

Review of Council Policy No. C01-025 - City of Saskatoon Anti-Harassment Policy and Investigative Procedures for Members of City Council and Senior Administration

ISSUE

The effective date of Policy No. C01-025, *City of Saskatoon Anti-Harassment Policy and Investigative Procedures for Members of City Council and Senior Administration Policy* (Policy C01-025) is December 18, 2006. What changes, if any, are required to update Policy C01-025 and ensure consistency as between it and other City bylaws, policies and procedures governing the conduct of members of City Council and Senior Administration?

RECOMMENDATION

That Governance and Priorities Committee recommend to City Council that:

1. The City Solicitor be instructed to amend Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2019* as required; and
2. The City Solicitor be instructed to review the Personnel Subcommittee Terms of Reference and bring forward any amendments as required.

BACKGROUND

City Council, at its Regular Business Meeting on [August 29, 2022](#), considered a report from the City Solicitor's Office entitled "Saskatoon Municipal Review Commission – 2022 Municipal Code of Conduct Committee Report" and resolved, in part:

3. That the Administration review the City of Saskatoon Anti-Harassment Policy and Investigative Procedures for Members of City Council and Senior Administration Policy and report back to the Governance and Priorities Committee with any recommended amendments upon conclusion of that review.

DISCUSSION/ANALYSIS

Existing Regulation - City Council Members

City Council member conduct is addressed in various bylaws, policies, and pieces of legislation. Part VII of *The Cities Act* speaks to conflicts of interest of members of City Council. Section 66.1 requires the passage of a code of conduct.

Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2019* was passed in the spring of 2019 “to outline the basic ethical standards and values for members of Council” (“Code”). The Code is intended to inform members of their obligations and guide them when fulfilling their duties and responsibilities as elected officials. It also describes a procedure for the investigation and enforcement of the Code standards and values. The Respectful Conduct of Members and Harassment is addressed at section 23:

23. (1) A member must treat the public, other members, and City staff appropriately and without abuse, bullying or intimidation and participate in maintaining a work environment free from discrimination and harassment.
- (2) A member must comply with *City of Saskatoon Anti-Harassment Policy and Investigative Procedures for Members of City Council and Senior Administration*.

Under the Code, the Integrity Commissioner is appointed by City Council to, among other things:

- “investigate and conduct inquiries as to violations of this Bylaw” [clause 84(1)h)]; and
- “...assess, investigate and otherwise deal with complaints related to the conduct of a member at a meeting of Council or a Council Committee meeting” [subsection 84(2)].

The Code contemplates the informal resolution of complaints and includes the ability of the Integrity Commissioner to refer a complaint to an informal resolution process. Formal complaints not directed to another process or forum shall be investigated by the Integrity Commissioner and culminate in a report. Substantiated complaints will result in a report to City Council and include the findings, terms of settlement, recommended censure, sanctions, or corrective action. City Council may impose the recommended censure, sanctions and recommended actions or impose any others allowed by law. Possible censure, sanctions or corrective actions may include a letter of reprimand, the issuance of a letter of apology, requiring training, suspending, or removing the member from Council Committees or other bodies and suspending or removing the member from a position of chairperson at a Council Committee.

Conduct of members of City Council at Council and Committee meetings is addressed at section 36 of Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014*. These obligations are similarly reflected in the Code. Sections 24 and 25 of the Code, Conduct for Council and Committee Meetings, read as follows:

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24. Members will exercise their authority to make decisions in a manner that demonstrates fairness, respect for differences, and an intention to work together for the common good and in the public interest.

25. Members will prepare for meetings by reviewing materials in advance, if possible, and will be respectful and attentive to, and ask informed questions of, the public and City staff providing information at a Council or Council Committee meeting. Members will not provide information contained in records or documents at a meeting unless those records or documents have been provided to all of Council in advance.

Policy No. C01-025 is another mechanism currently in place to address City Council member conduct. Section 1 describes the Purpose and Objective of the Policy to “ensure a respectful working environment free of harassment, including sexual, sexual orientation, racial, religious, verbal or physical harassment”. The same types of prohibitions and statements as contained in the Code are outlined in C01-025. For example:

- 3.4 Members of City Council and Senior Administration are the leaders and role models for The City of Saskatoon, Civic Boards, Commissions, Authorities or Committees and should lead by example and conduct in building and maintaining a working environment that is respectful and harassment free.

- 3.5 Members of City Council and Senior Administration should be vigilant in working to prevent disrespectful behaviour and harassment before it starts, by being polite, courteous and respectful and should practice good conflict resolution methods in dealings with employees, other members of City Council, Senior Administration and the public.

Policy C01-025 provides for an informal resolution process, with or without formal reports, which might include face to face discussions and facilitated or mediated discussions. It also contains a lengthy description of the Investigative Process. Complaints against a member of City Council shall be received by the Executive Committee and investigated using the services of an independent investigator experienced in investigating this type of complaint. The Policy provides for a right of the member against whom the complaint is made to make submissions to Executive Committee. Executive Committee shall consider any reports or legal advice received and determine if sanctions are warranted. Sanctions may include removal of the member from any Civic Boards, Commissions, Authorities or Committees, restricted access to civic services or City Hall (except as required to conduct electoral duties), removal of privileges, remuneration or salary or any sanction as permitted by *The Cities Act*.

Policy C01-025 predates the Code and Bylaw No. 9170, *The Procedures and Committees Bylaw, 2014*. Policy C01-025 has been in place since 2006 and not amended since that date.

Existing Regulation - Members of the Senior Administration

C01-025 applies not only to members of City Council but also to members of the Senior Administration, which is defined as “the City Manager, the City Solicitor and the City Clerk”. The substantive principles outlined above apply to these three positions.

The Investigative Process contemplates that Executive Committee will receive complaints and investigate such complaints using or retaining such internal or external legal advice as required. Executive Committee shall consider any reports and determine whether sanctions are warranted. Sanctions may include discipline up to and including dismissal. Procedural fairness is afforded to the person against whom the complaint is made by affording them an opportunity to make submissions to Executive Committee.

Employees of the City are governed by Policy No. A04-026, *Respectful and Harassment-Free Workplace Policy*, the purpose of which is to set out “...guidelines for reporting, investigating and resolving complaints of inappropriate behaviour in an effort to provide a respectful work environment” (“Policy A04-026”). This Policy was adopted in 2018. Previously, the City had separate respectful workplace and harassment policies. Policy A04-026 applies to all City of Saskatoon employees and volunteers working on behalf of the City. “Employee” is defined as “any individual engaged to provide paid or unpaid services for the City of Saskatoon, excluding independent contractors or other third parties”.

Policy Statements contained in Policy A04-026 are like those contained in the Code:

- 1.1 The City of Saskatoon (City) commits to creating and maintaining a respectful workplace that is free from harassment, discrimination and disruptive workplace conflicts. These inappropriate behaviours can jeopardize an individual’s dignity and well-being and undermine relationships and workplace productivity.
- 1.2 Employees and the general public are to be treated with courtesy and respect. Employee behaviours and incidents that run contrary to such treatment will be investigated and may result in disciplinary action up to and including termination.
- ...
- 1.5 Every employee is entitled to employment free of harassment and the City further commits to making every reasonably practicable effort to ensure that no worker is subject to harassment.

Appendix A to Policy A04-026 provides further information on inappropriate behaviours.

Administration of Policy A04-026 lies with the General Manager of Corporate Performance and the Director of Human Resources. Complaint Resolution Processes are addressed in Appendix B to the Policy. Informal resolution processes are encouraged as a first choice in all possible instances. These include informing the respondent of the inappropriate nature of their behaviour either alone or with the support of a supervisor, manager, or the Director of Human Resources. Complaints that are the subject of the formal resolution process shall be submitted in writing to the Director of Human Resources to be submitted for investigation by internal or external resources at the discretion of the Director of Human Resources. A written report of findings by the investigator shall be submitted to the Director of Human Resources who will, in consultation with the General Manager or the City Manager, determine what actions shall be taken as a result of the investigation findings. Appropriate actions may include: counselling, education and training, conflict resolution, behavioural guidelines or agreements, mediation, or progressive discipline.

Proposed Regulatory Changes

While not identical, a review of the existing regulatory scheme demonstrates that there is significant overlap between the substantive provisions and investigation processes of various City policies and bylaws. A jurisdictional scan showed that common practice amongst other municipalities related to the governance of City Council member conduct appears to be addressed through codes of conduct. The City's Code already contains provisions requiring respectful behaviour and promoting the obligation of members of City Council to maintain a harassment free environment. Likewise, the Code contains a comprehensive reporting and investigation procedure led by an independent third party, the Integrity Commissioner. The existing parallel processes could potentially confuse the issues and are unnecessary. Accordingly, Administration recommends repealing Policy C01-025 and amending the Code accordingly to ensure that it is comprehensive in addressing the respectful behaviour of members of City Council. Amendments to the Code will be brought to a future meeting of City Council for approval, including the addition of any substantive provisions regarding respectful and harassment-free behaviour and any necessary changes to the investigation and reporting processes. A review of other jurisdictions is contained at Appendix 1.

The Integrity Commissioner was engaged for feedback on Administration's proposed action. She was in general agreement that there are likely some synergies to be achieved by including Policy C01-025 under the Code. At her request, the proposed amendments will be shared with her in advance of providing them to City Council for approval.

A repeal of Policy C01-025 would require that the conduct of Senior Administration be addressed elsewhere. Arguably, the definition of "employee" already contained in Policy A04-026 is broad enough to include the City Manager, City Clerk, and the City Solicitor. Amendments, however, will be proposed to make its application clear. Similarly, amendments will be brought forward to ensure an appropriate reporting

process is in place for complaints against members of the Senior Administration. It is anticipated that complaints against the City Manager would be filed with the City Clerk and forwarded directly to Governance and Priorities Committee (“GPC”) for further handling. The Personnel Subcommittee could play a role in the administration of those complaints and act as liaison between it and GPC as the body responsible to monitor and communicate with the City Manager about his contract and performance thereunder.

Complaints against the City Clerk and City Solicitor could be received by the Chief Human Resources Officer and forwarded, in the case of the City Clerk, directly to GPC, and in the case of the City Solicitor to the City Manager who respectively, would be responsible to administer the investigation and reporting processes. Like the City Manager, the Personnel Subcommittee would play a role in the handling of complaints against the City Clerk.

Administration in Human Resources has been advised of the proposed amendments and will be further engaged in pursuing the changes. While Policy A04-026 is an Administrative Policy and therefore not subject to City Council approval, since amendments would include a reporting through GPC and the Personnel Subcommittee, Administration plans to bring the proposed amendments to City Council for its information. Any required amendments to the Personnel Subcommittee Terms of Reference would be brought forward for approval at the same time.

Once the amendments to the Code are complete and the changes to Policy A04-026 are in place, Administration will seek approval to repeal Policy C01-025.

OTHER IMPLICATIONS

There are no privacy, legal social or environmental implications identified. Likewise, there is no financial impact arising from this report.

NEXT STEPS

The appropriate bylaw, policy and Terms of Reference amendments will be prepared and brought forward for approval in due course.

APPENDICES

1. Jurisdictional Scan – Anti-Harassment/Respectful Workplace Policies and Bylaws

Report Approval

Written by: Christine G. Bogad, Deputy City Solicitor
Reviewed by: Mike Jordan, Chief Public Policy and Government Relations Officer
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