100	\$750  More than two Event Tickets (Golf, Gala, Sporting, Entertainment) per event  More than one event per year from the same person or organization  (allowable with IC approval)

A	B	C	D
	Official Hospitality	\$500	No limit

## Rule No. 3 Member's Expenses

There are a range of expenses that support a Member's role in community development and engagement activities within the County. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Municipal elected officials do not have this benefit. Members should refer to the The Conference and Seminar for Councillors Policy which provides guidance of expenses eligible for reimbursement related to conferences and seminars. Per diems are dealt with through the Council remuneration process approved by By-law 4702-10 and resolution CC105-18.

1. Members of Council routinely perform important work in supporting charitable causes and in so doing; there is a need for transparency respecting the Member's involvement. The following guidelines shall apply:
  - a. Members of Council should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;
  - b. Members of Council or persons acting on behalf of a Member will not solicit or accept support in any form from an individual, group or corporation, with any pending significant planning, conversion or demolition variance application or procurement proposal before County Council, which the Member knew or ought to have known about.
  - c. With reference to member-organized community events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donations that supplement the event.
  - d. Donation cheques should not be made payable to a Member of Council or to Grey County. Members of Council may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group.
  - e. Members of Council should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Member of Council agrees to fundraise on behalf of a charity or community group, the Member should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.
2. Nothing included herein affects the entitlement of a Member of Council to:
  - a. urge constituents, businesses, or other groups to support community events and advance the needs of a charitable organization put on by others in the Member's lower tier municipality or elsewhere in the County;
  - b. play an advisory ex officio or honorary role in any charitable or non- profit organization that holds community events in the Members' lower tier municipality; and
  - c. collaborate with Grey County and its agencies, boards or commissions to hold community events.



## Rule No. 4 Confidential Information

1. Members will not disclose the content of any such matter, or the substance of deliberations, of a *closed session* meeting until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.
2. Members will not disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by Council to do so.
3. Members will not use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.
4. Members should not directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of County property or assets.
5. Members of Council should not access or attempt to gain access to confidential information in the custody of the County unless it is necessary for the performance of their duties and is not prohibited by Council policy.

## Rule No. 5 Use of County Resources

1. Members will not use for personal purposes any County staff services, property, equipment, services, supplies, websites, web boards, or other County-owned materials, other than for purposes connected with the discharge of County duties.
2. Members will not obtain personal financial gain from the use or sale of County developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of Grey County.
3. Members will not use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.
4. Members will not use the services of County staff or make requests for document or information from County staff, unless such information is required for the purpose of carrying out their duties as public officials.
5. Members will not include in his or her website, newsletters, E-mails or other printed material, advertising of businesses in the County, including the distribution of gift certificates, free tickets and compiling a list of businesses located in the County. Attending and reporting the opening of a new business or a business event in the County is permissible and a Member may thank verbally or in a newsletter, a business by name or an employee of that business, which contributes to a County event provided that no such recognition shall constitute an endorsement of such business.

## Rule No. 6 Election Campaigns

1. Members are required to follow the provisions of the *Municipal Elections Act*, 1996 and Members are accountable under the provisions of that statute.

2. Members will not use the facilities, equipment, supplies, services, staff or other resources of the County (including Councillor newsletters, individual websites linked through the County's website and social media accounts used for ward communication) for any election campaign or campaign-related activities and all such sites will not use the Grey County logo.
  - a) If a Member of Council uses any social media account for campaign purposes, such account must not be created or supported by County resources or use the County logo. Social media accounts used for campaign purposes must utilize personal cell phones, tablets and/or computers.
  - b) To avoid confusion with any website or social media accounts used for Council Member work, Council Members who choose to create or use social media accounts for campaign communications must include, for the duration of the campaign, a clear statement on each campaign website or social media account's home page indicating that the account is being used for election campaign purposes.
  - c) Despite the foregoing, Members are allowed to place campaign phone numbers, websites and E-mail addresses on the election pages on the County's website, which is available and authorized for use by all candidates for municipal and school board office.
2. In a municipal election year, commencing on Nomination Day, until the date of the election, no candidate including Members, may directly or indirectly, book any municipal facility for any purpose that might be perceived as an election campaign purpose.
3. Members will be respectful of the role of the County Clerk in participating in the municipal election process and meeting all statutory requirements in respect thereof. The County Clerk must ensure all candidates are treated equally and no candidate for elected office should interfere with how the Clerk carries out these duties.
4. Members will not use the services of persons for campaign related Activities during hours in which those persons receive any compensation from the County.
5. The Integrity Commissioner may at any time be consulted with regard to complying with any part of Rule 6 and in particular may rule on whether any activity by staff in a Councillor's office during an election year is prohibited election work or permitted activity sufficiently unrelated to the election.

## Rule No. 7      Improper Use of Influence

1. Members will not use the influence of his or her office for any purpose other than for the exercise of his/her official duties.
2. Members will not contact members of any tribunal regarding any matter before it. If Council has taken a position in a Local Planning Appeal Tribunal ("LPAT") matter and

instructed the County Solicitor and/or staff to appear at a hearing in support of such position, no member of Council who disagrees with such position will give evidence at such hearing or otherwise work against the will of Council in such matter. With the consent of the lawyer assigned to represent the County at an LPAT hearing, a member of Council who is in support of the Council instructions to such lawyer, may give evidence at an LPAT hearing. Notwithstanding the above, if the LPAT has decided to mediate a dispute between parties in a matter, any member of Council may offer his or her services to assist with such mediation regardless of his or her position in the matter and participate, if approved by the LPAT mediator.

3. Pursuant to corporate policy, the Chief Administrative Officer directs County Directors, who in turn direct County staff. County Council and not individual Members of Council appropriately give direction to the County administration.

## Rule No. 8 Business Relations

1. Members will not allow the prospect of his/her future employment by a person or entity to affect the performance of his/her duties to the County, detrimentally or otherwise.
2. Members will not borrow money from any person who regularly does business with the County unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money, such as a credit union.
3. Members will not act as a paid agent before Council or a committee of Council or any agency, board or committee of the County.
4. Members will not refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

## Rule No. 9 Member Conduct

1. Members will conduct themselves at Council and committee meetings with decorum in accordance with the provisions of the Procedural By-law.
2. Members will endeavour to conduct and convey Council business and all their duties in an open and transparent manner (other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session), and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.
3. Members will make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the County or by virtue of being an elected official. **Members will not simultaneously participate in more than one meeting or collect more than one per diem for attendance in meetings held simultaneously.**
4. Members will conduct themselves with appropriate decorum at all times.

## Rule No. 10 Media Communications

1. Members of Council will accurately communicate the decisions of Grey County Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
2. Members of Council will keep confidential information confidential, until such time as the matter can properly be made public.
3. In all media communications, including social media, members will treat each other, staff and members of the public with decorum, dignity and respect, and will avoid messaging that amounts to abuse, bullying or intimidation.

## Rule No. 11 Respect for County By-laws and Policies

1. Members will encourage public respect for the County and its By-laws.
2. Members will adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

## Rule No. 12 Respectful Workplace

1. Members are governed by the County's Respectful Workplace Policy. All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.
2. All complaints received involving members of Council under the Respectful Workplace Policy will be referred to the Integrity Commissioner for processing in accordance with both the said policy and the *Council Code of Conduct Complaints Protocol*.
3. The *Ontario Human Rights Code* applies in addition to the County's Respectful Workplace Policy.

## Rule No. 13 Conduct Respecting Staff

1. Members will not compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
2. Members will not use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. Members will be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.
4. Members will not maliciously or falsely impugn or injure the professional or ethical

reputation, or the prospects or practice of staff and all Members will show respect for the professional capacities of the staff of the County.

## Rule No. 14 Employment of Council Relatives/Family Members

1. Members will not attempt to influence the outcome, or to influence any County employee to hire or promote a Family Member.
2. Members will not make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.
3. Members will not supervise a Family Member or be placed in a position of influence over a Family Member.
4. Members will not attempt to use a family relationship for his or her personal benefit or gain.
5. Every Member will adhere to the County's Recruitment, Selection and Employment Policies as outlines in the Human Resources Manual.

## Rule No. 15 Not Undermine, Work Against Council's Decisions

1. Members of Council will not actively undermine the implementation of Council's decisions.
2. Members of Council will not engage in litigation or other legal challenges against the municipality or Council's decisions.
3. Despite this Rule, Members of Council may seek to have a Council decision reconsidered in accordance with the Procedural By-law.

## Rule No. 16 Reprisals and Obstruction

1. It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.
2. Members will not threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the *Code of Conduct*, or against a person who provides information to the Integrity Commissioner in any investigation.
3. It is a violation of the *Code of Conduct* to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the *Code of Conduct*.

## Rule No. 17 Acting on Advice of Integrity Commissioner

1. Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter, as long as all the relevant facts were disclosed to the Integrity Commissioner, and the Member adhered to the advice given. The process is outlined in

Schedule "B"

## Rule No. 18 Implementation

1. Members are expected to formally and informally review their adherence to the Code on a regular basis or when so requested by Council.
2. At the beginning of each term, Members will be expected to meet with the Integrity Commissioner.

# Schedule 'A'

## Commentary and Examples for Code of Conduct Rules

### **Rule No. 1 Avoidance of Conflicts of Interest**

#### Commentary

Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and private conflicts of interest, both apparent and real. Members of Council shall also not extend in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.

Members of Council have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

Members of Council are governed by the *Municipal Conflict of Interest Act* (MCIA). The Integrity Commissioner is empowered to investigate and rule on all conflicts of interest, whether pecuniary or non-pecuniary.

Members of Council may seek conflict of interest or other advice, in writing, from the Integrity Commissioner. Where members choose to seek external legal advice on conflict of interest or other Code of Conduct issues, these fees will not be reimbursed by Grey County and cannot be charged to any office account.

Members may not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

When a member, despite the existence of an interest, believes that he or she may still participate in a matter with an open mind, the public interest is best served when the Member is able to articulate the interest, and why the interest does not amount to a disqualifying conflict of interest.

Members must remain at arm's length when County staff or Council is asked to consider a matter involving a Family Member or a person or organization with whom the Member has a real or apparent conflict of interest.

Members of Council may for example teach or run a business that does not conflict or interfere with their duties.

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the County at any time.

The legislative obligation is set out in the *Municipal Conflict of Interest* (MCIA). If the Member of Council, or a family member of the Member of Council, sits on a body which has a pecuniary interest in a matter before Council (such as an application for grant, support or other contribution), that Member has a deemed pecuniary interest. The Member of Council should disclose the interest and should not participate in or vote on such matter, in compliance with the obligations of s.5, MCIA.

The Code of Conduct captures the broader common law responsibility and requires members to avoid any possible appearance of favoring organizations or groups on which the Member's family members serve.

[Accountability and Transparency Policy](#)

[Election Protocols for Members of Council](#)

Family members of Members of Council are not precluded, or even discouraged, from serving on not-for-profit organizations or other bodies. However, where family members of Members of Council serve in such a capacity, the Member should declare a conflict of interest whenever there is a matter for Council consideration in which the not-for-profit organization or body has a pecuniary interest.

**For this reason, the following questions may assist Members in assessing whether they should be a member of the body, or if their family member is a member of the body, when a matter may give rise to a conflict:**

Is this a corporation created to carry on municipal business on behalf of the County, or to which I am appointed because I am a Council appointee? In these cases, the Municipal Conflict of Interest Act, s.4 (h) exempts Members from MCIA disclosure/recusal obligations.

If no, is this a body (a board, commission, or corporation) which seeks County resources such as space, support, funds?

If yes, the Member of Council should not serve on the board of directors.

If a family member (spouse, sibling, child) of the Council Member is a member of the body, then the Member of Council should declare a conflict of interest any time Council is considering a matter in which the body has a pecuniary interest. In this way, there is no perception that the Council Member is giving preferential consideration to the body on which the Member's family member serves.



## **Rule No. 2            Gifts and Benefits**

### Commentary

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official but can also be seen as an instrument of influence and manipulation. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a Code of Conduct that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the County be such that no Member of Council is perceived as showing favouritism or bias toward the giver. There will never be a perfect solution.

Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, in their offices for review by the Integrity Commissioner in the event of a complaint.

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property or club membership) at a reduced rate or at no cost is not an acceptable gift or benefit. The purpose of the Code is not to prohibit Members from accepting all invitations to socialize at a vacation property with personal friends at their vacation property, provided the Gift is disclosed in accordance with this Rule.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before County Council or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements. Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Member chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function with a developer or supplier could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the scope of permissible gifts and benefits, meaning that Members should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favouritism.

For clarification, an invitation to an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward on the other hand could serve a legitimate business purpose and be seen as part of the

responsibilities of office provided the person extending the invitation or that person's representative is in attendance.

An invitation to attend a charity golf tournament or fund-raising gala provided the Member of Council is not consistently attending such events as a guest of the same individual or corporation is also part of the responsibilities of holding public office. Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose. Where a Member is uncertain in regard to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Members of Council is acceptable in situations where the Member pays their portion of the meal expense and treats it as a personal expense, meaning a claim is not made under the Conference and Seminar Procedure for Councillors policy. Proper caution and diligence not to discuss matters before the County for a decision must be exercised at all times. When in doubt it is prudent to consult with the Integrity Commissioner.

## **Rule No. 3 Member's Expenses**

### Commentary

By virtue of the office, Members of Council will be called upon to assist various charities, service clubs and other non-profits as well as community associations, by accepting an honorary role in the organization, lending their name or support to it or assisting in fundraising. Transparency and accountability are best achieved in today's era by encouraging contributors to make donations to such organizations on-line through a website or where that is not possible through a cheque made payable directly to the organization. Cash should never be accepted.

## **Rule No. 4 Confidential Information**

### Commentary

Confidential Information includes information in the possession of, or received in confidence by, Grey County that the County is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), or any other legislation.

MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act, 2001* allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the County or a local board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the Code of Conduct, "confidential information" includes this type of information.

As elected officials, Members of Council will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Members' duties. In accordance with the [Closed Meeting Procedure](#) Elected Officials' Records policy, Councillor constituency records are at all times under the control of the Member and are not subject to any municipal disclosure requirements.

Under the Council Procedural By-law, a matter that has been discussed at an in-camera (closed) meeting remains confidential, until such time as a condition renders the matter public. The following are examples of the types of information that a Member of Council must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or request for proposal submissions if so specified;
- information deemed to be "personal information" under the *Municipal Conflict of Interest Act*, and
- statistical data required by law not to be released (e.g. certain census or assessment data)

Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it “Confidential”, such communication will not be given any higher level of confidentiality than any other communication. The words “Privileged”, “Confidential” or “Private” will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

## **Rule No. 5            Use of County Resources**

### Commentary

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their County duties as public officials.

While most of this property is provided within the confines of their office, much of it is transportable or may be provided for home use, given the nature of the demands placed on Members in carrying out their duties and in recognition of the fact that the County does not provide constituency offices to Members of Council. Members are held to a higher standard of behaviour and conduct and therefore should not use such property for any purpose other than for carrying out their official duties. For clarity, this Rule is intended to prohibit the use of County resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

Careful attention should be given to the provisions of the County's Election Protocol for Members of Council which identifies approvable allowable expenses. During election campaigns, the provisions of Rules 6 and 7 will apply.

## **Rule No. 6            Election Campaigns**

### Commentary

Staff should not interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.

The restriction on booking facilities ensures that election-related functions, or those that could appear to be election-related, will not occur at any time there is an advance or regular poll at the facility. The need to set up in advance means that election night parties cannot be held in the same facilities that polling stations are located in.

Members should not authorize any event that could be perceived as the County providing them with an advantage over other candidates. It is the personal responsibility of Members to ensure that any use of facilities or the services of municipal staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in this regard.

*The Municipal Elections Act, 1996* clearly states that it is the responsibility of the County Clerk to conduct the election and take all necessary actions to ensure municipal elections meet all statutory requirements. At this time the County does not conduct any elections under the Municipal Elections Act. The County Clerk may participate from time to time with election related activities such as candidate information sessions.

## **Rule No. 7            Improper Use of Influence**

### Commentary

Examples of prohibited conduct are the use of one's status as a Member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's Family Member, or friends. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of a future advantage through a Member's supposed influence within Council in return for present actions or inaction.

Contact with members of tribunals appointed by Council on any case might be viewed as attempts to intimidate the tribunal member. Generally, members of Council should not take part in the proceedings of any other tribunal where the County is a party unless such participation is approved by the Integrity Commissioner.

## **Rule No. 8            Business Relations**

### Commentary-None

## **Rule No. 9            Member Conduct**

### Commentary

Members recognize the importance of cooperation and strive to create an atmosphere during Council and committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

Various statutes, the Council Procedure By-law and decisions by courts and quasi-judicial tribunals and the Information and Privacy Commission, establish when County Council can discuss issues in closed session. Transparency requires that Council apply these rules narrowly so as to best ensure that decisions are held in public session as often as possible.

Unless prohibited by law, Members should clearly identify to the public how a decision was reached and the rationale for so doing.

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience. Members shall not be absent from Council or committee meetings, or from those of agencies, boards and commissions to which they are appointed without reasonable justification (for example, illness of the Member, family circumstance, lower tier municipal business) for more than three consecutive scheduled meetings or on a regular basis.

As leaders in the community, Members are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

## **Rule No. 10      Media Communications**

### Commentary

A Member may state that he/she did not support a decision or voted against the decision. A Member should refrain from making disparaging comments about other Members of Council or about Council's processes and decisions.

When communicating with the media, a Member should at all time refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erode public confidence.

While Members are encouraged to actively participate in vigorous debate, Members should understand that they are part of a democratically-elected representative body and should not engage in social media as if they are outsiders. In this regard, caution should be exercised when blogging, posting, tweeting, re-posting and linking to posts using social media, whether the member is using a personal account or a County account.

Members who post blogs should recognize that the Canadian Association of Journalists has identified the ethical conflict faced by journalists holding elected public office. It is recognized that there is an irreconcilable conflict in holding both roles.

While social media can be an excellent tool for communicating quickly with constituents and sharing ideas and obtaining input, social media can breed incivility that generally is avoided in face-to-face interactions. In a world where a transitory comment can become part of the permanent record, Members should exercise restraint in reacting too quickly, or promoting the social media posts of others whose views may be disparaging of Council's decisions or another Member's perspectives.

## **Rule No. 11      Respect for County By-laws and Policies**

### Commentary

A Councillor must not encourage disobedience of a County by-law in responding to a member of the public, as this undermines confidence in the County and in the Rule of Law.

Members of Council are required to observe the policies and procedures established by County Council at all times, and are directed to pay special attention to, and comply strictly with, the Council Procedure By-law and Conference and Seminar for Councillors Procedure. In exceptional circumstances, a Member may request Council grant an exemption from any policy.

## **Rule No. 12      Respectful Workplace**

### Commentary

It is the policy of Grey County that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

Grey County's Respectful Workplace Policy ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

Grey County's Respectful Workplace Policy applies equally to members of staff and Members of Council. It will provide guidance to the Integrity Commissioner when a complaint is received involving a Member.

## **Rule No. 13      Conduct Respecting Staff**

### Commentary

Under the direction of the Chief Administrative Officer, staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters.

Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the Committee of the Whole, appropriate sub-committee or directly to Council.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as sub-committee members, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of County staff in both the carrying out of their responsibilities and in dealing with the Council. Staff are expected to provide information to Members that they are entitled to.

County staff are accountable to the Chief Administrative Officer who is accountable to County Council. Sometimes the line between staff duties and activities that are political in nature is not clear. Members of Council must respect the difference between the two in making requests of staff.

Members of Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

The County's Respectful Workplace Policy applies to Members of Council. Staff and Members of Council are all entitled to be treated with respect and dignity in the workplace.

It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the Chief Administrative Officer. Any such attempts should be reported to the Integrity Commissioner.



## **Rule No. 14      Employment of Council Relatives/Family Members**

### Commentary

If a Family Member of a Councillor is an applicant for employment with the County or is a candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the County's hiring policies, with no special consideration.

## **Rule No. 15      Not Undermine or Work Against Council's Decision**

### Commentary

1.      The role of elected officials, once a council decision is made, is to support the implementation of that decision, not to work against its implementation, publicly or behind the scenes. Council decisions are arrived at following discussion and debate, reflecting the democratic process. Members are expected to engage in debate with their fellow council members through the democratic process of government. However, once Council has made its decision, Members must recognize that decision as the duly considered decision of the body of Council. As members of that body of Council, individual members – those who did not agree with the decision - are not to engage in activities that seek to challenge or undermine that decision.

Members can express disagreement with Council's decisions, but it is contrary to the ethical behaviour of members of Council to actively seek to undermine, challenge or work against Council's decisions.

In a two-tier system this rule should not be understood to mean that members who are members of both councils are bound to vote as a result of a decision taken at one of those councils, to vote in a consistent way when the same matter is before the other council. The higher obligation in that case would be to exercise due care and diligence in determining how to vote in the best interest of the municipality where the vote is being taken, while taking into account the context provided by positions taken by the other municipality. Put simply, one municipality cannot bind how its members will vote at another municipality, but it is fair that the interests of that municipality be taken into account when deciding how to vote at the other municipality.

2.      Members who are not entitled to participate in Council's original decisions, as would be the case if they had recused themselves because of a disqualifying interest in the matter, are not subsequently restricted from advocating on their own behalf in the proper forum.

3. When Members are allowed to participate in activities to challenge Council's properly considered decisions, such as legal challenges or other forms of litigation, this is contrary to the interests of the municipality as determined by the decision of the democratically elected governing body, Council. It can create challenges to staff as to when and how much information can be provided to Council (legal advice for example) because of the presence of a legal challenge, which may benefit by 'insider knowledge'.

## **Rule No. 16      Reprisals and Obstruction**

### Commentary -None

## **Rule No. 17      Acting on Advice of Integrity Commissioner**

### Commentary-None

## **Rule No. 18      Implementation**

### Commentary

Members are expected to understand the obligations on elected officials set out in this Code of Conduct and are encouraged to contact the Integrity Commissioner for any clarification required. A Code of Conduct component will be included as part of the orientation for each new term of Council.

# Schedule 'B'

## COUNCIL CODE OF CONDUCT COMPLAINT PROTOCOL

### **PART A: INFORMAL COMPLAINT PROCEDURE**

Any person or representative of an organization who has identified or witnessed behaviour or an activity by a member of Council that they believe is in contravention of the *Council Code of Conduct* (the "Code") may wish to address the prohibited behaviour or activity themselves as follows:

1. advise the member that the behaviour or activity contravenes the Code;
2. encourage the member to stop the prohibited behaviour or activity;
3. keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
4. if applicable, confirm to the member your satisfaction with the response of the member; or, if applicable, advise the member of your dissatisfaction with the response; and
5. consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

### **PART B: FORMAL COMPLAINT PROCEDURE:**

#### **Initial Complaint**

1. (1) A request for an investigation of a complaint that a member has contravened the Code of Conduct (the "complaint") shall be sent directly to the Integrity Commissioner by E-mail substantially in the form attached to this Protocol as Schedule "C".  
(2) All complaints shall be submitted by an identifiable individual (which includes the authorized signing officer of an organization).  
(3) A complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code.  
The complaint should include the name of the member, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the

names and contact information of witnesses, and contact information for the complainant during normal business hours.

(4) Election Blackout Period:

No investigation shall be commenced or continued, nor shall the Integrity Commissioner report to Council respecting an investigation, within the election period described within s.223.4 and 223.4.1 of the *Municipal Act*, except as described in those sections.

## Classification by Integrity Commissioner

2. (1) Upon receipt of the request, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation, a complaint with respect to the *Municipal Conflict of Interest Act* or other relevant Council policies.
- (2) If the complaint, on its face, is not a complaint with respect to non-compliance with the Code or another Council policy governing ethical behaviour or the *Municipal Conflict of Interest Act*, or if the complaint is covered by other legislation, the Integrity Commissioner shall advise the complainant in writing as follows:
  - (a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
  - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the County Clerk; and
  - (c) the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate. The Integrity Commissioner may proceed with that part of the complaint that is within jurisdiction.
- (3) The Integrity Commissioner may assist the complainant in restating, narrowing or clarifying the complaint so that the public interest will be best served were the complaint to be pursued.
- (4) The Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.

- (5) The Integrity Commissioner shall report annually to Council on complaints not within the jurisdiction of the Integrity Commissioner, but, where possible, shall not disclose information that could identify a person concerned.

## Investigation

3. (1) The Integrity Commissioner is responsible for performing the duties set out in this Protocol independently and shall report directly to Council in respect of all such matters. In applying this Protocol, the Integrity Commissioner shall retain the discretion to conduct investigations applying the principles of procedural fairness, and any deviation from the provisions of this Protocol for that purpose shall not invalidate the investigation or result in the Integrity Commissioner losing jurisdiction.
  - (2) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, or that the pursuit of the investigation would not, in the opinion of the Integrity Commissioner be in the public interest, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.
  - (3) The Integrity Commissioner shall file an annual report to County Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the Integrity Commissioner. Other than in exceptional circumstances, the Integrity Commissioner will not report to Council on any complaint described in subsection (2) except as part of an annual or other periodic report.
  - (4) Where the Integrity Commissioner rejects or terminates an investigation pursuant to this section, reasons shall be provided.
4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and may attempt to settle the complaint.
  - (2) The Integrity Commissioner may in exceptional circumstances elect to exercise the powers of a Commission under Parts I and II of the *Public Inquiries Act*, as contemplated by Subsection 223.4(2) of the Act.
  - (3) If the Integrity Commissioner elects to conduct an inquiry under the *Public Inquiries Act*, he/she shall report to Council before proceeding, setting out the reasons for the investigation, and providing an estimate of the expected cost and time that the investigation will require, and providing an opportunity for Council to respond to the reasonableness of the expenditure of public funds for the purpose of such Commission.
  - (4) When the *Public Inquiries Act* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the

Complaint Protocol and a provision of the *Public Inquiries Act*, the provision of the *Public Inquiries Act* prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act* and/or in the context of a particular situation, the principles of procedural fairness:
  - (a) provide the complaint and supporting material to the member whose conduct is in question and provide the member with a reasonable opportunity to respond.
  - (2) Except where the Integrity Commissioner determines that it is not in the public interest to do so, the name of the complainant shall be provided as part of the complaint documents.
  - (3) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any County work location relevant to the complaint for the purposes of investigation and settlement.
  - (4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any member unless the member has had reasonable notice of the basis for and an opportunity to comment on the proposed findings.
  - (5) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.
6. (1) The Integrity Commissioner shall report to the complainant and the member generally no later than 90 days after the making of the complaint.
  - (2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Council outlining the findings, the terms of any settlement, or recommended corrective action.
  - (3) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.
  - (4) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behaviour or activity does not continue.
7. If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the member took

all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

8. The County Clerk shall process the report for the next meeting of Council.

## **Council Review**

9. (1) Council shall consider and respond to the report within 90 days after the day the report is laid before it.
- (2) In responding to the report, Council may vary a recommendation that imposes a penalty, subject to Section 223.4, subsection (5) of the *Municipal Act*, but shall not refer the recommendation other than back to the Integrity Commissioner.
- (3) Council can terminate the Integrity Commissioner only by a two-thirds vote of all members.
- (4) Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either of two penalties:
  - (a) a reprimand; or
  - (b) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days,and may also take the following actions:
  - (c) removal from membership of a committee;
  - (d) removal as chair of a committee;
  - (e) repayment or reimbursement of monies received;
  - (f) return of property or reimbursement of its value;

## **Confidentiality**

10. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.
- (2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.
- (3) All reports from the Integrity Commissioner to Council will be made available to the public.

- (4) Any references by the Integrity Commissioner in an annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.
  
- (5) The Integrity Commissioner in a report to Council on whether a member has violated the Code of Conduct shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.



# Schedule 'C'

## Complaint

I \_\_\_\_\_ hereby request the Integrity Commissioner for the Grey County to conduct an inquiry about whether or not the following member(s) of the County Council has contravened the Council Code of Conduct or the *Municipal Conflict of Interest Act*:

I have reasonable and probable grounds to believe that the above member(s) has contravened the Council Code of Conduct and/or the *Municipal Conflict of Interest Act* by reason of the following (please include date, time and location of conduct, the Rules contravened, and particulars, including names of all persons involved, and of all witnesses, and information as to how they can be reached, (attach additional pages as needed):

I hereby request the Integrity Commissioner to conduct an inquiry with respect to the above conduct. Attached are copies of documents and records relevant to the requested inquiry.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Name:

Address:

Email:

Phone:

Email completed Complaint to Principles *Integrity* at: [PostOffice@principlesintegrity.org](mailto:PostOffice@principlesintegrity.org)