



Committee Report

Report CCR-CS-19-16

To: Chair Eccles and Members of the Corporate Services Committee
From: Sharon Vokes
Meeting Date: July 26, 2016
Subject: **Update of Council's Code of Conduct**
Status: Recommendation adopted by Committee as presented per Resolution CS57-16; Endorsed by County Council August 2, 2016 per Resolution CC99-16;

Recommendation(s)

WHEREAS Section 223.2(1) Municipal Act provides that municipalities may adopt a Code of Conduct for councillors;

AND WHEREAS it is recommended that Grey County's Code of Conduct for councillors be updated to remain current and relevant;

BE IT RESOLVED THAT Report CCR-CS-19-16 be received;

AND THAT Grey County Council's Code of Conduct (G-GEN-006-001) be updated as recommended in Report CCR-CS-19-16;

AND FURTHER THAT a by-law be prepared for Council's consideration.

Background

Section 223.2(1) of the Municipal Act provides that municipalities may adopt Codes of Conduct (Code) for members of council and local boards. Grey County enacted a Code by by-law in November 2008.

Bill 8, the Public Sector and MPP Accountability Act 2014 (Act) took effect January 1, 2016. The Act covered a number of different matters and pieces of legislation. Of significance with respect to governance is the provision that the Ombudsman has the power to investigate complaints related to "any decision, recommendation, act or

omission in the course of the administration of a public sector body”. The Ombudsman is also able to investigate “systemic” administrative matters.

At the February 2, 2016 meeting Council endorsed the recommendation to use the services of the Ombudsman for municipal complaints rather than appoint its own municipal Ombudsman.

Grey County, like other municipalities, has always strived to be an open, transparent and accountable level of government. Reviewing and updating Council’s Code demonstrates the County’s proactive approach to the new levels of responsibility granted to the Ombudsman over municipalities.

The Ombudsman’s Office has advised that it wishes municipalities to be proactive and establish its own policies for managing complaints. The Ombudsman’s Office plans on ensuring complainants have gone through local protocols before the Ombudsman will review a complaint. An updated Code for Council is one tool municipalities can use.

The revised Code has a few distinct changes which are as follows:

- Written in clear, plain language to make it more understandable for councillors and the public
- Based on general principles and values which are outlined in the Code
- Complaint process separated into two streams – informal and formal
- Form included for filing of formal complaints
- Change of where complaints are reviewed from the Warden, and in case complaint is about Warden from Corporate Services Committee, to Council
- Inclusion of a section on sanctions. Sanctions have been divided into two sections with the first being directly from the Municipal Act and the latter optional sanctions that are not mentioned in the legislation.

Financial/Staffing/Legal/Information Technology Considerations

There are no direct financial, staffing or information technology considerations related to updating Council’s Code.

It should be noted that the draft Code before the Committee has been a collaborative effort of the Clerks in Grey County. The draft Code has also been reviewed by a member municipality’s solicitor. It is hoped that the County and each member municipality will pass the same Code or a similar one. There is a clear benefit for members of County Council in particular to have a common Code to work with.

Link to Strategic Goals/Priorities

The values embraced in the Code reflect the values set out in the Corporate Strategic Plan.

Attachments

Draft Code of Conduct

Respectfully submitted by,

Sharon Vokes
Clerk/Director of Council Services

Code of Conduct for Council

Approved by: County Council

Date Approved:

Replaces: ADM-09-08

Last Modified Date: November 2008

Scheduled for Review by: 2021

Procedure Number: G-GEN-006-001 **Parent Policy:** G-GEN-006

Author: Clerk's Department

References and Related Documents

[Municipal Act 2001](#)

[Municipal Conflict of Interest Act](#)

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

[Criminal Code of Canada](#)

[Code of Conduct for Council Policy](#)

[Freedom of Information Requests Procedure](#)

[Procedural By-law 4876-14 as amended by By-law 4880-14](#)

[Employee Use of Computers \(new format\)](#)

[Employee Use of Internet and Electronic Mail \(new format\)](#)

[Form 1 - Formal Complaint Council Code of Conduct](#)

[Form 2 - Formal Complaint Council Code of Conduct](#)

[Form 3 - Complaint Form for Gifts, Benefits & Hospitality](#)

Procedure Statement

The public expects the highest standard of conduct from the Members elected to local government. These leaders are expected to carry out their duties in a fair, impartial, transparent and professional manner.

Purpose

A written Code of Conduct helps to ensure a common basis of acceptable behaviour. These standards demonstrate how elected representatives conduct themselves with integrity and respect.

Scope

The Code of Conduct applies to Members of Council. It may be extended to Members of Local Boards.

1.0 Definitions

- 1.1 “Agent” means a representative who acts on behalf of other persons or organizations, but does not include Members performing official duties.
- 1.2 “Assets” means all property of the Municipality, including equipment, financial assets, land, vehicles, material, paper and electronic documents, , inventories, tools, electronic equipment, computers, email, internet services and intellectual property.
- 1.3 “By-Law” means a regulation passed by Council for the government of its affairs.
- 1.4 “Chief Administrative Officer” or “CAO” means the senior executive appointed by Council who is responsible for managing the Municipality. The CAO also includes City Manager and Clerk-Administrator.
- 1.5 “Clerk” means the person as appointed by Council pursuant to Section 228 of the Municipal Act, 2001.
- 1.6 “Confidential Information” means:
 - a) Information in the possession of, or received in confidence by the Municipality, that it is prohibited from disclosing, or has decided to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act;
 - b) A matter that has been debated or discussed at a meeting of Council closed to the public, unless the matter is subsequently discussed in Open Session, or it is authorized to be released by Council;
 - c) Information concerning litigation, negotiation, or personnel matters; and
 - d) Reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the Municipality, its officers and employees, or its effective operation.
- 1.7 “Employee” means a person employed by the Municipality, including those employed on a personal services contract and volunteers but does not include Members.
- 1.8 “Family Relationship or Member” means:
 - a) spouse, including but not limited to common-law spouse and same-sex partner;

- b) child, mother, father, sibling, grandchild, grandparent, aunt, uncle, niece or nephew;
- c) parent-in-law or sibling-in-law;
- d) step-parent, step-sibling, or step-child;
- e) parent or child in a relationship where the role of the parent has been assumed; or
- f) any person who lives with the Member on a permanent basis.

1.9 “Head of Council” means the Warden.

1.10 “Local Board” means a local board as defined in Section 223.1 of the Municipal Act, 2001.

1.11 “Members” means a member of Council or a member of a Local Board.

1.12 “Municipality” means the County of Grey.

1.13 “Official Duties” means functions performed by Members necessary to provide responsible and accountable governance.

1.14 “Personal Information” as defined in the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990 c, M56 (MFIPPA), means recorded information about an identifiable individual and includes:

- a) Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- b) Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relation to financial transactions in which the individual has been involved;
- c) Any identifying number, symbol or other particular assigned to the individual;
- d) The address, telephone number, fingerprints or blood type of the individual;
- e) Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- f) The views or opinions of another individual about the individual;
- g) The individual’s name if it appears with other personal information relation to the individual or where the disclosure of the name would reveal other personal information about the individual.

Policy Requirements

2.0 Statutory Provisions Regulating Conduct

- 2.1 This Code of Conduct complements the existing legislation governing the conduct of Members. The following federal and provincial legislation governs conduct:
- a) Municipal Act, 2001
 - b) Municipal Conflict of Interest Act
 - c) Municipal Elections Act, 1996
 - d) Municipal Freedom of Information and Protection of Privacy Act
 - e) Provincial Offences Act
 - f) Ontario Human Rights Code
 - g) Criminal Code of Canada.
- 2.2 Complaints regarding statutory matters outlined in 5.1 a), should be directed to the appropriate process or authority.
- 2.3 Members will follow by-laws, policies and decisions of Council as adopted and amended from time to time.

3.0 General Principles and Values

- 3.1 Members will respect the role of Council as set out in the Municipal Act, 2001.
- 3.2 Members will support the mission, vision and values of the Municipality.
- 3.3 Members will respect the decision-making process of Council by accurately communicating the decision reached by majority of Council, even if they disagree with the outcome.
- 3.4 Members will maintain professionalism, integrity, respect, and trust.
- 3.5 Members will promote open, accountable and transparent local government
- 3.6 Members will encourage public respect for the Municipality, its by-laws and policies.

4.0 Standards of Behaviour and Conduct

- 4.1 Respect and Dignity

- a) Members have a duty to treat members of the public, one another, and staff with respect and without abuse, bullying or intimidation.
- b) Members will ensure their work environment is free from discrimination and harassment.
- c) Members will conduct themselves according to legislative requirements, including the municipal workplace harassment and violence policies.
- d) Members will observe decorum and conduct themselves as outlined in the procedural by-law.
- e) Members will refrain from public criticism of other Members, staff or any other person that questions their professional reputation, competence and credibility.

4.2 Conduct Respecting Staff

- a) Members will be respectful of the fact that staff work for the Municipality and are charged with making recommendations and advice based on political neutrality that reflects their professional expertise and objectivity, without undue influence from any individual member or group of members.
- b) Members acknowledge that only Council, in a duly called meeting with a quorum present, has the capacity to direct staff members.
- c) Members recognize that the Chief Administrative Officer is the only staff person directly reporting to Council. Members will direct any concerns respecting staff through the Chief Administrative Officer.
- d) Members of Council will not:
 - i) Maliciously or falsely injure the professional or ethical reputation of staff;
 - ii) Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or
 - iii) Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties.

4.3 Gifts, Benefits and Hospitality

- a) Members will not accept a fee, advance, gift or personal benefit connected directly or indirectly to the performance of duties, unless permitted by law.
- b) Members will make decisions free from the influence of gifts, favours, hospitality, and entertainment.

- c) Members will decline any personal gift where the acceptance of such gift may imply a contractual agreement with or obligation to the donor.
- d) Notwithstanding 5.5 a), b), and c), Members may accept tokens, mementoes, souvenirs, or such gifts or benefits up to and including a value of \$300.00 that are received as a result of the responsibilities of the office. Tokens, mementoes, souvenirs or gifts with a value greater than \$300.00 shall be the property of the Municipality.
- e) Exceptions outlined in Section 5.5 d) must be reported to the Clerk by the Member in writing using Form 3. These exceptions will be reported to Council on an annual basis.
- f) Members will not seek or obtain by reason of their office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not following as a result of official duties.

4.4 Use of Municipal Assets

- a) Members may only use municipal property, equipment, services or supplies of consequence for official duties or associated community activities, unless previously approved by Council.
- b) Members will comply with corporate policies related to the use of municipal assets, including but not limited to municipal vehicles, municipally owned computers, internet and email.
- c) Members will not seek or gain personal benefit from the use of municipally developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Municipality.

4.5 Confidentiality, Privacy and Use of Information

- a) All information, documentation or deliberations received, reviewed or taken in closed session meetings are confidential, except as otherwise directed by Council.
- b) Members will not disclose or release by any means to any Member of the public either in verbal or written form any confidential information acquired by virtue of their office, except when required by law to do so.
- c) Requests for information should be referred to the Clerk to be addressed in conformity with the Municipal Freedom of Information and Protection of Privacy Act.
- d) Members will follow the established practices within the municipality for closed meeting materials.

- e) Members will not use information gained in the execution of their duties that is not available to the general public for any other purpose.

4.6 Personal and Political Interests

- a) Members will not use municipal facilities, services or property for personal business gain.
- b) Members will not use the services of employees for personal business during the hours in which the employees are in the paid employment of the Municipality.
- c) Members will not use municipal resources for political purposes, including re-election, in conformity with municipal policy and in compliance with the Municipal Elections Act.
- d) Members will not borrow money from any person who regularly does business with the Municipality unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.
- e) Members will not act as a paid agent before Council or its committees, agencies or boards.
- f) Members will recognize their obligations to follow and respect both the letter and the spirit of the provisions of the Municipal Act, 2001 as amended and the Municipal Conflict of Interest Act, or successor legislation, or successor legislation.
- g) Members shall not attempt to influence any outcome or decision regarding or based on a family relationship or member.

5.0 Implications

- 5.1 This policy supports open, transparent, accessible and accountable government providing clear guidance on Council conduct and mechanisms to bring forward complaints.

6.0 Complaints Protocol (See Diagram 1)

6.1 Informal Complaint

- a) Any individual who identifies or witnesses behaviour or activity by a Member that appears to breach the Code of Conduct may:
- b) Advise the Member that the behaviour or activity appears to breach the Code of Conduct;

- c) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
- d) Document the incidents including dates, times, locations, other persons present, and any other relevant information;
- e) Request the Head of Council or designate to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- f) If applicable, confirm satisfaction with the response of the Member, or if applicable, advise the Member of dissatisfaction with the response; and
- g) Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in 7.1.2, or in accordance with any other applicable process or complaint procedure.

6.2 Formal Complaint

- a) Any individual who identifies or witnesses behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct may file a formal complaint in accordance with the following:
- b) All formal complaints shall be made in writing using Form 1, filed with the Clerk.
- c) The complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct.
- d) The identity of the complainant shall be protected through a closed session meeting due to personal matters about an identifiable individual, including the opinions contained in the written complaint.
- e) The Clerk will protect any personal information about the complainant and provide a summary of the complaint to the Member of Council. The Member will have the opportunity to prepare a response using Form 2.
- f) Council will review the formal complaint (Form 1) and the response (Form 2) in closed session due to personal matters about an identifiable individual being the complainant. The named Member will not be included in the closed session.
- g) Determination of any reprimand will be completed in open session. Council will report out in open session and Council will state its reasons for the decision. If Council decides there was a breach in the code of conduct, Council will decide if there will be a penalty.

6.3 Ombudsman

- a) Pursuant to Section 14 of the Ombudsman Act, the Ombudsman can investigate any decision or recommendation made or any act done or omitted in the course of the administration of a public sector body, including municipalities.
- b) Those making complaints are encouraged to pursue the informal and formal complaint options outlined in this Code of Conduct policy before contacting the Ombudsman.

7.0 Sanctions

- 7.1 If Council determines that a breach has occurred under the Municipal Act, 2001 Council may impose the following:
 - a) Issue a reprimand; or
 - b) Suspend the remuneration paid to the Member in respect of his or her services as a Member of Council or of the local board, as the case may be, for a period of up to 90 days.

Council may also require:

- c) A written or verbal apology;
 - d) Return of property or reimbursement of the property's dollar value;
 - e) Removal from membership of a committee or board; and/or
 - f) Removal as chair of a committee.
- 7.2 If an apology is required, the apology shall be presented at a regular open meeting of Council and shall include statements related to the occurrence, the relevant sections of the Code, and an acknowledgement of the findings.

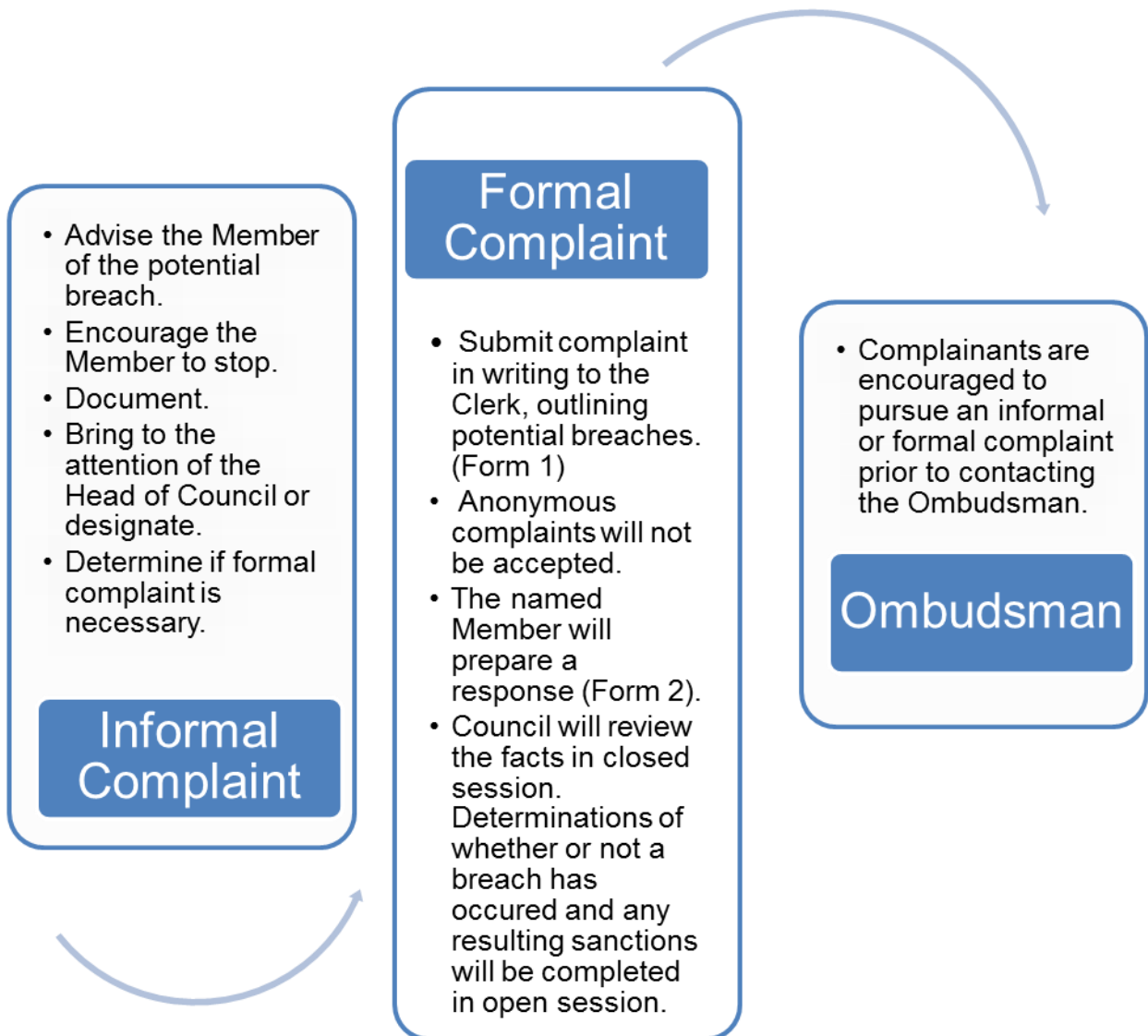
8.0 Authority

- 8.1 Section 223.2 (1) of the Municipal Act, 2001 authorizes the Municipality "to establish codes of conduct for Members of Council of the Municipality and of local boards of the Municipality."
- 8.2 Section 223.2 (2) of the Municipal Act, 2001 further provides that "a by-law cannot provide that a Member who contravenes a code is guilty of an offence."

9.0 Contact

- 9.1 Questions pertaining to the Code should be directed to the Head of Council, Chief Administrative Officer or Clerk.

Diagram 1 – Complaints Protocol



Form 1 – Formal Complaint

Please complete the following fields with as much information as possible regarding your complaint. Please note that you must complete all fields, including personal details, in order for your complaint to be investigated.

Complainant Details

Name: [Click here to enter text.](#)

Address: [Click here to enter text.](#)

Telephone: [Click here to enter text.](#)

E-Mail: [Click here to enter text.](#)

Complaint Details

Who is your complaint about? [Click here to enter text.](#)

Which category(s) does your complaint fall under?

- | | |
|--|--|
| <input type="checkbox"/> Respect and Dignity | <input type="checkbox"/> Use of Municipal Assets |
| <input type="checkbox"/> Conduct Respecting Staff | <input type="checkbox"/> Confidentiality, Privacy and Use of Information |
| <input type="checkbox"/> Gifts, Benefits and Hospitality | <input type="checkbox"/> Personal and Political Interests |

Have you attempted to resolve your complaint through the informal process?

- Yes No

Disclaimer:

This information is collected in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*. The Clerk will protect any personal information about the complainant. The identity of the complainant shall be protected through a closed session meeting of Council due to personal matters about an identifiable individual.

Please give as much detail as possible about your complaint, including specific dates as appropriate.

Signature: [Click here to enter text.](#)

Date: [Click here to enter text.](#)

For Office use only:

Date Received: [Click here to enter text.](#)

Complaint Number: [Click here to enter text.](#)

Form 2 – Formal Complaint

Section 1: Complaint Details (to be completed by Clerk)

Complaint Number: [Click here to enter text.](#)Who is the complaint about?: [Click here to enter text.](#)*Which category(s) does the complaint fall under?*Respect and Dignity Use of Municipal AssetsConduct Respecting Staff Personal and Political InterestsGifts, Benefits and Hospitality Confidentiality, Privacy and Use of
Information*Has there been an attempt to resolve the complaint through an informal process?*Yes No *Give a brief summary of the complaint against the Council Member*

Please Turn Over

Section 2: Response to Complaint

(to be completed by Councillor in question)

Please give as much detail as possible about your conduct on the matter in question, any contact with the complainant, and any additional information you feel is relevant.

Signature: _____

Date: [Click here to enter text.](#)

Name: [Click here to enter text.](#)

Form 3 – Exception Form for Gifts, Benefits & Hospitality

Name: [Click here to enter text.](#)

	Date	Gift/Benefit	Donating Organization/ Individual	Value	Explanation
1					
2					
3					
4					
5					
6					

Signature: [Click here to enter text.](#)

Date: [Click here to enter text.](#)

5.5 Gifts, Benefits and Hospitality

- a. Members will not accept a fee, advance, gift or personal benefit connected directly or indirectly to the performance of duties, unless permitted by law.
- b. Members will make decisions free from the influence of gifts, favours, hospitality, and entertainment.
- c. Members will decline any personal gift where the acceptance of such gift may imply a contractual agreement with or obligation to the donor.
- d. Notwithstanding a), b), and c), Members may accept tokens, mementoes, souvenirs, or such gifts or benefits up to and including a value of \$300.00 that are received as a result of the responsibilities of the office. Tokens, mementoes, souvenirs or gifts with a value greater than \$300.00 shall be the property of the Municipality.
- e. Exceptions outlined in Section 5.5 d) must be reported to the clerk by the Member in writing using Form 3. These exceptions will be reported to Council on an annual basis.
- f. Members will not seek or obtain by reason of their office any personal privilege or advantage with respect to municipal services not otherwise available to the

general public and not following as a result of official duties.