



SUBJECT: Recommendation Report from the Integrity Commissioner -
Code of Conduct Complaint Against Councillor Stolte

TO: Mayor and Members of Council

FROM: Office of the City Clerk

Report Number: CL-16-22

Wards Affected: not applicable

File Numbers:

Date to Committee: N/A

Date to Council: April 19, 2022

Recommendation:

Approve the recommendation as outlined in Appendix B to report CL-16-22 from the Integrity Commissioner:

That having been found to have breached the City of Burlington's Council Code of Conduct, Councillor Stolte's pay be suspended for a period of 5 days.

PURPOSE:

To transmit the report issued from the Integrity Commissioner dated April 8, 2022, for City Council's review.

Background and Discussion:

The Code of Good Governance

The City of Burlington has a Code of Good Governance (the Code), which was established by way of report [CM-9-18](#) and approved on April 23, 2018, by City Council. The Code serves as Burlington City Council's Code of Conduct and establishes a set of principles to support Council in conducting their day-to-day business. The Code has been attached to this report as appendix A.

The City of Burlington's Code serves four main purposes:

- Set outs, in manner that is aspirational and proactive, clear expectations of the governance behaviour of members of Council;

- Provides clarity to the public as to the behaviour they can expect from members of Council, and the governance responsibilities that go beyond those in the Municipal Act;
- Provides guidance to members of Council in the conduct of their duties as elected officials; and
- Provides a mechanism for responding to alleged breaches of elements of the Code.

The Integrity Commissioner

The Integrity Commissioner is appointed by and is accountable to the Burlington City Council. The City of Burlington has an established accountability framework, with the Integrity Commissioner playing an essential role. The role of the Integrity Commissioner is established through section 223 of *the Municipal Act, 2001, S.O. 2001, c. 25* (the Act). The Act authorizes a municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality. In particular, section 223.4 of the Act provides Integrity Commissioner with the ability to conduct an inquiry, their powers of inquiry, access to information, and potential penalties.

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry.

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.

2. Suspension of 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.

The firm Principles Integrity serves as the City of Burlington's Integrity Commissioner, approved by way of report CL-14-18, and appointed by way of By-law 45-2018. The firm was selected by a group procurement process led by Halton Region and are engaged with each municipal unit in Halton Region. In addition, Principles Integrity provides integrity commissioner services for a number of municipalities across the province.

Complaints

The established process dictates that any complaint is submitted directly to the Integrity Commissioner. The City of Burlington website has a webpage dedicated to the Integrity Commissioner and provides a direct contact for any enquiries. Potential complainants who contact the Office of the City Clerk are provided the contact information for Principles Integrity Commissioner and are instructed to connect directly. The Office of the City Clerk is not involved in complaints, unless directly interviewed by the Integrity Commissioner. Invoices received by the Office of the City Clerk are anonymized.

The complaint process itself is nuanced, which allows the Integrity Commissioner many tools at their disposal to resolve complaints. The complaint process also provides options to complainants and the respondent to resolve complaints through alternative ways. The complaint process forms part of the Code document and is attached as appendix A to this report.

The Complaint and Recommendation Report

A recommendation report was filed by the Integrity Commissioner with the Clerk on April 8, 2022. As part of their process, the complainant and the respondent were also provided a copy of the report also on April 8, 2022. A copy of this report is appended to this report as appendix B.

The report indicated that a complaint was filed by Councillors Galbraith and Nisan on January 30, 2022, alleging that Councillor Stolte had, on several occasions, breached the confidentiality obligations under the City's Code of Good Governance. The Integrity Commissioner report addresses the investigation conducted in accordance with section 223.4 of the Act and conveys their findings and recommendation.

The Integrity Commissioner recommendation report included discussion on procedural motions to go into closed session. This report and its discussion as it pertains to closed session will be forwarded to the firm Aird Berlis who is currently working with the Office of the City Clerk on the creation of a closed session protocol. Council authorized this work in February 2022 by way of CSSRA-02-22 and the protocol is expected to return to CSSRA by June 2022.

Strategy/process

The City Clerk has worked with the Integrity Commissioner to ensure that the rules of how this item is disposed with is clear. The Integrity Commissioner will be present at the City Council meeting on April 19, 2022, to respond to questions of Council.

- The Integrity Commissioner will provide opening remarks on their report.
- In accordance with the Procedural By-law Members of Council can ask questions of clarification, two at a time to the Integrity Commissioner.
- Once questions of Council have been exhausted, the Mayor will open the floor for any motions.
- The recommendation as listed in this report could be put on the floor, if Council wishes not to endorse the recommendation the report could be received for information.
- Once a motion is placed on the floor speaking times will coincide with Council rules, this means each member is afforded, two, five-minute speaking times. If a member wishes to speak for a third time this is put to a vote and is only provided to members through the successful passing of a two thirds vote of Council.
- While the respondent councillor has a pecuniary interest, there is a provision under the *Municipal Conflict of Interest Act* which allows them to participate but not to vote on the matter.

Options Considered

The rules as outlined in the Code of Good Governance states that:

If upon completion of the investigation the Integrity Commissioner finds that a breach of the Code has occurred, the Commissioner shall report their findings to Council including a recommendation as to the imposition of a penalty as set out in the Municipal Act.

Therefore, a recommendation is made by the Integrity Commissioner and is conveyed to Council, who makes the final decision.

Financial Matters:

Total Financial Impact

The cost of this complaint investigation, as of writing this report is approximately \$5,800.00.

Source of Funding

Integrity Commissioner costs are funded from the operating budget under corporate expenditures.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

Not applicable.

Conclusion:

This is a transmittal report to convey a report from the Integrity Commissioner to City Council regarding a Code of Conduct complaint against Councillor Stolte.

Respectfully submitted,

Kevin Arjoon

City Clerk

905-335-7600 ext. 7702

Appendices: (if none delete section)

- A. Code of Good Governance
- B. City of Burlington, Code of Conduct Complaint Against Councillor Stolte, April 8, 2022.

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.