

## Municipality of the County of Colchester Code of Conduct Complaints Policy

### 1. Application of Policy:

This Policy supplements the Code of Conduct for Members of Council.

### 2. Purpose:

Municipal Council wishes to put in place further guidelines regarding the handling of a complaint submitted pursuant to the Code of Conduct. In doing so, Council is guided by the principles of safeguarding the complainant and ensuring that a fair process is followed during any review and investigation.

### 3. Definitions:

**CAO** means the Chief Administrative Officer of the Municipality.

**Code of Conduct** means the Code of Conduct for Members of Council, as adopted by the Municipality of the County of Colchester and amended from time to time.

**Election Period** means the period of time between the thirty-first day of July and the third Saturday in October during a regular election year, as defined in the *Municipal Elections Act*, RSNS 1989, c 300, or, if the ordinary polling day in a regular election year is moved, for a period of 80 days prior to the ordinary polling day.

**Investigator** means the person or persons retained by the Municipality to investigate a complaint pursuant to this Policy.

**Municipal Council** or **Council** means the Mayor, Deputy Mayor, and Councillors for the Municipality of the County of Colchester.

### 4. Receiving a Complaint:

- a. A Code of Conduct complaint may be brought by a member of Council, Municipal staff, or the public.
- b. A complaint must be in writing, and must be signed by the complainant. The complainant must also provide their full name and contact details. The complaint must also set out the nature of the complaint and describe the events underlying the complaint in reasonable detail.
- c. The complaint should be provided to the office of the CAO at 1 Church Street, in Truro, Nova Scotia.

If a complainant requires assistance in preparing a written complaint, they should also contact the office of the CAO.

- d. A complaint may only be received against a current member of Council. During an Election Period, any complaint that is received or has not been finally resolved will be held in abeyance until the election has taken place. If the Council member has been re-elected or re-acclaimed to Council, then the complaint will proceed.
- e. All complaints must be received in writing within six months of the date on which the complainant became aware of the actions that form the basis for the complaint.

## **5. Preliminary Review:**

- a. The CAO, or any person delegated by the CAO to review complaints received pursuant to this Policy, shall conduct a preliminary review of the complaint. The CAO or their delegate may contact the complainant and ask for further details if required in order to make this preliminary assessment.
- b. If, in the opinion of the CAO or their delegate, the complaint is clearly without merit, or does not fall within the purview of the Code of Conduct or this Policy, then they may inform the complainant that the complaint is dismissed, and that no further action will be taken.
- c. If, in the opinion of the CAO or their delegate, the complaint may be resolved through an informal resolution process, then they may engage the appropriate person to conduct the process as set out in Section 7 of this Policy.
- d. If, in the opinion of the CAO or their delegate, the complaint may have merit, and the informal resolution process does not appear appropriate under the circumstances, then they shall refer the complaint to an investigator to conduct an investigation as set out in Section 8 of this Policy.

## **6. During Resolution or Investigation**

- a. While informal resolution and/or investigation are being conducted, the Municipality may take steps to minimize or eliminate any conduct between the complainant and respondent during the course of their duties for the Municipality. There shall be no financial detriment to the complainant or respondent for any modification of their duties pursuant to this Section.

## **7. Informal Resolution:**

- a. A complaint may be recommended for informal resolution by the CAO or their delegate, or by the Investigator. At any point after a complaint has been submitted, the complainant may also request that it be resolved through an informal procedure.
- b. The process and outcomes of the informal resolution shall be determined by the nature of the complaint and the willingness of all parties to meaningfully participate in the informal process.
- c. The informal resolution process shall be guided by someone with appropriate training and experience and who is not an employee of the Municipality or member of Municipal Council. However, in the case of a staff complaint, the CAO or one of the Directors may guide an informal resolution process where appropriate.

- d. If informal resolution is not successful in resolving the complaint, in the opinion of the person guiding the informal resolution process, then the CAO or their delegate may refer the complaint to an Investigator for investigation.
- e. The costs of informal resolution are to be borne by the Municipality.

## **8. Investigation**

- a. The Investigator shall be selected from a pre-determined list of candidates, if one is available; otherwise, the Investigator shall be someone with appropriate training and experience and who is not an employee of the Municipality or member of Municipal Council.
- b. The Investigator shall conduct a review of the complaint that is commensurate with the seriousness of the complaint and the impacts on the complainant and respondent. The investigation shall respect the principles of natural justice and fairness. Where the complaint contains allegations of discrimination, bullying and harassment, the Investigator shall endeavour, as much as possible, to adopt trauma-informed principles and practices.
- c. The Investigator may, but is not required to, interview parties to the complaint and any witnesses, take statements, and collect evidence. The Investigator must outline the process followed in their Report to Council, as set out in Section 9 of this Policy.
- d. During the Investigation, the respondent shall be provided with the opportunity to respond to all allegations made by the complainant and/or any witnesses, and shall be provided the opportunity to review any evidence relied upon by the Investigator in preparing their Report.
- e. At any point during the Investigation, with the consent of both the complainant and respondent, the Investigator may refer the complaint for informal resolution pursuant to Section 7 of this Policy.
- f. The costs of the investigation are to be borne by the Municipality.

## **9. Report to Council and Corrective Action:**

- a. At the conclusion of the investigation, the Investigator must prepare a written report for Council, containing the following information:
  - i. a description of the complaint;
  - ii. the investigative steps undertaken;
  - iii. a summary of the interviews, statements and evidence obtained, with appropriate redactions for privacy purposes; and
  - iv. a list of findings made by the Investigator.

The Investigator may also provide any further information that is relevant to a proper resolution of the complaint.

- b. The Investigator's report shall be presented to Council in closed session. The respondent may not be present in Council chambers during this presentation or for any subsequent deliberations of Council, and may not vote on any motions pertaining to the investigation

of the complaint or any resolution of the complaint. The respondent may not discuss or attempt to discuss the Investigator’s report with any other member of Council.

- c. A copy of the Investigator’s report shall also be provided to the complainant and the respondent, subject to the signing of appropriate confidentiality agreements.
- d. Following presentation of the Investigator’s report, Council shall, in open session, consider and approve any required next steps. Such steps may include:
  - i. giving a formal verbal and/or written warning or reprimand;
  - ii. issuing a public statement regarding the matter;
  - iii. return of property improperly obtained or reimbursement of its value, or return of monies improperly spent;
  - iv. removing the respondent from any committee or appointment for a specified period of time, other than Council or Council Committee, or withdrawing authorization to attend any discretionary events on behalf of the Municipality, such as conferences or other professional development;
  - v. directing that the respondent refrain from a specific activity (for example, an activity that would bring them in regular contact with the complainant);
  - vi. taking no further action; and,
  - vii. taking any other action that Council deems appropriate, bearing in mind the nature and severity of any breach found by the Investigator.

**10. No Retaliation:**

As set out in the Code of Conduct at Section VIII, no adverse action shall be taken against any Council Member or municipal employee who brings forward good faith concerns. In addition, no adverse action may be taken against any witness or other person assisting with or conducting an Investigation or an informal review, as long as they act in good faith.

<b>Clerk’s Annotation For Official Policy Book</b>	
Date of Notice to Council Members of Intent to Consider (7 days minimum): <u>June 8, 2020</u>	
Date of Passage of Current Policy: <u>June 25, 2020</u>	
I certify that this Policy was adopted by Council as indicated above.	
<u>Rob Simonds</u> Municipal Clerk	<u>July 6, 2020</u> Dated

*originally approved June 25, 2020*