



Agenda  
City Council Workshop  
The Corporation of the City of Brampton

Monday, July 26, 2021

9:30 a.m.

**Council Chambers - 4th Floor, City Hall - Microsoft Teams Meeting**

**Members:**

Mayor Patrick Brown	
Regional Councillor R. Santos	Wards 1 and 5
Regional Councillor P. Vicente	Wards 1 and 5
City Councillor D. Whillans	Wards 2 and 6
Regional Councillor M. Palleschi	Wards 2 and 6
City Councillor J. Bowman	Wards 3 and 4
Regional Councillor M. Medeiros	Wards 3 and 4
City Councillor C. Williams	Wards 7 and 8
Regional Councillor P. Fortini	Wards 7 and 8
City Councillor H. Singh	Wards 9 and 10
Regional Councillor G. Dhillon	Wards 9 and 10

NOTICE: In consideration of the current COVID-19 public health orders prohibiting large public gatherings and requiring physical distancing, in-person attendance at Council and Committee meetings will be limited.

For inquiries about this agenda, or to make arrangements for accessibility accommodations (some advance notice may be required), please contact:  
Peter Fay, City Clerk, Telephone 905.874.2172, TTY 905.874.2130  
[cityclerksoffice@brampton.ca](mailto:cityclerksoffice@brampton.ca)

1. **Roll Call**

2. **Workshop Session**

Purpose: Council learning session to review Council's Code of Conduct and discuss Code and process updates.

9:30 a.m. **Welcome and Introductory Remarks**

- Peter Fay, City Clerk, Legislative Services

9:35 a.m. **Council Code of Conduct - Review and Updates Discussion**

- Muneeza Sheikh, Integrity Commissioner and Lobbyist Registrar

12:00 p.m. **Wrap-up and Adjournment**

Session and break times may vary depending on Council discussion.

This virtual Council Workshop will be livestreamed  
and archived on the City's website for future public access.

3. **Adjournment**

# Brampton City Council Code of Conduct Review and Workshop

Muneeza Sheikh, Integrity and  
Ethics Commissioner



# Matters to be addressed

## Review Council Code of Conduct:

- Consider whether further revisions may be needed either of the Code or commentary
- Consider whether revisions are needed to add references to the *Human Rights Code* and *OHSA*
- Consider whether Code of Conduct should apply to political staffers

## Code of Conduct “lite version” for local boards and advisory committees:

- Advisory committees comprised of citizens that Council appoints
- Some municipalities such as Toronto and Mississauga have Code of Conduct “light version”

## **Review: Role of the Ethics and Integrity Commissioner - Municipal Act, 2001 s223.3**

(1) Without limiting sections 9, 10 and 11, those sections authorize the 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 with respect to any or all of the following:**

- 1. To apply the code of conduct for council members and the code of conduct for members of local boards.**
- 2. To apply any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.**



3. To **apply relevant sections** (sections 5, 5.1 and 5.2) of the *Municipal Conflict of Interest Act* to members of council and of local boards (to be discussed in more detail).
4. **Requests from members of council and of local boards for advice** respecting their obligations under the code of conduct applicable to the member.
5. **Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy** of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. **Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.**
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act, 2017, c. 10, Sched. 1, s. 19 (1)*.



# **Review: Brampton City Council Code of Conduct**

## **Purpose:**

To ensure that City of Brampton decisions and policy are made through the proper processes of municipal government structure;

To ensure public office is not be used for personal gain; and

To instill and maintain public confidence in the integrity of its municipal government.

# **Key Governing Principles**

**Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

**Members of Council should be committed to performing their functions with integrity and transparency.**

**Members of Council shall perform official duties and arrange their public affairs in a manner that promotes public confidence and respect and will bear close public scrutiny.**

# Informal complaints protocol

Any person who witnesses/identifies behavior/activity by a Council member that they believe is in contravention of the Code of Conduct may address the behavior/activity themselves by:

1. advising the Council member that the behaviour or activity contravenes the Code;
2. encouraging the member to stop the prohibited behaviour or activity;
3. keeping a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
4. if applicable, confirming to the member you are satisfied with his/her response; or, if applicable, advising the member of your dissatisfaction with the response; and
5. considering 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.

# **Informal complaints protocol**

**All persons and organizations are encouraged to initially pursue an informal complaint as a means of stopping and remedying a behavior/activity that is prohibited by the Code.**

**Integrity Commissioner may be part of any informal complaint process with the consent of the complainant and Council member.**

**Not a precondition/prerequisite for a complainant to pursue the informal complaint procedure before pursuing the Formal Complaint Procedure .**

# Formal complaints protocol

- Request for investigation of complaint shall be sent directly to the Integrity Commissioner by mail, E-mail, fax or courier via a complaints form.
- Complaint shall set out reasonable and probable grounds for the allegation that the member has contravened the Code.
- Complainant should include name of alleged violator, provision of the Code allegedly contravened, facts constituting alleged contravention, names and contact information of witnesses, and contact information for complainant during normal business hours.
- Integrity Commissioner shall not accept any complaint arising from conduct of member(s) that occurred, or was first learned of by complainant, **six (6) months** prior to receipt of such complaint by Integrity Commissioner.
- Any Complaint received from and after August 1 in municipal election year  Integrity Commissioner shall stay any investigation required by such complaint until the day after the inaugural meeting of the new Council and until then, shall keep such complaint confidential.\*

# Formal complaints protocol

## Initial Classification by Integrity Commissioner

- Upon receipt of request, Integrity Commissioner shall make an initial classification to determine if matter is, on its face, a complaint relating to non-compliance with the Code and not covered by other legislation or other Council policies.
- If complaint is not, on its face, a complaint relating to non-compliance with the Code or is covered by other legislation or complaint procedure under another Council policy  Integrity Commissioner shall advise complainant in writing as follows:
  - (a) If it is a complaint of criminal nature - complainant must pursue it with the appropriate police force;
  - (b) If it is a complaint related to non-compliance with the Municipal Freedom of Information and Protection of Privacy Act - complainant will be referred to City

Clerk;

# Formal complaints protocol

## Initial Classification by Integrity Commissioner

(c) If it is a complaint related to non-compliance with more specific Council policy with separate complaint procedure → matter will be processed under that procedure; and

(d) If it is any other case → complainant shall be advised that the matter is not within Integrity Commissioner's jurisdiction.

- Integrity Commissioner may report to Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner.
- Integrity Commissioner shall report annually to Council on complaints not within the Integrity Commissioner's jurisdiction, but, where possible, shall not disclose information that could identify a person concerned.

# Investigations

## Integrity Commissioner Investigation

- Integrity Commissioner is to perform duties independently
- Integrity Commissioner to file an annual report to City Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of Integrity Commissioner
- Complaints that are frivolous, vexatious or not made in good faith, or have insufficient grounds → Integrity Commissioner will not conduct investigation/will terminate investigation upon such finding
- If complaint is within Integrity Commissioner's jurisdiction, Integrity Commissioner shall investigate and may attempt to settle the complaint.
- Upon receipt of formal complaint pursuant to the Code, and where Integrity Commissioner determines that complaint meets the criteria to be investigated, Integrity Commissioner may elect to conduct an informal investigation.

# Investigations

Integrity Commissioner will:

- serve complaint and supporting material upon member whose conduct is in question with request for written response to the allegation by way of affidavit or otherwise within ten days; and
- Integrity Commissioner may serve a copy of response upon complainant with request for written reply within ten days.
- 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 City work location relevant to the complaint for the purposes of investigation and settlement.

# Reporting Obligations

- Integrity Commissioner shall not issue report finding violation of the Code of Conduct unless the member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity in person/in writing to comment on proposed finding and recommended sanction.
- Integrity Commissioner may make interim reports to Council where necessary to address instances of interference, obstruction or retaliation encountered during the investigation.
- Integrity Commissioner shall report to complainant and the member generally no later than 90 days after making of the complaint.
- If complaint is sustained → Integrity Commissioner shall report to Council outlining the findings, terms of any settlement, or recommended corrective action.
- If complaint is dismissed, other than in exceptional circumstances → Integrity Commissioner shall not report to Council except as part of an annual or other periodic report.

# Reporting Obligations

- Any recommended corrective action by Integrity Commissioner must be permitted in law and shall be designed to ensure that inappropriate behaviour/activity does not continue.

If Integrity Commissioner determines that:

- No contravention of Code occurred; or
- Member took all reasonable measures to prevent contravention; or
- Contravention was trivial/committed through inadvertence or error of judgement made in good faith; then

the IEC shall state as such in report and recommend that no penalty be imposed.

- City Clerk shall process the report for the next meeting of Council.

# Council Review

- Council shall consider and respond to report within 90 days after the day the report is laid before it.
- In responding to report, Council may vary recommendation that imposes penalty, but shall not refer the recommendation other than back to Integrity Commissioner.
- Council can terminate Integrity Commissioner only by two-thirds vote of all members.
- Upon receipt of recommendations from Integrity Commissioner, where Integrity Commissioner determined that Code has been violated, Council may impose either:
  - (a) a reprimand; or
  - (b) suspension of the remuneration paid to Member for up to 90 days

# Council Review

- Integrity Commissioner may also recommend:
  - (a) removal from membership of a committee;
  - (b) removal as chair of a committee;
  - (c) repayment/reimbursement of monies received;
  - (d) return of property/reimbursement of its value;
  - (e) a written and/or verbal request for an apology to Council,  
the complainant, or both.

# **Recommended changes to the Code of Conduct**



**Rule No. 14:  
Harassment**

# Statutory Definitions

## ***Occupational Health and Safety Act***

S. 1(1) “workplace harassment” means,

- engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or
- workplace sexual harassment

## **Ontario *Human Rights Code***

S. 10(1) “harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;

# Statutory Obligations - OHSA

## → Create a policy on workplace policy

*OHSA 32.0.1(1)(b)* An employer shall ... prepare a policy with respect to workplace harassment

The policy shall address (32.06):

- Procedures for reporting incidents to an employer or supervisor (or another person if appropriate)
- How incidents or complaints will be investigated and dealt with
- How information obtained will be protected
- How the complainant and respondent will be informed of the results of the investigation and any corrective action
- Provide worker with appropriate information and instruction regarding the policy (32.0.8)

# Statutory Obligations - OHSA

## → Reporting and rights during and following investigations

### *Employer's duties*

**32.0.7** (1) To protect a worker from workplace harassment, an employer shall ensure that,

(a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;

(b) the worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;

(c) the program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment required under clause 32.0.1 (1) (b); and

(d) such other duties as may be prescribed are carried out.

# Statutory Obligations - HRC

→ Right to a workplace free from harassment

## Harassment in employment

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

# Brampton Code of Conduct – R.14

1. Members shall be governed by the City's current policies and procedures as amended from time to time, regarding a respectful workplace, workplace harassment prevention and workplace violence prevention.
2. Harassment by a member of another member, staff or any member of the public is misconduct.
3. Upon receipt of a complaint that relates to Rule No. 14, the Integrity Commissioner may investigate it under the terms of the Complaint Protocol

## *Commentary*

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

The City of Brampton is developing a Respectful Workplace Policy (Harassment and Discrimination) to ensure a safe and respectful workplace environment and appropriate management of any occurrences of harassment and discrimination as defined by the policy.

# Comparison - General

- The Codes of Brampton, Mississauga, Peel, Vaughan, and Toronto all address harassment in the workplace
- All the respective codes express a general commitment to a workplace free from abuse and discrimination. Brampton and Vaughan specifically describe harassment as “misconduct”.
- The following refer to a policy on workplace harassment: Brampton, Vaughan, Mississauga, Toronto
- The specifically references statutory obligations in relation to harassment in the Code itself: Mississauga (HRC); Peel (OHSA); Toronto (HRC)
- The respective Codes describe different procedures for handling complaints or describe no procedure at all (see following slides). Only Vaughan specifically describes a process where the complaints can be sent to HR before going to the IC.

# Comparison - procedure

**Brampton:** “Upon receipt of a complaint ... the IC may investigate it ...”

**Vaughan:**

R.14(3)“Upon receipt of a complaint ... the IC may forward the information subject of the complaint to Human Resources who will refer it to an independent investigator.”

Commentary: “...Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator’s findings to make a determination on the application of the Code of Ethical Conduct and the merits to an investigation on the ethical conduct of the Member subject of the complaint.”

## Comparison - procedure

**Brampton:** “Upon receipt of a complaint ... the IC may investigate it ...”

**Mississauga:**

R.12(2): “All complaints received, involving members of Council under the Respectful Workplace policy shall be referred to the Integrity Commissioner for processing in accordance with both the said policy and the Council Code of Conduct Complaints Protocol.”

## Comparison - procedure

**Brampton:** “Upon receipt of a complaint ... the IC may investigate it ...”

**Peel:**

*No specific protocol for harassment complaints.*

## Comparison - procedure

**Brampton:** “Upon receipt of a complaint ... the IC may investigate it ...”

**Toronto:**

*No specific protocol for harassment complaints.*

# Discussion



# Complaints protocol update: matters during election period

Current Code of Conduct states:

- For any Complaint received from and after **August 1** in any municipal election year, the Integrity Commissioner shall stay any investigation required by such complaint until the day after the inaugural meeting of the new Council and until then, shall keep such complaint confidential.

Under the *Municipal Act, 2000* s.223.4(7):

- The Integrity Commissioner must terminate any inquiry that has not been completed **by nomination day** (August 19, 2022).
- Complaints must be stayed until after inauguration day.
- An inquiry may only be commenced after inauguration day if the requestor of the initial inquiry, or the member/former member who the inquiry was about, makes a written request to commence the inquiry within six weeks after voting day.

# Complaints protocol update: Municipal Conflicts of Interest Act

Presently, s.223.4.1 of the *Municipal Act* is not referenced in the complaints protocol:

- Under this section anyone who is entitled to vote at a municipal election or a person demonstrably acting in the public interest may apply in writing to the Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a member of council or a member of a local board
- No application for an inquiry may be made to the Commissioner during the period of time starting on nomination day for a regular election, and ending on voting day in a regular election.

# Municipal Conflicts of Interest Act

**Purpose:** To protect the public interest by prohibiting members from being involved in matters that are being considered by Council or local board if the member has a pecuniary interest in the matter

## **Key Provisions:**

**Section 5:** Where member has **direct/indirect pecuniary interest** in a matter and is **present at Council meeting** at which the matter is the subject of consideration, the member shall:

- prior to any consideration of the matter at the meeting, **disclose** the interest and the general nature thereof;
- **not take part in the discussion of, or vote** on any question in respect of the matter; and
- **not attempt in any way** whether before, during or after the meeting **to influence the voting** on any such question.

**Section 5.1:** At meeting at which member **discloses an interest** under section 5, or as soon as possible afterwards, the member **shall file a written statement** of the interest and **its general nature** with the clerk of the municipality or the secretary of the committee or local board, as the case may be.

**Section 5.2:** Where a member, either on his or her own behalf or while acting for, by, with or through another, has any **direct/indirect pecuniary interest**, in any matter that is being considered by an officer or employee of the municipality or local board, or by a person or body to which the municipality or local board has delegated a power or duty, the member **shall not** use his or her office in **any way to attempt to influence** any decision or recommendation that results from consideration of the matter.

# Other recommendations

- **Supplementary legislation: Consider incorporating reference the following legislation:**

*Ontario Human Rights Code*

*Occupational Health and Safety Act*

*Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace), 2009*

- **Ensure specific reference is made to policies such as the Respectful Workplace Policy, Workplace Violence Prevention Policy, Occupational Health and Safety policy, Council and Staff relations Policy, Mayor and Councillor’s Expense Policy, Use of Corporate resources Policy, Council Office Management Framework**
- **Incorporate requirement for an annual/biannual review procedure to ensure Code remains relevant and current.**
- **Mandatory Council review and endorsement of the Code at the beginning of each new term of Council,**
- **Develop a “lite” version for local boards and advisory committees (resolution passed in 2019 saying that, for now, the Council Code applies to local boards)**

# Other recommendations

Include section regarding council duties when responding to inquiries from the public:

- The IC has had issues with this in the past, i.e. frivolous complaints received where the complainant alleges that a council member did not respond to their inquiry or was dissatisfied with the response they received. Vaughan Code of Conduct Rule 1(b): Members should be committed to performing their Functions with integrity and transparency (Commentary):
- City Council is committed to overseeing the provision of responsive and accessible services including dealing with reasonable inquiries and requests for information in a timely manner. On occasion, an individual citizen may not be accepting of the response and may restate the inquiry in various ways, or may be rude or harassing in their delivery of the inquiry. There is a need to balance access to information against the need to protect the legitimate interests of the City; the need to respect approved policies and procedures of the City within civil and respectful discourse; and the need to respect the role of officers and employees of the municipality.... This Code does not require Members of Council to provide a response to an inquiry or request for information that is frivolous or vexatious, unreasonable or harassing.

# Other recommendations

Vaughan Code (Rule 1(b) commentary con't):

For example:

- the Member of Council is of the opinion on reasonable grounds that the inquiry is made for a purpose other than to obtain information;
- the inquiry has been made more than once and is being used for the purpose of revisiting an issue that has been previously addressed;
- the inquiry is articulated in such a way that it can be considered harassing or abusive;
- the Member is of the opinion, on reasonable grounds, that providing a response would interfere with the operations of the City;
- the inquiry is not an inquiry but rather a complaint

**Ministry of Municipal  
Affairs and Housing:**  
*Provincial Consultations  
on Municipal Codes of  
Conduct*

**Purpose:**

In 2020 Ottawa City Council requested that the Minister of Municipal Affairs and Housing consider revisions to the *Municipal Act, 2001* aimed at increasing the accountability of council members by putting in place new mechanisms and strengthening old ones to ensure that councillors and heads of council maintain a safe and respectful workplace and carry out their duties as elected officials in an ethical and responsible manner.

# Scope and Process

The Ontario government sought feedback on:

- what changes or mechanisms are needed to better hold council members accountable for municipal code of conduct violations;
- how to more effectively enforce these codes; and
- whether a broader range of penalties for violations of the codes of conduct are needed

The survey took place over a 90-day period, with all Ontarians encouraged to participate. The survey closed as of July 15, 2021. No report has been released.

# Examples of feedback from municipalities and municipal organizations

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## Association of Municipalities Ontario (AMO)

- amending the Municipal Act to allow for **Administrative Monetary Penalties** in Municipal Code of Conduct breaches to incentivize compliance – subject to regulation and a municipal by-law setting out appropriate penalty thresholds for the municipality;
- **suspension** of a council member for a certain period of time in defined circumstances that could negatively impact public health and safety;
- **removal from office** by a member of the Judiciary on the recommendation of an Integrity Commissioner where a report has found serious and/or repeated breaches of Codes of Conduct; and
- **better training and standards for Integrity Commissioners** to improve capacity and consistency of decision-making across the province.

# Other recommendations

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## Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO)

- Enhanced training on Code of Conduct for Members of Council
- Require council members to review Codes of Conduct annually and confirm their commitment to the Code
- Expand O.Reg. 55/18 (Codes of Conduct) of the *Municipal Act, 2001* to include minimum standards, with municipalities having the ability to alter their Code to suit local circumstances
- That Integrity Commissioners be independent from Council: some recommendations include fixed-term appointments and a stipulated 2/3 majority vote threshold to remove the IC.
- Providing IC's with the ability to make binding decisions and the power to apply sanctions, not just recommend them to council

# Other recommendations

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- Create a standard suite of progressive penalties for certain violations of the Code
- Ensuring municipal staff are not responsible for enforcement of Codes of Conduct
- Clarify the ability of the IC to dismiss frivolous requests and find informal mechanisms for resolution
- Set standards for Integrity Commissioners to promote greater consistency in investigations, including required qualifications, more guidance on how investigations are conducted and reported, and how Integrity Commissioners fulfill their role in providing education.
- Promote greater knowledge of municipal issues in the judicial system and explore the creation of a specific tribunal to handle local government issues

# Discussion