



THE CITY OF WINDSOR

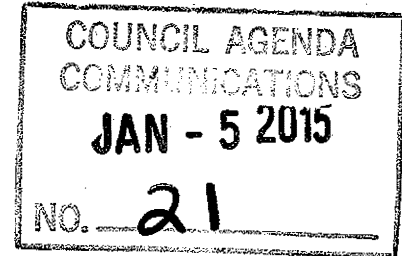
COUNCIL SERVICES DEPARTMENT



BRUCE P. ELMAN
INTEGRITY COMMISSIONER

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Office of the Integrity Commissioner

Annual Report 2013 - 14

1 October 2013 – 30 September 2014

Bruce P. Elman
Integrity Commissioner

Part I -- Background:

The Office of Integrity Commissioner came into existence in the Province of Ontario with amendments to the *Municipal Act*, effective January 1, 2007. Pursuant to the amendments to the *Municipal Act*, the City of Windsor created the Office of the Integrity Commissioner in 2007 and, in 2008, established a **Code of Conduct** for Members of Council, including the Mayor, and the members of certain Local Boards. On June 7, 2011, the City Council passed a new Procedural By-law for Windsor City Council Meetings and its Committees and the Conduct of its Members. Part 14.1(a) provides that Members of Council as well as City committees, agencies, boards and commissions shall act in accordance with the **Code of Conduct** which is set out in Appendix B to the Procedural By-law. The **Code of Conduct** notes that the purpose is to improve the quality of public administration and governance by encouraging high standards of conduct on the part of government officials and, thereby, protect and maintain the reputation and integrity of the City of Windsor. The **Complaint Protocol for Members of Council and Others Governed by the Code of Conduct** was presented to Council and adopted on May 8th, 2012. This Protocol provides a regime under which **Code of Conduct** Complaints will be investigated and adjudicated.

Effective August 1st, 2011, I assumed the Office of Integrity Commissioner for the City of Windsor. My appointment was renewed effective October 15th, 2012. A further two year renewal was effective on October 15th, 2013. This will be my third Annual Report on Activities to Council. My first Report covered the period from August 1st, 2011 to September 30th, 2012. The 1st Annual Report is posted on the Integrity Commissioner website at <http://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/Annual%20Report%202011-12.pdf>. This 2nd Annual Report covered a 12 month period from October 1st, 2012 to September 30th, 2013 and can be found at <http://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/Integrity%20Commissioner%20Annual%20Report%202012-13.pdf>. This 3rd Annual Report covers activities from October 1st, 2013 to September 30th, 2014.

The Integrity Commissioner has four functions: (1) Education; (2) Advisory; (3) Complaint Investigation; and (4) Complaint Adjudication.

Part II -- Education Function:

Presentations: I delivered two presentations during the period of time covered by this Report: (1) A Presentation to the Municipal Law class at the University of Windsor, Faculty of Law, on "Integrity in Municipal Governance" ; and (2) A Presentation to a Legal Profession class at the University of Windsor, Faculty of Law, on "Issues in Public and Professional Ethics" on September 9th, 2014.

In addition to these presentations, I met with Councillor Kusmierczyk in January 2014, shortly after his Ward 7 By-election victory, to introduce him to the **Code of Conduct** as well as other relevant statutes, by-laws, and policies.

Part III -- Advisory Function:

During my first 14 months as Integrity Commissioner, I received no requests for Advice. In my 2nd Annual Report, I indicated that four "Advice" files were opened. Two resulted in letters of advice being issued. In this reporting period, two "Advice" files were opened. Both resulted in letters of advice being issued.

Providing advice is a key function of the Integrity Commissioner. Providing advice can often head-off **Code of Conduct** violations. Indeed, the **Code of Conduct** recognizes the important nature of the "advice function" by providing that "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." In this way, the Member is protected from any future Complaints in regard to the same matter where the Integrity Commissioner's advice has been sought out in advance.

Part IV -- Inquiries/Complaints:

1. **Cases Carried Forward:** There was one Complaint unresolved at the time of my 2nd Annual Report. I, subsequently, denied that Complaint. The Complainant was provided with extensive reasons for my decision.

2. **New Cases:** Four new files were opened during the reporting period. All cases were investigated. I concluded that all of these Complaints were unfounded. As a result, these Complaints were denied. No Complaints remains under active investigation at this time.
3. **Brief Service:** There were six instances of "Brief Service" involving two individuals. "Brief Service" constitutes instances where an individual has contacted the Integrity Commissioner but no formal or informal Complaint has been made and no file has been opened. This may be because the nature of the concern is outside the jurisdiction of the Integrity Commissioner or because the alleged complaint is clearly not a violation of the **Code of Conduct** or because the individual is simply seeking information. In some instances, the answer provided ends the matter; in other instances, a referral may be made to a more appropriate entity or individual. In some instances, the individual is advised on the procedure for making a formal Complaint although, ultimately, no formal Complaint is received.

Part V -- Policy Development:

1. **Hotline Notification Process:** I worked extensively with Price Waterhouse Cooper (PwC) to ensure that the Concerned Citizen and Employee Hotline Protocol was in harmony with the **Code of Conduct** Complaint Process. The goal was to ensure that citizen and employee concerns were handled in the most appropriate manner without duplication of resources or inconsistency of treatment.
2. **The Code of Conduct:** I continue to examine possible amendments to the contents and structure off the **Code of Conduct**. Adding a specific provision on Conflicts of Interest remains under consideration.

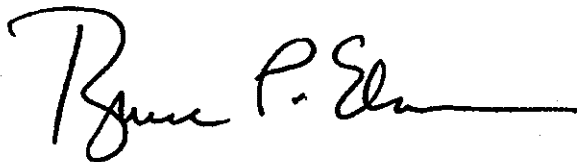
Part VI – Conclusion:

Currently, the Ontario Legislature is considering Bill 8 2014, *An Act to Promote Public Sector and MPP Accountability and Transparency by Enacting the Broader Public Sector Executive Compensation Act, 2014 and Amending Various Acts*. When this legislation is proclaimed, it will seemingly alter, in a significant fashion, transparency and accountability for the public office holders, including those in the Municipal sector, throughout Ontario and may have a profound effect on the Office of Integrity Commissioner. I will be better able to advise Council on these

developments once we have seen the final Bill and have some opportunity to examine its implications. More about this in the new year.

It remains a great honour to serve as the Integrity Commissioner for the City of Windsor.

Respectfully submitted,



Bruce P. Elman
Integrity Commissioner
City of Windsor