INTEGRITY COMMISSIONER PROTOCOLS

Purpose

This policy is to set out the protocols for the complaint process for the municipal Code of Conduct and/or Conflict of Interest Act to be followed by the complainant, staff, members and the appointed Integrity Commissioner.

Introduction

An integrity commissioner is a municipal accountability officer who is responsible for applying the rules governing the ethical conduct of members of municipal councils and local boards (including codes of conduct), and for providing advice and education on those rules. The Municipal Act, 2001 provides the framework within which municipal integrity commissioners are appointed and carry out their functions. The Integrity Commissioner does not conduct or review any complaints regarding municipal staff.

Every municipality must establish a code of conduct for members of councils and local boards, and appoint an integrity commissioner. The Township of Bonfield's Code of Conduct can be found here Accountability and Transparency | Township of Bonfield and the Integrity Commissioner By-law is adopted upon appointment, with the last one being 2026-42 in September 2026. This may be updated from time to time.

Integrity commissioners function in an independent manner and report directly to municipal council. Although, the Integrity Commissioner shall also provide the Clerk of the Township with necessary reporting to keep the municipal records up to date and accurate. The functions of integrity commissioners include:

- Applying the code of conduct and any procedures, rules and policies governing the ethical behavior of members of councils and local boards, including conducting investigations and inquiries2 into complaints about alleged contraventions of a code of conduct;

- Conducting inquiries concerning alleged contraventions of the Municipal Conflict of Interest Act;

- Providing advice to members respecting their obligations under the code of conduct, procedures, rules or policies governing the ethical behavior of members, and the Municipal Conflict of Interest Act; and

- Providing educational information about the code of conduct and the Municipal Conflict of Interest Act.

Integrity commissioners play a vital role in local government by providing advice, education, and complaint resolution to municipal councils and local boards. Their findings are significant for the public because they help determine whether local officials are acting ethically and meeting the high standards expected of them.

INTEGRITY COMMISSIONER PROTOCOLS

PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behaviour or activity themselves in the following manner by following the Informal Complaint Procedure:

   (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;

   (b) advise another person about the concerns regarding the Member's actions for the purpose of corroborating the incident(s) or actions;

   (c) directly advise the Member that the behaviour or activity appears to contravene the Code of Conduct;

   (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;

   (e) encourage the Member to acknowledge and agree to stop the allegedly prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;

   (f) if applicable:

      (i) confirm to the Member that his or her response is satisfactory, or

      (ii) advise the Member that his or her response is unsatisfactory;

   (g) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

2. Individuals are encouraged to pursue the Informal Complaint Procedure as the first means of remedying the behaviour or activity of a Member that they believe contravenes the Code of Conduct.

3. The Integrity Commissioner may be requested to assist in an attempt to settle or resolve the issue with the Member and the individual but the Integrity Commissioner will participate only if both or all parties have consented to its participation.

4. The Informal Complaint Procedure is <u>not</u> a precondition or a prerequisite to pursuing the Formal Complaint Procedure related to the Code of Conduct set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

5.(1) Any individual who has reasonable grounds to believe that a Member has contravened a provision of the Code of Conduct may file a formal complaint ("Complaint") to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:

(a) a Complaint shall be in writing on the prescribed form (Formal Complaint Form # 1 attached hereto) and shall be dated and signed by an identifiable individual ("the complainant");

(b) a Complaint must set out reasonable grounds for the allegation that the Member has contravened the Code of Conduct and set out the evidence in support of the allegation; and

(2) Council may also file a Complaint against any of its Members of an alleged contravention of the Code of Conduct by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

(3) An elector, as defined in section 1 of the *Municipal Conflict of Interest Act*, or a person demonstrably acting in the public interest (collectively, "a complainant") may file a formal application requesting that the Integrity Commissioner carry out an inquiry concerning an alleged contravention of section 5, 5.1, 5.2 or 5.3 of that statute by a Member in accordance with the following requirements:

(a) an application (also referred to as a "Complaint" herein) shall be in writing on the prescribed form (Complaint Form # 2 attached hereto), dated and signed by an identifiable individual;

(b) the application shall include a statutory declaration attesting to the fact that:

(i) the complainant became aware of the contravention not more than six (6) weeks before the date of the application; or

(ii) in the case where the complainant became aware of the alleged contravention during the period of time described in paragraph 1 of subsection 223.4.1(5) of the *Municipal Act, 2001*, that the complainant became aware of the alleged contravention during that period of time;

(4) Council may also pass a resolution requesting the Integrity Commissioner to undertake an inquiry respecting an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act* by a Member and provide a statutory declaration as required by Section 5(2) to be sworn by a Member of Council.

(5) Complainants who file a formal Complaint under Section 5 must provide a full and complete record of the evidence they purport to rely upon to substantiate or support the allegations set out in the Complaint to the Integrity Commissioner. The Integrity Commissioner is under no obligation whatsoever to, but may, seek additional information.

Filing of Complaint and Classification by Integrity Commissioner

6.(1) The Complaint may be filed either with the Clerk or directly with the Integrity Commissioner by hard copy or by email at the following mailing or email addresses:

(a) to the Clerk (who will provide a copy to the Integrity Commissioner):

Nicky Kunkel
Clerk
365 Highway 531
Bonfield ON P0H 1E0

Email: cao.clerk@bonfieldtownship.com
Tel: 705-776-2641 ext. 122

or

(b) directly with the Integrity Commissioner:

TBD

(2) The Integrity Commissioner shall within seven (7) calendar days of receipt, initially review the Complaint to determine if the matter is, on its face, a Complaint with respect to a contravention of the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 7 or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*.

Complaints Outside the Integrity Commissioner's Jurisdiction or Not for Investigation

7.(1) If the Complaint is not, on its face, a Complaint with respect to a contravention of the Code of Conduct or the Complaint relates to matters addressed by other legislation under another procedure, policy or rule of the Township or whether it is a Complaint with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall advise the complainant in writing within seven (7) days of receipt of the Complaint as follows:

Criminal Matter

(a) if the Complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that the complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

Municipal Freedom of Information and Protection of Privacy Act

(b) if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that

the matter must be referred to the Clerk to deal with under any access and privacy policies of the Township under that statute;

Other Procedure, Policy or Rule Applies

(c) if the Complaint appears to fall within the scope of another procedure, policy or rule of the Township, the complainant shall be advised to pursue the matter under such procedure, policy or rule with the appropriate municipal official or staff member; and

Lack of Jurisdiction

(d) if the Complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals, if any, as the Integrity Commissioner considers appropriate.

(2) If it becomes apparent to the Integrity Commissioner at any time that the Complaint with respect to a contravention of the Code of Conduct or with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, relates to any of the following matters, the Integrity Commissioner shall advise the complainant in writing, within seven (7) days of such determination, as follows:

Matter Already Pending

(a) if the Complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion, suspend any investigation, in whole or in part, pending the result of the other process;

Similar Matter Already Pending

(b) if the Complaint is in relation to a similar matter which is subject to an outstanding Complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the Complaint in the similar matter; and

Other Ethical Code or Policy Applies

(c) if the Complaint is in relation to a matter which is governed by a code of conduct, ethical code or similar procedure or policy of another body or entity which also governs the Members (for example, another board, body or committee to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the Complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.

(3) Nothing in Section 7 precludes the Integrity Commissioner from reporting to Council on any matter that is suspended, summarily dismissed, terminated or not otherwise investigated.

Limitation Period

8.(1) The Integrity Commissioner shall not accept a Complaint under the Code of Conduct for which the event giving rise to the Complaint occurred more than three (3) months prior to the date of the filing of the Complaint, notwithstanding when it was discovered.

(2) The Integrity Commissioner shall not accept an application with respect to an alleged contravention of section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act* more than six (6) weeks after the complainant became aware of the alleged contravention except in accordance with the requirements of subsections 8(3)-(7) of that statute and section 223.4.1 of the *Municipal Act, 2001*.

Refusal to Conduct Investigation

9.(1) The Integrity Commissioner always has a discretion as to whether to carry out an investigation. If the Integrity Commissioner is satisfied at any time, after considering the information contained in the Complaint, that the Complaint:

(a) is frivolous or vexatious,

(b) is not made in good faith,

(c) constitutes an abuse of process,

(d) discloses no grounds or insufficient grounds for an investigation,

(e) does not warrant a full investigation, or

(f) is not otherwise in the public interest to investigate,

the Integrity Commissioner shall not be required to conduct an investigation and may summarily dismiss the Complaint, and, where this becomes apparent during the course of an investigation, the Integrity Commissioner shall terminate the investigation and provide notice to the complainant and, if necessary, to the Member.

(2) The Integrity Commissioner is under no obligation to report the refusal to conduct an investigation to Council but shall report on the number of Complaints that were not investigated, summarily dismissed or terminated in the Integrity Commissioner's Annual Report of activities required by Section 21.

Opportunities for Resolution

10. Following receipt and review of a Complaint or at any time during an investigation where the Integrity Commissioner, in its sole discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

Investigation

11.(1) Where the Integrity Commissioner has not summarily dismissed or otherwise terminated, a complaint, the Integrity Commissioner shall proceed as follows (unless otherwise required by the *Public Inquiries Act, 2009*):

(a) provide the Member with a copy of the Complaint which shall not disclose:

(i) the identity of the complainant, or

(ii) the identity of any witnesses set out in the Complaint or persons that are to be questioned/interviewed by the Integrity Commissioner,

unless it is essential for the Member to adequately respond to the Complaint, which determination shall be made by the Integrity Commissioner, in its sole discretion;

(b) request that the Member provide a written response to the allegations in the Complaint to the Integrity Commissioner:

(i) within twenty (20) calendar days if there is a single Complaint;

(ii) within twenty (20) calendar days of the expiry of the time limit in Section 11.(1)(b)(i), if there are multiple and unrelated Complaints;

(c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within twenty (20) calendar days.

(2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Township's computers and servers, and may enter any municipal work location relevant to the Complaint for the purpose of investigation and potential resolution.

(3) If during the course of an investigation of a Complaint, the Integrity Commissioner discovers that the member may have committed another contravention of the Code of Conduct, the Integrity Commissioner shall have the authority to investigate and report on that matter.

(4) A draft of the proposed final report on the Complaint shall be provided to a Member if the Integrity Commissioner considers that the Member may have contravened the Code of Conduct, and the Member shall have fifteen (15) calendar days to make final submissions to the Integrity Commissioner who shall consider such submissions prior to finalizing the report.

(5) The Integrity Commissioner may, but is under no obligation, to provide the complainant with a draft of the proposed final report.

(6) The Integrity Commissioner may make interim reports to Council where the Integrity Commissioner considers it necessary or required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal investigation, and may also disclose such information as is necessary in the Integrity Commissioner's opinion for the purposes of the interim report(s) or any final report(s).

No Complaint Prior to Municipal Election

12.(1) Notwithstanding any other provision of this Complaint Protocol, no Complaint may be filed with the Integrity Commissioner, nor shall any report be made by the Integrity Commissioner to Council during the period of time starting on nomination day for a regular municipal election year, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on the voting day in a regular election as set out in section 5 of the *Municipal Elections Act, 1996*.

(2) If the Integrity Commissioner has received a Complaint and has commenced an inquiry but has not completed the inquiry before nomination day in a regular municipal election year, the Integrity Commissioner shall terminate the inquiry on nomination day but may commence an inquiry in respect of the same Complaint if within six (6) weeks after the voting day in a regular municipal election the individual who made the request makes a written request to the Integrity Commissioner in accordance with subsection 223.4(8) of the *Municipal Act, 2001*.

Advice Provided to Member by Integrity Commissioner

13.(1) Subject to Section 13(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

(2) If the Integrity Commissioner applies to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member contravened section 5, 5.1, 5.2 or 5.3 of the *Municipal Conflict of Interest Act*, the Member is entitled to advise the judge of any written advice given by the Integrity Commissioner provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

(3) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct, the *Municipal Conflict of Interest Act* or generally at law with respect to any specific matter that the Integrity Commissioner is investigating or reviewing with respect to the Member, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of any investigation or review that may impact the Member's rights under the Code of Conduct, the *Municipal Conflict of Interest Act* or generally at law.

(4) If a Member under investigation by the Integrity Commissioner requests advice with respect to that specific matter, such request shall be delegated in writing to any person, other than another Member, that the Integrity Commissioner, considers capable of providing informed advice to the Member.

Authority to Abridge or Extend

14.(1) Notwithstanding any timeline or time limit set out in the Code of Conduct or this Complaint Protocol, the Integrity Commissioner shall retain the right to abridge or extend any timeline or time limit therein if the Integrity Commissioner considers it, in its sole discretion, to be in the public interest to do so.

Investigation Report

15.(1) The Integrity Commissioner shall complete an investigation within one hundred and eighty (180) calendar days following the official receipt of any Complaint under the Code of Conduct.

(2) Where the Complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended penalties / remedial measures or corrective actions.

(3) A Member shall have the right to address the recommendations in a report that has made a finding of a contravention of the Code of Conduct by the Member when the report is considered by Council. The Member themselves may participate in the discussion of the recommendations but may not vote on the matter. A Member is not entitled to challenge, contest or question the findings of an Integrity Commissioner's report to Council.

(4) The role of Council is to consider the Integrity Commissioner's report and the recommendations, if any, to make a decision on the imposition of recommended penalties or any remedial measures or corrective actions. Council's role is adjudicative, not investigatory and, accordingly, Members of Council are not entitled to challenge, to contest or to question the findings of an Integrity Commissioner's report to Council.

(5) Where the Complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings but may do so at its discretion and may also include such information as it deems necessary in a report or as part of an annual or other periodic report by the Integrity Commissioner. A summary report shall be provided to the Clerk of the Township for recording keeping purposes only.

(6) The Integrity Commissioner shall complete the investigation under the *Municipal Conflict of Interest Act* no later than one hundred and eighty (180) calendar days after the official receipt of any application validly made under Sections 5(3) or (4) of this Part.

(7) There is no right to appeal an Integrity Commissioner's report and Council's decision under the *Municipal Act, 2001*. However, a complaint may be filed with the Ombudsman of Ontario if a complainant or a Member wishes to challenge the Integrity Commissioner's investigation or an application for judicial review may be filed with the Ontario Divisional Court if a complaint or a Member wishes to have the Integrity Commissioner's report and/or Council's decision reviewed.

Findings

16.(1) If the Integrity Commissioner determines that:

(a) there has been no contravention of the Code of Conduct; or

(b) a contravention occurred but:

(i) the Member took all reasonable measures to prevent it, including having sought and followed the advice of the Integrity Commissioner,

(ii) it was trivial,

(iii) it was committed through inadvertence, or

(iv) it resulted from an error in judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty and no imposition of remedial measures or corrective actions.

(2) If the Integrity Commissioner:

(a) considers it appropriate, once the investigation under Section 5(3) or (4) has concluded, may with majority of council resolution approval to apply to a judge under section 8 of the *Municipal Conflict of Interest Act* for a determination as to whether the Member has contravened section 5, 5.1, 5.2 or 5.3 of that statute; or

(b) does not proceed with an application to the judge,

the complainant and the Member shall be advised in writing.

(3) The Integrity Commissioner shall provide a written report to Council providing the reasons for its decision under Section 16(2).

Report to Council

17. (1) Upon receipt of a report from the Integrity Commissioner with respect to the Code of Conduct, the Clerk shall place the report on the next regular agenda of Council for consideration by Council *at that meeting*.

(2) A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

Duty of Council

18. Council shall consider and make a determination on the Integrity Commissioner's recommendations in a report under Section 17 at the same meeting at which the report is listed on the agenda in a session that is open to the public. Council shall not defer consideration of the report or its determination with respect to the recommendations to another meeting.

Confidentiality and Public Disclosure

19. (1) In order to maintain the integrity of any process of inquiry or investigation, every person interacting with the Integrity Commissioner, including the complainant, the Member, any witness or any other person, shall preserve confidentiality with respect to all matters and shall not disclose any information related to the investigation to any other person unless so authorized by the Integrity Commissioner. A breach of this provision by the complainant may result in a termination of the Complaint.

(2) The Integrity Commissioner shall retain all records related to the Complaint and investigation although copies shall be provided to the Town's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.

(3) The identity of the Member who is the subject of the Complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant and of any other person, including any witnesses, will remain confidential but may be disclosed if deemed appropriate and necessary by the Integrity Commissioner, if consented to by the complainant or any other person, such information has already been demonstrably publicly disclosed or by court order.

(4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk and are published via the meeting agenda in which they are considered.

Delegation by Integrity Commissioner

20. The Integrity Commissioner shall not delegate to any person,
any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

Annual Report by Integrity Commissioner

21. The Integrity Commissioner shall submit an annual report to Council before the end of the first quarter of the Integrity Commissioner's activities during the previous year, including the number and disposition of Complaints, the number of written advice provided and to how many members of Council and local boards, the opinions rendered, and training and education provided.