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# Integrity Commissioner – Mandate, Authority and Scope of Duties

## Recommendation

That the Governance and Priorities Committee recommend to City Council that:

1. The City Solicitor be instructed to include in the drafting of the Code of Conduct Bylaw, provisions which establish an Independent Integrity Commissioner. The Bylaw would include the mandate, authority and scope of duties for an Independent Integrity Commissioner as outlined in this report; and
2. The Administration bring forward recommendations for appointment of an Independent Integrity Commissioner, including remuneration, at the appropriate time.

## Topic and Purpose

This report is in response to a resolution from City Council for the City Solicitor to report further on the possible governance model, mandate, authority and scope of duties for an Independent Integrity Commissioner (the “Integrity Commissioner”).

Upon further review of the position and the considerations outlined in this report, the City Solicitor is recommending that the position of Integrity Commissioner be created and the City Solicitor be instructed to include the mandate, authority and scope of duties for an Integrity Commissioner in the Code of Conduct Bylaw, which is currently being drafted.

## Report Highlights

1. Several Canadian municipalities have created an Integrity Commissioner position to educate and help resolve Code of Conduct issues for members of City Council.
2. The Integrity Commissioner is typically an independent position created by bylaw, which reports directly to City Council and serves both an advisory and investigative function.
3. The Integrity Commissioner makes recommendations to City Council for decision. Reporting to the public is typically required.

## Strategic Goals

This report supports the Strategic Goals of Continuous Improvement and Quality of Life as it promotes transparency of municipal government and supports City Council in providing good governance to the citizens of Saskatoon.

## Background

On March 20, 2017, the Governance and Priorities Committee (“GPC”) received a report from the Office of the City Solicitor, which provided comments on the Saskatoon

Municipal Review Commission Code of Conduct Committee's report dated February 11, 2016. Among other things, GPC recommended to City Council that it instruct:

“the City Solicitor to report further respecting the possible governance model, mandate, authority and scope of duties for an independent Integrity Commissioner.”

City Council adopted this recommendation.

### **Report**

#### **Best Practices of Other Canadian Municipalities**

Many Canadian municipalities have an Integrity Commissioner Office. Attachment 1 to this report provides details of other municipal models. In brief, most municipal Integrity Commissioner Offices provide two main functions:

1. proactively advise and educate on Code of Conduct matters; and
2. reactively accept claims of breaches and investigate potential breaches of Codes of Conduct and report to City Council with recommendations.

The education component may include education of Council members or the public, depending on the jurisdiction. In addition, the Integrity Commissioner Office in some municipalities has a broader mandate to include such things as overseeing a lobbyist registry or a gifts registry.

Common to all jurisdictions is the independence of the Integrity Commissioner Office.

#### **Recommendations for the City of Saskatoon Integrity Commissioner's Office**

##### Mandate and Authority

In consideration of the functions and roles of similar offices across Canada, the following mandate is recommended for Saskatoon's Integrity Commissioner:

- review claims of potential breaches of the Code of Conduct (which includes the Code of Ethics) related to individual members of Council or City Council in whole or part made by members of the public, City employees or other members of Council;
- determine whether claims warrant investigation, may be resolved through informal mediation, or should be dismissed and the claimant advised;
- investigate and make recommendations to City Council as to the validity of claims of breaches of the Code of Conduct;
- recommend sanctions to City Council, as defined by the Code of Conduct;
- provide advice to members of Council to help prevent real or perceived breaches of the Code of Conduct;
- provide educational programs to members of Council (and staff);
- educate citizens regarding ethical expectations for members of Council;
- communicate the reporting process and Office mandate; and
- provide annual reporting to City Council, in addition to investigation results as conducted throughout the year.

### Scope of Duties

Within its mandate and authority, it is recommended that the Integrity Commissioner's Office would perform both advisory and investigative functions:

#### *Advisory*

The advisory function would include providing:

- written and oral advice to individual Council members on questions of compliance with the Code of Conduct;
- the whole of City Council with specific and general opinions and advice on the Code of Conduct and issues of compliance; and
- input to the Administration on additional rules and restrictions that may be added to the Code of Conduct from time to time.

The advisory function would also include an education component including:

- administering advice to Council members to aid in preventing real or perceived breaches of the Code of Conduct;
- providing outreach programs to members of Council and staff on protocols and office procedures emphasizing the importance of ethics for public confidence in municipal government;
- disseminating information regarding the Office of the Integrity Commissioner to the public;
- communicating the reporting process and Office mandate to the public; and
- publishing an annual report on findings of typical advice and complaint cases.

#### *Investigative*

The investigative function would include:

- receiving and assessing all written complaints under the Code of Conduct to determine jurisdiction and sufficiency of grounds;
- investigating complaints received and conducting inquiries into alleged violations of the Code of Conduct; and
- preparing individual reports respecting complaints and making recommendations to City Council including recommendations of sanctions under the Code of Conduct.

### Independence and Reporting

Establishing independent operations of the Integrity Commissioner is important. An Integrity Commissioner Office would best be established by creating a designated officer position(s) by bylaw. It is recommended that this be part of the new Code of Conduct Bylaw, which is currently being drafted. It is recommended that the Bylaw include the mandate, authority and scope of duties as outlined in this report.

This position(s) would be accountable and provide reports directly to City Council; however, it would function independently from City Council and the Administration. Provisions would be included in the Bylaw to establish the independent processes of the Integrity Commissioner, as follows:

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- a defined term of engagement where the Integrity Commissioner can only be removed by City Council;
- selection of the Integrity Commissioner by City Council; and
- provisions in the Bylaw that indicate the Integrity Commissioner can speak with any member of the Administration, member of Council or political staff.

An important part of accountability is to ensure that the Integrity Commissioner's findings are reported to the public. Reporting could be completed through an annual report to City Council of Office activities, including an anonymous listing of advice given, investigations undertaken, outcomes and any sanctions imposed.

Investigation reports would be presented to City Council by an Integrity Commissioner on a case-by-case basis.

The Integrity Commissioner's mandate would not include matters dealing with conflict of interest for members of Council. The process to deal with conflict of interest matters is found in *The Cities Act* and an Integrity Commissioner would not have jurisdiction to deal with such matters.

### **Future Considerations**

Assuming City Council establishes an Integrity Commissioner, some possibilities for future inclusion in an Integrity Commissioner's mandate include:

- the creation of a Lobbyist Registry to add further transparency and accountability in decision-making. An option is for the Integrity Commissioner to manage this;
- investigation and resolution of potential employee conflict of interest matters arising under Policy No. A04-006, *Employee Conflict of Interest Policy*; and
- investigation of complaints arising under the draft whistleblower policy.

These topics could be canvassed further in subsequent reports.

### **Communication Plan**

Communications will issue a News Release and post on the City's social media accounts to inform media outlets and the general public of the decisions made by City Council on the matter.

### **Financial Implications**

Should City Council agree to the creation of an Integrity Commissioner position, it is anticipated that the position will begin as a part-time contract for service similar to what the City of Regina has recently done with its Integrity Commissioner and similar to what Saskatoon has historically done with its External Freedom of Information Head.

The City of Regina recently hired an Integrity Commissioner. For 2018, the Integrity Commissioner is set to make \$2,000, with that number raising to \$5,000 for 2019. In 2020, the remuneration will consist of a \$2,500 base, plus an hourly rate of \$375.

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The City's External Head of Freedom of Information Requests was paid \$12,000 per year, plus \$500 per day for days worked.

It is recommended that the Integrity Commissioner be hired on a part-time, contract for service with remuneration similar to these examples. Further, it is recommended that should the Integrity Commissioner be established, Administration bring forward recommendations for appointment including recommendations for remuneration after an appropriate search has taken place.

### **Other Considerations/Implications**

There are no environmental, privacy, or CPTED implications or considerations.

### **Due Date for Follow-up and/or Project Completion**

The City Solicitor's Office will draft the proposed bylaw amendments in 2018. Recruitment of an Integrity Commissioner with recommendations to City Council would occur after the bylaw provisions are passed.

### **Public Notice**

Public Notice pursuant to Section 3 of Policy No. C01-021, Public Notice Policy, is not required.

### **Attachment**

1. Review of Other Canadian Municipalities

### **Report Approval**

Written by: Derek Kowalski, Solicitor, Director of Land and Development Law  
Reviewed by: Christine G Bogad, Solicitor, Director of Administrative and  
Municipal Law  
Joanne Sproule, City Clerk  
Approved by: Patricia Warwick, City Solicitor

Admin Report – Integrity Commissioner  
Our File No. 102.0500