




Hamilton

INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	September 2, 2015
SUBJECT/REPORT NO:	First Periodic Report as Integrity Commissioner to the City (IC15-001) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	George Rust-D'Eye, Integrity Commissioner and Lobbyist Registrar
SUBMITTED BY: SIGNATURE	George Rust-D'Eye, Integrity Commissioner and Lobbyist Registrar 

Council Direction:

Council, on April 1, 2015, decided to appoint me as its Integrity Commissioner, for a one-year term, commencing May 1, 2015.

Proposed conditions of the appointment are contained in the form of an agreement, the terms of which have been discussed with members of City staff, and executed on June 16, 2015.

Information:

This is the first of my periodic reports to Council, as anticipated under s. 223.6 of the Municipal Act for integrity commissioners.

I look forward to the opportunity to meet with Members of Council in the near future, to provide my observations and comments with respect to Council's By-law No. 08-154 (establishing the office of Integrity Commissioner), and the Code of Conduct for Members of Council, and my advice with respect to the status, rights and responsibilities of Councillors under the Council's By-laws and policies.

In preparation for the performance of my responsibilities as Integrity Commissioner, I have, since the start of my term of office, reviewed the relevant By-laws and other legislation, as well as some previous City reports and correspondence by and relating to, my predecessor IC, Mr. Basse, with whom I have been in direct contact. I have also

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engaged in discussions and meetings with City staff, who have been most helpful in providing assistance to me in the performance of my duties.

I have arranged with the Clerk for publication of my contact information as Integrity Commissioner, on the City's website, including the establishment of a toll free number, 1-844-662-9962, to increase public accessibility, an objective which I regard as having very high priority, both for me, and for the City generally.

So far, in the course of my duties for the City, I have received and dealt with, three queries or complaints, as follows:

- (1) May 17, 2015: in response to a query, I advised that I am not in a position to provide legal advice as to whether or not a member of a sub-committee of City Council is precluded from pursuing candidacy in the Federal election, or required to take a leave of absence from the sub-committee;
- (2) May 21, 2015: in response to a complaint from a member of the public that a Member of Council had expressed support for having Council deal with a matter allegedly outside its jurisdiction, I advised that the complaint was premature, and could involve legal and political issues, and possible litigation with respect to the jurisdiction of the Council, and its exercise, not issues arising under the Code of Conduct for Members;
- (3) June 2, 2015: in response to a complaint alleging that a Member of Council had been involved inappropriately in certain conduct during the municipal election campaign, and may have been involved in a possible conflict of interest during the period commencing September-October, 2014, I did not commence an inquiry, or pursue the matter further, due to: the failure of the complainant to provide information to me in writing, which I requested, and the complainant had agreed to; the length of time that had elapsed since the matters complained of; the lack of particulars supporting a conclusion that the Code of Conduct had been contravened; and that the complaint appeared to involve political positions and actions, not within my jurisdiction to investigate or question under the Code of Conduct.

As a result of my review of the relevant By-laws, and the provisions of the Code of Conduct, with respect to Council policies and intent relevant to or inherent in its provisions, I will be commenting particularly with respect to the following:

- the delegation to the Integrity Commissioner of the responsibility not only to find facts and make recommendations to the Council, but also to make final decisions that the Code of Conduct has been contravened, and to decide upon and impose sanctions against Members;

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- the desirability and legality of disclosure by the Integrity Commissioner, in public reports to Council, and in the course of an inquiry, of the names of complainants and Members whose conduct has been complained of, prior to the completion of an inquiry;
- the requirement of an affidavit as the form of complaint document, and a (possibly refundable) fee of \$100 to be paid by the complainant.

Finally, I wish, through my delivery to Council of this Report, to strongly request, and encourage, Members of Council to feel free, and invited, to contact me at any time for advice with respect to the interpretation and application of the Code of Conduct, and of any other Council rules and policies governing the ethical responsibilities and conduct of its Members.