Report to Committee of the Whole

To: Mayor Linton and Members of Council
Prepared By: Kerri O’Kane, Manager of Legislative Services / Municipal Clerk

Report: COR2019-49
Date: 17 Jun 2019

RE: Amended Code of Conduct

Recommendation:
THAT the Council of the Township of Centre Wellington adopt the new Council Code of Conduct as presented by the Manager of Legislative Services/Municipal Clerk at the Committee of Whole meeting dated June 17, 2019.

Report:
In May 2017, staff brought forward a report outlining the new legislative requirements for municipalities to adopt a Code of Conduct for Members of Council. At the meeting held October 30, 2017, Council adopted a Code of Conduct and appointed Guy Giorno as their Integrity Commissioner. Mr. Giorno acts as the Integrity Commissioner for the County of Wellington and participating area municipalities.

At a meeting with the area Municipal Clerks and CAOs, Mr. Giorno outlined the key elements to be included within a Code of Conduct, which are as follows: provisions addressing use of influence, interference with staff, use of property and resources, confidential information, gifts, hospitality and benefits, respectful conduct, discrimination, harassment, etc. He provided staff with a template in order for the County of Wellington and the area municipalities to develop similar Codes and complaint protocol features.

Staff has taken the template provided by the Integrity Commissioner and incorporated two of the provisions contained within the current Code of Conduct to form the new draft for Council's consideration. The provisions from the current document that have been incorporated into the new draft include: the definition of disrespectful behaviour and the Communications and Media Relations section.

Corporate Strategic Plan:
Good Government - The Township will make well-informed decisions, operate efficiently, get results, communicate openly and engage the public in important decisions.
**Financial Implications:**
Council has budgeted $2000 in 2019 for expenses related to the Integrity Commissioner.

**Attachments:**
- [Draft code of conduct June 2019](#)

**Approved By:**
Dan Wilson, Managing Director of Corporate Services / Treasurer
Andy Goldie, Chief Administrative Officer
The Corporation of the Township of Centre Wellington

Code of Conduct for Council Members and Members of Local Boards

DEFINITIONS

1. In this Code:


1.2 “Committee of Council/Council Committee” means an Advisory, Task Force, Standing or Special Committee of Council, established by-law or resolution of Council.

1.3 “Complaint” means a request about whether a Member has contravened the Code.

1.4 “Complainant” means the individual who makes a complaint.

1.5 “Disrespectful Behaviour” means behaviour that is rude, unpleasant, inappropriate and unprofessional. Behaviour that causes hurt feelings and distress, disturbs and/or offends others and displays a lack of regard for others. Examples may include but not limited to: insensitive comments, harsh or public criticism, offensive jokes or sarcasm, swearing, belittling comments or behavior, rude gestures, etc.

1.6 “Family member” includes not just a child or spouse but any individual connected to a Member by blood, kinship, marriage or relationship if a reasonable person might perceive that the connection has the potential to influence the Member’s conduct or decision-making on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.

1.7 “Friend” is any individual who shares with a Member a close bond of friendship, a feeling of affection, or a special kinship sufficient that a reasonable person would perceive that the relationship has the potential to affect the Member’s conduct on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.

1.8 “Investigation” means an inquiry in respect of whether a Member has contravened the Code, and “investigation” and “inquiry” may be used interchangeably; “investigate” and “inquire” have corresponding meanings.

1.9 “Local Board” means a local board of the Municipality other than a local board excluded by section 223.1 of the Municipal Act.

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1 Section 223.1 of the Municipal Act excludes the following local boards from the accountability provisions in Part V.1 of that Act: (a) a children's aid society, (b) a board of health, (c) a long-term care home committee of management, (d) a police services board, (e) a public library board, (f) a corporation established by a municipality under section 203 of the Act, and (g) any other local board as prescribed by regulation under the Act.
1.10 “Member” means a member of the Township of Centre Wellington Council or of a local board of the Municipality, as the case may be.

1.11 “Municipal Act” means the Municipal Act, 2001, as amended.

1.12 “Municipality” means the Township of Centre Wellington.

1.13 “Respondent” means a Member who is the subject of a complaint.

RULES

2. Appropriate Use of Office

2.1 In this section and in section 5, “private interest” includes both a pecuniary (financial) and a non-pecuniary (non-financial) interest. It does not, however, include an interest in a decision or matter (a) that is of general application, (b) that affects a Member, family member or friend as one of a broad class of persons, or (c) that concerns the compensation of a Member.

2.2 Quite apart from the Municipal Conflict of Interest Act (which deals with pecuniary interests in particular situations) a Member must not use the office of the Member, nor use the influence of office, to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.

2.3 A Member must not attempt to influence the decision of another individual or entity (whether that individual or entity is part of the Municipality or is a third party) to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.

2.4 No Member shall make a decision or exercise an official power, duty or function if the Member knows or reasonably should know that, the making of the decision or the exercise of the power, duty or function would create an opportunity to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity, whether or not the private interest is actually advanced.

2.5 A Member shall not give preferential treatment to any individual or entity if a reasonable person would perceive:

   (a) That the preferential treatment was for the purpose of advancing a private interest or;

   (b) That the preferential treatment was based on the identity of the individual or entity or the identity of a representative of the individual or entity.

2.6 This section does not prohibit a Member from properly using influence on behalf of a constituent.
3. Interference

3.1 A Member shall not attempt to influence or to interfere, either directly or indirectly, with an employee, officer or other individual exercising functions under the Provincial Offences Act or the Building Code Act.

3.2 A Member shall not use or attempt to use office or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in the staff member’s duties.

4. Property and Resources of the Municipality or Local Board

4.1 No Member shall use or permit the use of an asset or resource of the Municipality or local board for any purpose other than the discharge of the duties of office or a proper purpose of the Municipality or local board.

4.2 In this section, an asset or resource of the Municipality or local board includes land, buildings, facilities, budgets, equipment, vehicles, supplies, services, employee time, internet usage, cell phone usage, data usage, websites, materials owned by the Municipality or local boards and any other asset or resource. This does not apply to IT equipment or the like assigned to Members of Council at the beginning of the term of Council for their explicit use. At the end of the term of Council, Members shall return all Township equipment in good working condition.

4.3 For greater certainty, no Member shall use any asset or resource of the Municipality or local board for any election-related activity or purpose. This prohibition extends to municipal, provincial and federal election-related activity, whether or not the Member is a candidate or otherwise involved. This prohibition extends to activity that promotes or opposes the municipal, provincial or federal candidacy of any individual, including activity that promotes or opposes a policy or position with which a candidate is closely associated.

5. Confidential Information

5.1 By virtue of office, Members acquire confidential information, including confidential personal information, from a variety of sources.

5.2 Confidential information includes information in the possession of, or received in confidence by the Municipality, that under the Municipal Freedom of Information and Protection of Privacy Act the Municipality is prohibited from disclosing or releasing.

5.3 A Member shall not use information obtained in the capacity of a Member and that is not available to the general public to further or seek to further a private interest of the Member, a family member of the Member, or a friend of the Member, or improperly to advance private interest or another individual or entity.

5.4 A Member shall not disclose by any means to anyone, except to a Member or to an employee of the Municipality or local board who requires the information in the course of duties, any confidential information acquired by virtue of office, in either oral or written form, except as required by law or authorized by Council or the local board to do so.
5.5 If a matter has been discussed in a meeting or part of a meeting closed to the public in accordance with the Municipal Act, and the matter remains confidential, then a Member shall not disclose the content of the matter or the substance of the deliberations of the closed meeting or part.

6. Gifts, Hospitality and Benefits

6.1 In this section, “gift, hospitality or benefit” includes any benefit or thing of value offered or provided to a Member, including but not limited to food, beverage, entertainment, ticket, event admission, travel, clothing, good, service and memento. It includes an item that is offered or given for free, as well as one offered or given at a discounted price. The definition also encompasses a situation where another individual or entity pays for or “picks up the tab,” entirely or partly, for a good, service food, beverage or other item used or consumed by the Member.

6.2 “Gift, hospitality or benefit” also includes a gift, hospitality or benefit offered or given to a child, parent, or spouse of the Member or to any other individual, for the benefit of the Member.

6.3 No Member shall receive or accept a gift, hospitality or benefit that may reasonably be seen to have been given to influence the Member in a decision or in the exercise of a power, duty or function of office.

6.4 No Member shall receive or accept a gift, hospitality or benefit provided indirectly or directly by an individual or entity that:

(a) Has dealings with the Municipality or local board or;

(b) Has the potential to be affected by a decision or the exercise of a power, duty or function of the Member or of the Municipality or local board.

6.5 No Member shall receive or accept any gift, hospitality or benefit from an individual or entity that is lobbying or has recently lobbied the Member. For greater certainty, the exceptions in section 6.6 do not apply to gifts, hospitality and benefits from lobbyists.

6.6 Despite sections 6.3 and 6.4, a Member may accept a gift, hospitality or other benefit that is,

(a) provided by a family member or a friend;

(b) a trinket or memento of less than $10 in value;

(c) compensation authorized by law;

(d) lawful political contributions;

(e) modest food or refreshment provided by a charity, not-for-profit organization or community group that is organizing or hosting a banquet, reception or similar event in which the Member is speaking or otherwise actively participating, or where the Member is an official representative of the Municipality or local board (for greater certainty this does not include an event for which tickets are sold or an admission
fee is charged and the Member’s admission or ticket is paid entirely or partly by a third party); 

(f) a modest or token gift or hospitality that normally accompanies the responsibilities of office and is received as an incident of protocol or social obligation; 

(g) a service provided without compensation by an individual volunteering time; 

(h) food, lodging, transportation or entertainment provided by a provincial, regional or local governments or a political subdivision of it, by the federal government, or by a foreign government within a foreign country, where the Member is speaking or attending in an official capacity; 

(i) a communication to the office of a Member, including a subscription to a newspaper or periodical; or 

(j) any other gift, hospitality or benefit, with the approval of the Integrity Commissioner if the Integrity Commissioner is of the opinion it is unlikely that receipt of the gift, hospitality or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of duties.

6.7 In the case of a gift, hospitality or benefit described in paragraph 6.6(j) (approval of the Integrity Commissioner) unless impossible the Member shall seek advance approval from the Integrity Commissioner. Otherwise the Member shall seek approval immediately after being offered or given the gift, hospitality or benefit and shall return the gift, hospitality or benefit if the Integrity Commissioner does not give approval. Under no circumstances shall the Member seek approval from the Integrity Commissioner after a gift, hospitality or benefit has already been used or consumed.

7. Employment and Business

7.1 No Member shall allow himself or herself to be influenced in the making of a decision or in the exercise of an official power, duty or function by plans for, or offers of, future or outside employment, including an appointment or a contract.

7.2 No Member shall act as a paid agent before the Municipality or a local board.

7.3 No Member shall refer a third party to an individual or entity in exchange for payment or other personal benefit.

8. Discrimination and Harassment

8.1 No Member shall engage in discrimination against or harassment of a member of the public, an employee of the Municipality or a local board, or another Member.

8.2 No Member shall abuse, bully or intimidate another individual.

8.3 Upon investigating a complaint under this section, the Integrity Commissioner shall have the authority to recommend to Council such interim measures as are necessary to protect the Complainant, to respect the rights of both Complainant and Respondent, and to ensure the integrity of the investigation.
9. Respectful Conduct

9.1 A Member shall act with decorum and engage in respectful conduct during all meetings of Council, committee and local boards. Members of Council will address each other and staff by their appropriate titles.

9.2 No Member shall display disrespectful behavior as outlined and defined in Section 1.5.

9.3 No Member shall:

(a) Maliciously or falsely injure the professional or ethical reputation or the prospects or practice of an employee of the Municipality or a local board.

(b) Use indecent, abusive or insulting words or expressions toward any other Member, Township staff or any member of the public, either directly or by innuendo;

(c) Compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities; or

(d) Use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff’s duties.

9.4 The presiding officer of a meeting is primarily responsible for ensuring that meeting participants conduct themselves respectfully and with decorum. The Integrity Commissioner shall not entertain a complaint alleging a violation of this section unless,

(a) the complaint is made by the Council or a local board in relation to conduct that allegedly occurred at a meeting of Council or the local board;

(b) the complaint is made by the Council in relation to conduct that allegedly occurred at a committee meeting following a report to the Council by the committee or its presiding officer;

(c) the complaint is made by an individual who

   (i) is not a Member;

   (ii) was present at the meeting where the conduct allegedly occurred and;

   (iii) following the meeting formally communicated the concern to the Council, the committee or the local board, as the case may be, or satisfies the Integrity Commissioner that there was good reason not to raise the concern first with the Council, the committee or the local board.

9.5 At any time following the receipt of a complaint alleging that conduct during a meeting contravened this section, the Integrity Commissioner may refer the matter back to the Council, the committee or the local board.
10. Communications and Media Relations

10.1 Members of Council shall channel the requests of residents to receive information, assistance and direction to the appropriate staff or agencies that provide municipal services to them.

10.2 Members of Council shall refer comments relating to decisions and resolutions of Council through to the Township’s Communications Coordinator and/or Mayor.

10.3 Members of Council may receive requests to comment on policy, procedures and decisions of Council. In those instances, Council Members shall:

- Convey the information openly and accurately, unless confidentiality regulations apply;
- Remain focused on issues at hand and agenda items;
- Avoid statements which provoke, challenge or embarrass another Members of Council, or which might damage the reputation of another Council Member or Council as a whole;
- Not make accusatory statements or lay blame.

10.4 In the event a Council decision has not unfolded the way Council anticipated, the information shall be communicated to the public in a forthright manner which identifies the problem and the corrective action.

ENFORCEMENT

11. A complaint alleging a breach of this Code should be filed with the Integrity Commissioner in accordance with the Complaint Protocol that forms part of this Code.

12. Timing of Complaint

12.1 No complaint shall be filed more than three months after the Complainant became aware of the act or omission giving rise to the complaint.

12.2 In the year of a regular election (2022, 2026, 2030, 2034, etc.), no complaint shall be filed between the fourth Friday of July and the fourth Monday in October, inclusive.

13. Timing of Investigation, Report and Consideration

13.1 In the year of a regular election:

(a) An investigation by the Integrity Commissioner that has not been completed by the fourth Friday of July shall be terminated on that day.

(b) Between the fourth Friday of July and the fourth Monday in October, inclusive, the Integrity Commissioner shall not report to the Municipality or a local board about whether a Member has contravened the Code.

(c) Between the fourth Friday of July and the fourth Monday in October, inclusive, neither Council nor a local board shall consider whether to impose a penalty on a Member for contravention of the Code.
13.2 If an investigation has been terminated under paragraph 13.1(a) then the Integrity Commissioner shall not commence another investigation in respect of the matter unless, within six weeks after voting day, either the Complainant or the Respondent makes a written request to the Integrity Commissioner that the investigation be commenced.

14. Penalty

14.1 Upon receipt of a report that a Member has contravened the Code, the Council or the local board may impose either of the following penalties on a Member:

(a) A reprimand;

(b) Suspension of the remuneration paid to the Member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days.

15. Reprisals and Obstruction

15.1 Each Member shall respect the integrity of the Code of Conduct and investigations conducted under it.

15.2 No Member shall engage in any reprisal or make a threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited.

15.3 No Member shall obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner’s responsibilities.

16. Written Advice

16.1 Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.
A. DEFINITIONS AND APPLICATION

1. In this Complaint Protocol, words and phrases have the same meanings as in the Code.

2. This Complaint Protocol applies to complaints under the Code. It does not apply to a request for, or the conduct of, an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act. In an inquiry concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, the Integrity Commissioner shall proceed in such a matter and follow such process as the Commissioner considers appropriate having regard to the requirements of the Municipal Act.

B. INFORMAL COMPLAINT PROCEDURE

3. Any individual who believes behaviour or activity by a Member contravenes the Code may address the behaviour or activity by doing one or more of the following:

3.1 Inform the Member that the behaviour or activity appears to contravene the Code.

3.2 Encourage the Member to acknowledge and to agree to stop the prohibited behaviour or activity and to avoid future occurrences of it.

3.3 Document the incidents including dates, times, locations, other individuals present, and any other relevant information.

3.4 Request the Integrity Commissioner to assist in informal discussion with the Member about the alleged behaviour or activity in an attempt to resolve the issue.

3.5 If applicable, confirm to the Member the individual's satisfaction with the response of the Member, or, if applicable, inform the Member of the individual's dissatisfaction with the response.

3.6 Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part C, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

4. Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying behaviour or an activity believed to violate the Code.

5. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator of issues relating to an informal complaint. However, the informal process is not a precondition to pursuing the formal complaint procedure outlined in Part C.

C. FORMAL COMPLAINT PROCEDURE

6. Any individual who identifies or witnesses behaviour or an activity by a Member and believes it to be in contravention of the Code may file a formal complaint as follows:
6.1 The complaint shall be made in writing and be dated and signed by an identifiable individual.

6.2 Where possible, the complaint shall be made using the Complaint Form (Appendix A) which will be posted on the Municipality's Website. If the Complaint Form is not used then the complaint must contain all of the information required by the Complaint Form, in the same order.

6.3 The complaint must state the section(s) of the Code that the Complainant believes has (have) been breached.

6.4 The complaint must include background (including date(s), time(s) and location(s) of conduct, supporting documentation, details and names of all persons involved, and name(s) of any witness(es)) that contains reasonable grounds for the allegation that a Member has contravened the Code.

6.5 The Complainant is encouraged to include relevant documents.

6.6 The complaint shall be submitted directly to the Integrity Commissioner by email, fax, mail or delivery.

6.7 In the event that a complaint is sent to or left at the Municipality’s office, the Clerk shall ensure that it is delivered unopened (or, if left unsealed, is placed in an envelope without being read and then sealed and delivered) to the Integrity Commissioner.

**Integrity Commissioner’s Classification and Decision to Investigate**

7. The Integrity Commissioner may not help anyone to draft the content of a complaint but the Commissioner may for any reason:

(a) invite a Complainant to clarify, or;

(b) permit a Complainant to amend or resubmit;

any complaint, including a complaint that does not meet the requirements of this Complaint Protocol.

The complaint is deemed to be received by the Commissioner when it is clarified, amended or resubmitted and henceforth the complaint consists of the amended complaint, the resubmitted complaint, or the original complaint plus amendments or plus clarifications, as the case may be.

8. Upon receiving the complaint, the Integrity Commissioner will conduct an initial classification to determine whether the complaint is within the Commissioner’s jurisdiction and whether the Commissioner should commence an investigation.

8.1 The complaint, or part of it, lies outside the Commissioner’s jurisdiction if the subject matter of the complaint, or part, relates more properly to another law or to other complaint process or dispute resolution procedure.
8.2 The Commissioner shall only commence an investigation of a complaint, or part of it, that on its face contains allegations that if substantiated would constitute a breach of one or more provisions of the Code, and then only in relation to such provision(s).

8.3 The Commissioner has the discretion to decline to commence an investigation if on its face the complaint appears to be frivolous, vexatious or not made in good faith, and subsequently the Commissioner may terminate an investigation if at any time the Commissioner forms the opinion that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith.

8.4 If the Complainant is a Member, where the Integrity Commissioner declines to commence or terminates an investigation on the ground that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith, the Integrity Commissioner may report that fact to Council or the local board and name the Member.

9. If on its face the complaint, or part, relates more properly to another law or to other complaint process or dispute resolution procedure, then the Integrity Commissioner shall respond to the Complainant in writing as follows:

9.1 If the allegation might relate to an offence under the Criminal Code or another criminal statute, then the Complainant shall be informed that such allegation, if the Complainant wishes to pursue it, should be brought to the attention of the police.

9.2 If the allegation relates to compliance with the Municipal Conflict of Interest Act as opposed to compliance the Code then the Commissioner shall follow such process as the Commissioner considers appropriate having regard to the requirements of the Municipal Act.

9.3 If a complaint or part is more appropriately handled under the Municipal Freedom of Information and Protection of Privacy Act then the Complainant shall be informed that the matter falls under the responsibility of the Clerk, and shall be given the Clerk’s phone number and email address.

9.4 If the complaint or part seems to fall under another policy of the Municipality or the local board then the complainant shall be informed how to pursue the matter under the other policy.

9.5 If for any other reason the complaint or part is not within the jurisdiction of the Integrity Commissioner, then the Complainant shall be so informed and given such additional reasons and/or referred to such agencies or authorities as the Integrity Commissioner considers appropriate.

9.6 If the complaint or part relates to a matter that is already subject to another process, including but not limited to a court proceeding under the Municipal Conflict of Interest Act, a human rights complaint, an arbitration hearing, or another court or tribunal proceeding, then the Integrity Commissioner may, in the Integrity Commissioner’s sole discretion, suspend any investigation pending the result of the other process.

**Settlement, Withdrawal and Other Opportunities for Resolution**

10. Following receipt of a formal complaint, or at any time during an investigation:
10.1 Where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without starting or continuing an investigation, and both the Complainant and the Respondent agree, the Commissioner may pause or delay the investigation and make efforts to achieve an informal resolution.

10.2 If a complaint is withdrawn, settled or informally resolved, the Commissioner shall not report to Council or the local board except as part of the annual report described in section 24.

Investigation

11. Within three business days after receiving the complaint, the Integrity Commissioner shall decide whether to investigate the complaint or part of it.

12. Except where the Integrity Commissioner exercises powers under sections 33 and 34 of the Public Inquiries Act, the investigation process shall be as follows:

12.1 Without identifying the Complainant, the Respondent or the circumstances, the Integrity Commissioner shall give notice to the Clerk that an investigation is being commenced.

12.2 The Integrity Commissioner shall, the same day, give the Respondent notice of the complaint (including a copy of the complaint and all supporting documentation) and invite the Respondent to provide a written response within seven business days.

   (a) To protect the right of a full and fair opportunity to respond, the Respondent shall be given the entire complaint, including the Complainant's name but not the contact information of a Complainant who is not a Member.

   (b) In exceptional circumstances and only where the Integrity Commissioner is satisfied that a fear of intimidation or reprisal is well-founded, the Integrity Commissioner may redact information that would identify the Complainant or a witness, provided that the Respondent receives sufficient disclosure to understand the allegation(s) and to receive a full and fair opportunity to respond.

   (c) Despite paragraph (b), where the Complainant is a Member of Council or a local board the Complainant's identifying information will not be redacted.

12.3 The Integrity Commissioner shall, the same day, give the Complainant notice that an investigation has commenced.

12.4 Within three business days after receiving the Respondent’s response, if any, the Integrity Commissioner shall send it to the Complainant with an invitation to reply within seven business days.

12.5 Within three business days after receiving the Complainant's reply, if any, the Integrity Commissioner shall send it to the Respondent.

12.6 After reviewing the complaint, the response and the reply, the Commissioner may speak to anyone, access and examine any other documents or electronic materials, and may enter any work location of the Municipality or local board that is relevant to the complaint for the purpose of investigation and potential resolution.
12.7 Within 45 calendar days after the complainant is received, or such longer period as the Commissioner deems necessary, the Commissioner shall draft a report containing the findings of the investigation, including draft conclusions about whether the Respondent contravened the Code and, where applicable, a draft recommended penalty, and submit it to the Respondent for representations and comments within seven business days.

12.8 Within five business days after receiving the representations and comments of the Respondent, and taking them into account, the Integrity Commissioner shall finalize the report and deliver it to the:

(a) Clerk, for delivery to Council or the local board;

(b) Complainant;

(c) Respondent.

13. The Commissioner has the discretion to extend any of the time frames and deadlines in this Protocol. If, however, a report will not be completed within 90 days of the receipt of a complaint, the Integrity Commissioner shall provide an interim report to Council or the local board (and the Respondent and Complainant). The interim report shall describe the complaint without identifying the Respondent and the Complainant, explain the delay and state when the final report is expected to be ready.

**Report to Council (or Local Board) and Recommendation**

14. Upon receipt of a report, the Clerk shall place it on the next regular agenda of Council. A report to a local board shall be placed on the next regular agenda of the local board.

15. Where a report states the Integrity Commissioner’s opinion that a Respondent has contravened the Code:

15.1 The Integrity Commissioner may include in the report a recommended penalty.

15.2 If the Integrity Commissioner is of the opinion that the contravention was trivial or committed through inadvertence or an error of judgment made in good faith, or occurred despite the Respondent taking reasonable measures to prevent it, then the report shall so state.

15.3 The Respondent shall have the right of reply when the report is considered by Council or the local board.

15.4 As provided by the *Municipal Conflict of Interest Act*, if the recommendation is to suspend the remuneration paid to the Member then the Member may take part in the discussion of the matter, including making submissions to Council or the local board, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting, but the Member is not permitted to vote on any question in respect of the matter.

16. If the Integrity Commissioner is of the opinion that a Respondent did not contravene the Code but the Respondent’s conduct was blameworthy or otherwise deserving to be brought to Council’s (or the local board’s) attention then the report shall so state.
17. If the Integrity Commissioner is of the opinion that the investigation has revealed the need for an amendment to the Code, this Protocol or a policy of the Municipality or local board then the report shall so state.

18. The Integrity Commissioner may make interim reports to Council or the local board where necessary and as required, including to address any instances of interference, obstruction, delay, reprisal, and retaliation associated with the investigation.

Confidentiality to Ensure a Fair Process

19. To ensure that a complaint is investigated (or settled or informally resolved) in a fair manner that respects the rights of the Complainant, the Respondent and witnesses, until the final report is delivered to Council or the local board the parties shall maintain the confidentiality of the complaint process, including but not limited to the confidentiality of the complaint, responses, replies and other communications from the Complainant, the Respondent and the Integrity Commissioner.

20. If a Complainant (whether or not the Complainant is a Member) discloses information about a complaint or investigation then the Integrity Commissioner may take that fact into account in exercising discretion before declining to commence or terminating an investigation on the ground that the complaint is frivolous or vexatious or the Complainant is not acting in good faith.

21. The following paragraphs apply where a Member (whether or not the Member is a Complainant, a Respondent, a witness or uninvolved) discloses information about a complaint or an investigation:

21.1 Section 5.4 of the Code provides that a Member shall not disclose by any means to anyone, except to a Member or to an employee of the Municipality or local board who requires the information in the course of duties, any confidential information acquired by virtue of office, in either oral or written form, except as required by law or authorized by Council or the local board to do so. If the Integrity Commissioner is of the opinion that the disclosure breached confidentiality then the Commissioner, after giving a Member who disclosed a fair opportunity to respond, may report to Council or the local board that the Member contravened section 5.4 of the Code and may recommend a penalty.

21.2 Harassment contravenes section 8.1 of the Code. If the Integrity Commissioner is of the opinion that the disclosure constituted harassment then the Commissioner, after giving the Member who disclosed a fair opportunity to respond, may report to Council or the local board that the Member contravened section 8.1 of the Code and may recommend a penalty.

21.3 Bullying contravenes section 8.2 of the Code. If the Integrity Commissioner is of the opinion that the disclosure constituted bullying then the Commissioner, after giving the Member who disclosed a fair opportunity to respond, may report to Council or the local board that the Member contravened section 8.2 of the Code and may recommend a penalty.

22. If the disclosure of information about a complaint or investigation makes it impossible, in the Integrity Commissioner’s opinion, to conclude a fair and proper investigation that respects the
rights of the parties then the Integrity Commissioner shall report that opinion to Council or the local board.

23. For greater certainty, a report under this section shall name the individual who disclosed or caused the disclosure of information about a complaint or investigation, and may name any Member who is involved as a Complainant, Respondent, witness or other involved individual.

**Annual Reports to Council**

24. The Integrity Commissioner shall report to Council annually. In the annual report, the Commissioner shall report on all complaints received and on their disposition (including complaints not falling within the jurisdiction of the Integrity Commissioner and other complaints that were not investigated). Unless otherwise provided in this Protocol, a complaint that has not been the subject of a public report to Council will be described in the annual report without identifying the Complainant or the Respondent.

**Confidentiality, Record Keeping and Public Disclosure**

25. The Integrity Commissioner and every person acting under the instructions of the Integrity Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under Part V.I of the *Municipal Act*, the Code and this Protocol. Nevertheless, information may be disclosed as required by law or otherwise in accordance with Part V.I of the Act, the Code and this Protocol. In a report on whether a Member has contravened the Code, the Integrity Commissioner may disclose such matters as in the Integrity Commissioner’s opinion are necessary for the purposes of the report.

26. The Integrity Commissioner shall retain all records related to the complaint and investigation.

27. For greater certainty, if the Integrity Commissioner is of the opinion that a Member has contravened the Code then the Member’s identity is not confidential information and the Member shall be named in the Integrity Commissioner’s report to Council.

28. All reports from the Integrity Commissioner to Council will be made available to the public on the Municipality Website on a single Web page that is easily accessible.
APPENDIX A
Council Code of Conduct Complaint Form

Name:

Address:

Telephone:

E-mail:

I, ____________ , hereby request the Integrity Commissioner of the Township of Centre Wellington to conduct an inquiry pursuant to Part V.1 of the Municipal Act, 2001 and section 10 of the Code of Conduct for Council Members and Members of Local Boards, about the following Council Member(s) or Local Board Member(s):

Background: (including date(s), time(s) and location(s) of conduct, supporting documentation, details and names of all persons involved, and name(s) of any witness(es); attach extra pages if necessary):

Code of Conduct

The Code of Conduct for Council Members and Members of Local Boards is available here. You may also request a copy by phone, e-mail, fax, or in person.

Please state which section(s) of the Code of Conduct you believe have been breached:

I hereby request the Integrity Commissioner to conduct an inquiry pursuant to the provisions of section 223.4 of the Municipal Act, 2001 with respect to the above conduct. This complaint is being filed under section 10 of the Code of Conduct for Council Members and Members of Local Boards.

Please mail, fax, e-mail, or otherwise deliver this request to:

Guy Giorno, Fasken law firm
Integrity Commissioner
333 Bay Street
Suite 2400
P.O Box 20
Toronto, Ontario
M5H 2T6
Tel: 416-366-8381
Fax: 416- 364-7813
E-mail: ggiorno@fasken.com

Your name, address, comments, and any other personal information, is collected and maintained for the purpose of conducting an investigation under Section 223.4 of the Municipal Act, 2001.

This complaint is being filed under section 11 of the Code of Conduct. Questions about this collection should be directed to: the Municipal Clerk at (519) 846.9691 x243 or kokane@centrewellington.ca, Township of Centre Wellington, 1 MacDonald Square, Elora ON N0B 1S0.
Supporting Documentation

It is recommended that you provide supporting documentation that will help verify your complaint. Please attach any supporting documentation either in your e-mail (as an attachment), or attach physical copies in mailed and faxed forms.

Use of Your Information / What Happens Next

The Integrity Commissioner will use the contact information you have provided to communicate with you about this complaint.

If the complaint falls under the Code of Conduct, a copy will be provided to the Member(s) you named. Your name but not your contact information will be included.

If the Commissioner conducts an investigation, you, the Member(s) and other persons may be asked for more information.

At the end of an investigation, the Commissioner will report to Council or the local board about whether the Member(s) contravened the Code of Conduct. The Commissioner may disclose in the report such matters as in the Commissioner’s opinion are necessary for the purposes of the report. Reports to Council and local boards become public documents.