

**BY EMAIL**

Council for the City of Hamilton  
Hamilton City Hall  
71 Main Street West  
Hamilton, Ontario L8P 4Y5

January 12, 2022

Dear Council for the City of Hamilton:

**Re: Fee charged to file an Integrity Commissioner complaint**

I have received a complaint that City of Hamilton charges a \$100 fee to make a complaint to its appointed Integrity Commissioner. Our Office spoke to City staff and was informed that they have no discretion to waive the fee, regardless of an individual's ability to afford this fee.

The *Municipal Act, 2001* requires that all municipalities appoint an Integrity Commissioner, or make the services of an Integrity Commission available, to address complaints regarding the ethical conduct of members of council and local boards. This system is premised on a willing public coming forward to assist in ensuring that transparency is maintained at the municipal level.

There should be no fee or other barrier to make a complaint to the Integrity Commissioner. While some municipalities have chosen to implement a complaint fee, my Office has publicly denounced this practice as it penalizes complainants for exercising their statutory rights, and may prevent legitimate complaints from being brought forward due to concerns about financial cost. Charging a fee to complain is entirely inconsistent with the primary intent of the Integrity Commissioner scheme, which is to foster democratic legitimacy and public trust at the local level.

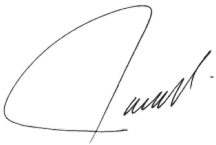
I understand that the \$100 fee was implemented to offset costs and minimize the number of frivolous or vexatious complaints received by the City. However, rather than imposing a fee which acts as a barrier, the City can address frivolous or vexatious complaints by providing the Integrity Commissioner with the authority to dismiss these complaints. By empowering

the Integrity Commissioner to make this determination on the basis of each specific complaint, the City can ensure that legitimate complaints are not suppressed by an overly blunt barrier to access.

The City of Hamilton's s Integrity Commissioner By-Law No. 16-288<sup>1</sup> already provides the Integrity Commissioner with the authority to dismiss complaints that are frivolous, vexatious, an abuse of process or not made in good faith. Accordingly, the City need only remove the fee in order to ensure that complaints can reach the Integrity Commissioner and be considered on their merits.

I strongly urge the City of Hamilton to amend its by-laws as soon as possible to remove the reference to a fee for integrity commissioner complaints. If the City is unwilling to eliminate this fee, it should ensure that staff have the discretion to waive the fee depending on the circumstances, such as where the complainant does not have the means to pay.

Yours truly,



Paul Dubé  
Ontario Ombudsman

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<sup>1</sup> The Corporation of the City of Hamilton, by-law No. 16-288, *To Establish and Govern the Office of Integrity Commissioner and Provide for the Resolution of Allegations of Contravention of the Code of Conduct by Members of Council* (26 October 2016), s. 11.(6)(a)