

Part III

Election Disclosure Complaints Officer

Election Disclosure Complaints Officer Designated

12. Council hereby designates the Election Disclosure Complaints Officer as the person to investigate complaints pursuant to this Bylaw.

Appointment and Eligibility to Hold Appointment

13. (1) A person appointed as the Election Disclosure Complaints Officer pursuant to Section 12 shall be appointed for a term of two years or until a successor is appointed.
- (2) A person who is appointed as the Election Disclosure Complaints Officer shall:
- (a) be a Canadian citizen;
 - (b) be over the age of 18 years; and
 - (c) have a general knowledge of this Bylaw.
- (3) No person who is a member of Council or any employee of the City or the City's controlled corporations is eligible to be appointed as the Election Disclosure Complaints Officer.

Remuneration

14. The Election Disclosure Complaints Officer shall be paid remuneration and reimbursement for expenses in accordance with the rates established from time to time by Council.

Duties

15. (1) The Election Disclosure Complaints Officer shall be responsible to investigate any complaint that a candidate has filed a false, misleading or incomplete disclosure of campaign contributions or expenses.

- (2) For the purposes of carrying out an investigation pursuant to subsection (1), the Election Disclosure Complaints Officer may retain the services of any person that the Election Disclosure Complaints Officer considers necessary to assist in carrying out the investigation of the complaint, and the cost of the services shall be considered an expense to be reimbursed pursuant to Section 14.

Complaint

16. (1) A complaint that a candidate has filed a false, misleading or incomplete disclosure of campaign contributions or expenses shall be submitted in writing in the form prescribed in Schedule "E".
- (2) The complaint form shall contain the:
 - (a) name, mailing address, telephone number and email address, if one is available, of the complainant;
 - (b) name of the candidate who is the subject of the complaint;
 - (c) nature of the complaint and the material facts upon which the complaint is made; and
 - (d) name, address and telephone number of any person that may have information that will assist in the investigation of the complaint.
- (3) A complaint pursuant to subsection (1) shall be filed with the Clerk.
- (4) Upon receipt of a complaint, the Clerk shall forward the complaint to the Election Disclosure Complaints Officer.
- (5) Anonymous complaints shall not be accepted or forwarded by the Clerk to the Election Disclosure Complaints Officer.

Referral from Returning Officer

17. If, in the opinion of the Returning Officer, a candidate's disclosure of campaign contributions and expenses is, on its face, irregular or suspicious, the Returning Officer may refer the matter to the Election Disclosure Complaints Officer for investigation notwithstanding that no formal complaint has been filed with the Clerk.

Investigation

18. (1) Upon receipt of a complaint, the Election Disclosure Complaints Officer shall:
 - (a) contact the complainant and acknowledge receipt of the complaint;
 - (b) advise the complainant about the procedures that will be followed in investigating the complaint; and
 - (c) obtain from the complainant any information required to investigate the complaint.
- (2) In addition to the requirements of subsection (1), the Election Disclosure Complaints Officer shall notify the candidate that is the subject of the complaint that a complaint has been received and shall provide the candidate with a copy of the complaint.
- (3) The Election Disclosure Complaints Officer shall obtain from the candidate any information required to investigate the complaint.
- (4) In carrying out an investigation, the Election Disclosure Complaints Officer may inspect, at all reasonable times, all books, documents and accounting records of the candidate.
- (5) The Election Disclosure Complaints Officer may make copies of anything referred to in subsection (4).
- (6) Every candidate that is the subject of an investigation by the Election Disclosure Complaints Officer shall cause all books, documents and accounting records pertaining to the candidate's election campaign to be available for inspection by the Election Disclosure Complaints Officer at all reasonable times.
- (7) If a person refuses to allow or interferes with an inspection described in subsection (4), the Election Disclosure Complaints Officer may apply to a justice of the peace or a provincial court judge for a warrant authorizing a person named in the warrant to:
 - (a) enter the property and carry out the inspection authorized by this Bylaw; and
 - (b) search for and seize anything relevant to the subject matter of the warrant.

- (8) No candidate or person acting on behalf of a candidate shall:
 - (a) fail to comply with any reasonable request of the Election Disclosure Complaints Officer;
 - (b) knowingly make any false or misleading statement to the Election Disclosure Complaints Officer; or
 - (c) obstruct or interfere with the Election Disclosure Complaints Officer.
- (9) No complainant pursuant to this Bylaw shall:
 - (a) fail to comply with any reasonable request of the Election Disclosure Complaints Officer;
 - (b) knowingly make a false or misleading complaint to the Election Disclosure Complaints Officer; or
 - (c) obstruct or interfere with the Election Disclosure Complaints Officer.

Decisions

- 19. (1) After completion of the investigation, the Election Disclosure Complaints Officer may:
 - (a) dismiss the complaint; or
 - (b) uphold the complaint.
- (2) After a decision is made pursuant to subsection (1), the Election Disclosure Complaints Officer shall send to the complainant and the candidate a copy of the decision together with any written reasons for the decision.
- (3) The decision of the Election Disclosure Complaints Officer shall be final.
- (4) If the complaint is upheld, the Election Disclosure Complaints Officer shall send a copy of the decision to the Clerk with a recommendation that the matter be referred for review as to whether a prosecution is warranted.

Refusal to Investigate

- 20. (1) The Election Disclosure Complaints Officer may refuse to investigate any complaint or may terminate an investigation of a complaint if:

- (a) the complaint is received more than six months after the date for the filing of the Statement of Campaign Expenses/Contributions pursuant to Section 5;
 - (b) in the opinion of the Election Disclosure Complaints Officer, the complaint is frivolous, vexatious, trivial or is made in bad faith; or
 - (c) in the opinion of the Election Disclosure Complaints Officer, the circumstances of the complaint do not warrant investigation.
- (2) The decision of the Election Disclosure Complaints Officer to refuse to investigate any complaint or to terminate an investigation of a complaint is final.

Report to Council

21. Upon completing the investigation of all complaints arising out of a general election or a by-election, the Election Disclosure Complaints Officer shall submit a report to Council setting out:
- (a) the number of complaints received;
 - (b) the general nature of the complaints received; and
 - (c) the disposition or resolution of the complaints.

Confidentiality of Information

22. (1) The report submitted by the Election Disclosure Complaints Officer pursuant to Section 21 shall be a matter of public record.
- (2) The particulars of all complaints and all information obtained by the Election Disclosure Complaints Officer shall be confidential unless the release of that information is required in accordance with the provisions of *The Local Authority Freedom of Information and Protection of Privacy Act*.

Records

23. The particulars of all complaints and all information obtained by the Election Disclosure Complaints Officer shall become part of the records of the City and shall be kept in the office of the Clerk.