

Integrity Commissioner's Annual Report
Town of Wasaga Beach

Principles *Integrity* is pleased to submit this annual report, covering the period from its appointment on February 1, 2018 to September 30, 2019.

The purpose of an integrity commissioner's annual report is to provide the public with the opportunity to understand the ethical well-being of the Town's elected and appointed officials through the lens of our activities.

This being our first annual report to Council, we also take the opportunity to re-introduce ourselves and state our perspective on our role.

About Us:

In 2017 we formed Principles *Integrity*, a partnership focused on accountability and governance matters for municipalities. Since its formation, Principles *Integrity* has been appointed as integrity commissioner (and occasionally as lobbyist registrar and closed meeting investigator) in over 40 Ontario municipalities. Principles *Integrity* is an active member of the Municipal Integrity Commissioner of Ontario (MICO).

The Role of Integrity Commissioner, Generally:

Recent amendments to the *Municipal Act, 2001* mandated that all municipalities have codes of conduct and integrity commissioners for elected and appointed (Local Board) officials as of March 1, 2019. The Town of Wasaga Beach has had a code of conduct and access to an integrity commissioner for several years.

The integrity commissioner's statutory role is to carry out the following functions in an independent manner. Put succinctly, the role is to:

- Advise on ethical policy development
- Educate on matters relating to ethical behaviour
- Provide, on request, advice and opinions to members of Council and Local Boards
- Provide, on request, advice and opinions to Council
- Provide a mechanism to receive inquiries (often referred to as 'complaints') which allege a breach of ethical responsibilities
- Resolve complaints
- And where it is in the public interest to do so, investigate, report and make recommendations to council within the statutory framework, while guided by Council's codes, policies and protocols.

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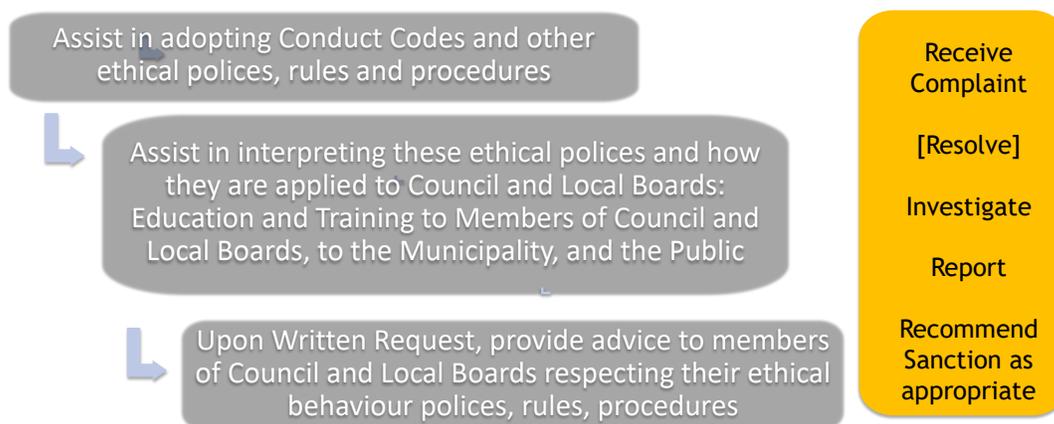
This might contrast with the popular yet incorrect view that the role of the integrity commissioner is primarily to hold elected officials to account; to investigate alleged transgressions and to recommend ‘punishment’. The better view is that integrity commissioners serve as an independent resource, coach and guide focused on enhancing the municipality’s ethical culture.

The operating philosophy of Principles *Integrity* recites this perspective. We believe there is one overarching objective for a municipality in appointing an Integrity Commissioner, and that is to raise the public’s perception that its elected and appointed officials conduct themselves with integrity:

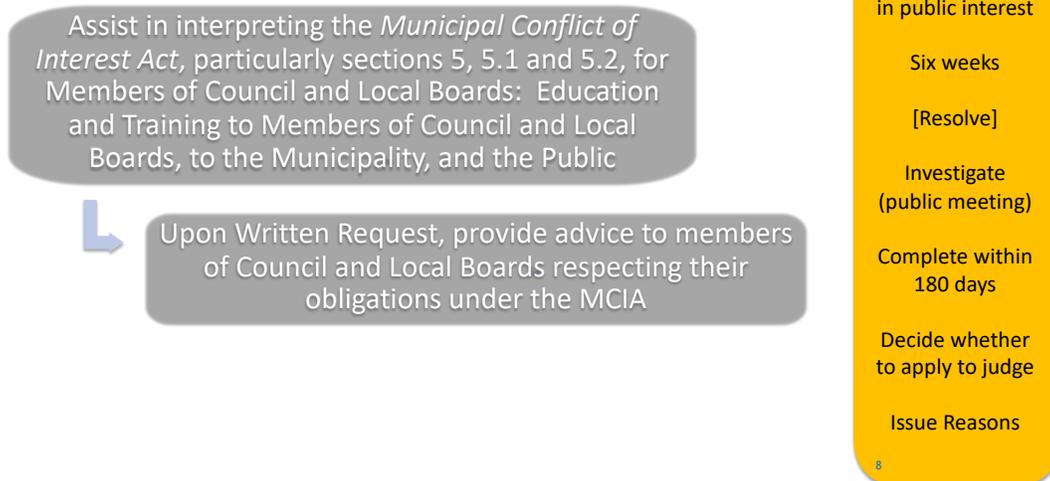
The perception that a community’s elected representatives are operating with integrity is the glue which sustains local democracy. We live in a time when citizens are skeptical of their elected representatives at all levels. The overarching objective in appointing an Integrity Commissioner is to ensure the existence of robust and effective policies, procedures, and mechanisms that enhance the citizen’s perception that their Council (and local boards) meet established ethical standards and where they do not, there exists a review mechanism that serves the public interest.

In carrying out our broad functions, the role falls into two principle areas. ‘Municipal Act’ functions, focused on codes of conduct and other policies relating to ethical behaviour, and ‘MCIA’ or *Municipal Conflict of Interest Act* functions, set out graphically in the following two charts:

The broad role of an Integrity Commissioner: Municipal Act Functions



The broad role of an Integrity Commissioner: MCIA Functions



In each of the charts above the primary functions of the integrity commissioner are summarized in the horizontal boxes to the left, and the review mechanism (or inquiry function) appears in the vertical box on the right.

The emphasis of *Principles Integrity* is to help municipalities enhance their ethical foundations and reputations through the drafting of effective codes of conduct and other policies governing ethical behaviour, to provide meaningful education related to such policies, and to provide pragmatic binding advice to Members seeking clarification on ethical issues. As noted in the Toronto Computer Leasing Inquiry report authored by the Honourable Madam Justice Bellamy (the “Bellamy Report”, seen by many as the inspiration for the introduction of integrity commissioners and other accountability officers into the municipal landscape), “*Busy councillors and staff cannot be expected to track with precision the development of ethical norms. The Integrity Commissioner can therefore serve as an important source of ethical expertise.*”

Because the development of policy and the provision of education and advice is not in every case a full solution, the broad role of the integrity commissioner includes the function of seeking and facilitating resolutions when allegations of ethical transgressions are made, and, where it is appropriate and in the public interest to do so, conducting and reporting on formal investigations. This in our view is best seen as a residual and not primary role.

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Confidentiality:

Much of the work of an integrity commissioner is done under a cloak of confidentiality. While in some cases secrecy is required by statute, the promise of confidentiality encourages full disclosure by the people who engage with us. We maintain the discretion to release confidential information when it is necessary to do so for the purposes of a public report, but those disclosures would be limited and rare.

Town of Wasaga Beach Activity:

Since starting our role with the Town of Wasaga Beach we have been engaged in a variety of activities which subdivide roughly into three categories:

1. Policy Development and Education

On June 29, 2018 we had the opportunity to provide broad-based education and training to Council through a session on the ethical framework.

Following the fall 2018 Municipal Elections, on December 14, 2018 we participated in the Orientation program for the newly-elected Town Council, providing training on the Municipal Conflict of Interest Act and Council Code of Conduct.

In February 2019 we were pleased to work with Town staff to provide a new Code of Conduct for Council and a Code of Conduct for Local Boards, which were adopted by Council February 19, 2019 by By-law 2019-10. This meets the Municipal Act obligation for municipalities to have in place a Code of Conduct for Local Boards.

On October 17, 2019 we presented two educational sessions for members of the Town's Local Boards, providing training on the Code of Conduct, the Municipal Conflict of Interest Act, and the role and function of Local Boards.

2. Advice

The advice function of the integrity commissioner is available to all Members of Council and where applicable their staff and Members of Local Boards on matters relating to the code of conduct, the *Municipal Conflict of Interest Act* and any other matter touching upon the ethical conduct of Members. Advice provided by the integrity commissioner is confidential and independent, and where all the relevant facts are disclosed, is binding upon the integrity commissioner.

Our advice is typically provided in a short Advice Memorandum which confirms all relevant facts and provides with clarity our analysis and a recommended course of action.

Since our retainer in February 2018, we have responded to 14 separate requests for advice to provide guidance on Members' obligations under the Code of Conduct and the Municipal Conflict of Interest Act. Though advice is confidential, we can advise that some of the issues we provided guidance on over this period arose in the context of properly identifying and appropriately recognizing actual and perceived conflicts of interest. The

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clarifications and guidance provided to Members seemed to be readily understood and welcome.

3. Complaint Investigation and Resolution

Our approach to reviewing complaints starts with a determination as to whether an inquiry to us is within our jurisdiction, is beyond a trifling matter, is not either frivolous or vexatious, and importantly, whether in its totality it is in the public interest to pursue. We always look to the possibility of informal resolution in favour of formal investigation and reporting. Once a formal investigation is commenced, the opportunity to seek informal resolution is not abandoned.

Where we are able to resolve a matter without concluding a formal investigation, our practice is to provide a written explanation to the complainant to close the matter. Often the potentially respondent Member is involved in preliminary fact-finding and will also be provided with an explanation. While also a courtesy, the provision of an explanation minimizes the potential for a formal review being undertaken by the office of the Ombudsman should the Complainant pursue further recourse.

Where formal investigations commence, they are conducted under the tenets of procedural fairness and Respondents are confidentially provided with the name of the Complainant and such information as is necessary to enable them to respond to the allegations raised. Only in a small number of cases in the period covered by this report has an inquiry reached the formal investigation stage.

During the past year and a half, we have received some 24 complaints, some consisting of multiple allegations of transgression. In some instances, we are able to determine that no contravention has occurred, or that the matter is not in the public interest to investigate, and so we dispose of the complaint accordingly and provide reasons for our decision.

In some instances, a complaint arises because of behaviour by a Member reflecting a zealousness or overly-emotional or self-righteous engagement. Where the Member recognizes and acknowledges that there is room for improvement, we are able to observe meaningful change without the need for a sanction. We believe such informal resolutions are a win-win for Council and the community.

In two instances, investigations were publicly reported on and Principles *Integrity* attended to present the substance of the findings of Council.

Ethical Themes In Wasaga Beach and Around the Province:

With due regard to our obligation to maintain confidentiality, this annual report enables us to identify learning opportunities from advice requests and investigations conducted in a variety of municipalities.

One area of prominence is the failure of some Members of Council to adhere to rules against disparagement. Regardless of the medium, regardless of the intended audience,

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and regardless of motive, we have observed several instances where Members of Council in municipalities around the province have been found to have breached ethical standards by saying or recording things they have come to regret.

Another area Members frequently require additional clarification on is recognizing and appropriately identifying conflicts of interest when they arise. These often include when Members are part of another organization or club whose interests are impacted by a matter before Council, or when Members are active professionally within the community and a matter before Council may potentially impact one of their current or past clients.

As always, obtaining clear and reliable advice can help avoid a costly and time-consuming investigation.

Conclusion:

We look forward to continuing to work with Members of Council and Members of Local Boards to ensure a strong ethical framework. We embrace the opportunity to elevate Members' familiarity with their obligations under the Code and to respond to emerging issues.

As always, we welcome Members' questions and look forward to continuing to serve as the Town's Integrity Commissioner.

We wish to recognize the Mayor and Members of Council who are responsible for making decisions at the local level in the public interest. It has been a privilege to assist you in your work by providing advice about the Code of Conduct and resolving complaints. We recognize that public service is not easy and the ethical issues that arise can be challenging. The public rightly demands the highest standard from those who serve them, and we congratulate Council for its aspirational objective to strive to meet that standard.

Finally, we wish to thank the Clerk, the Deputy Clerk and the Chief Administrative Officer for their professionalism and assistance where required. Although an Integrity Commissioner is not part of the Town's administrative hierarchy, the work of our office depends on the facilitation of access to information and policy in order to carry out the mandate. This was done willingly and efficiently by the staff of the Town.