

ROBERT J. SWAYZE

BARRISTER & SOLICITOR

CERTIFIED BY THE LAW SOCIETY OF UPPER CANADA AS A SPECIALIST IN
MUNICIPAL LAW - LOCAL GOVERNMENT/LAND USE PLANNING AND DEVELOPMENT

TELE: (519) 942-0070
FAX: (519) 942-1233
E-mail: robert.swayze@sympatico.ca

20736 Mississauga Road
CALEDON, ONTARIO
L7K 1M7

*Integrity
Commissioner's
Report*

COUNCIL AGENDA
July 3, 2013

DATE: June 25, 2013

TO: The Mayor and Members of Council
Meeting Date: July 3, 2013

FROM: Robert J. Swayze
Integrity Commissioner

SUBJECT: Review of *Respectful Workplace Policy*

RECOMMENDATION: That the *Council Code of Conduct* and the *Respectful Workplace Policy* (Policy 01-03-04) be amended in accordance with Appendix 1 to the Report of the Integrity Commissioner dated June 25, 2013.

BACKGROUND: I was consulted by the Director of Human Resources regarding the wording of the *Respectful Workplace Policy* (the "Policy") which provides for complaints review to be carried out by independent investigators appointed by the Human Resources Division. The Policy was in force prior to the appointment of an Integrity Commissioner under the *Council Code of Conduct* and elected officials are included in the Policy. At a meeting with the Director and legal services, she expressed to me the opinion that any future complaints received by her under the Policy against elected officials would be better delegated to the Integrity Commissioner and she requested me to recommend an amendment to Council.

COMMENTS:

The amendments in Appendix 1 are intended only to delegate the review of complaints against members of Council to the Integrity Commissioner. Any such review would be carried out in accordance with both the Policy and the *Council Code of Conduct Complaints Protocol*. The Human Resource Division would continue to be responsible for administration of the policy including filling the advisory role for staff and members of Council. The Human Resource Division concurs with these amendments.

Rule No. 12 of the *Council Code of Conduct* confirms that members of Council are governed by the Policy and then provides as follows:

2. Upon receipt of a complaint that relates to the City's *Respectful Workplace* policy and involves a Member, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources who will refer it for an independent investigation.
3. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall make a determination on the application of this *Code of Conduct* and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.

It is recommended that the above sections be deleted and replaced by:

2. All complaints received, involving members of Council under the *Respectful Workplace* policy shall be referred to the Integrity Commissioner for processing in accordance with both the said policy and the *Council Code of Conduct Complaints Protocol*
3. The *Ontario Human Rights Code* applies in addition to the City's *Respectful Workplace* policy.

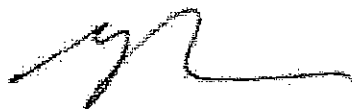
R-1(b)

CONCLUSION:

This report provides for investigations of members of Council under the Respectful Workplace Policy to be conducted by the Integrity Commissioner instead of an independent investigator retained by the Human Resources Department which is more appropriate and will save costs.

ATTACHMENTS:

Appendix 1: Amendments to the *Respectful Workplace* Policy and the *Council Code of Conduct* recommended by the Integrity Commissioner



Robert J. Swayze
Integrity Commissioner

Prepared By: Robert J. Swayze

R-1(c)

Appendix 1

Amendments to the *Council Code of Conduct and Respectful Workplace Policy*

Recommended by the Integrity Commissioner

Council Code of Conduct

That Rule 12, the *Council Code of Conduct*, Sections 2 & 3 be deleted and replaced by the following:

2. All complaints received, involving members of Council under the *Respectful Workplace* policy shall be referred to the Integrity Commissioner for processing in accordance with both the said policy and the *Council Code of Conduct Complaints Protocol*

That Rule 12, *Respectful Workplace Policy*, Section 4, be renumbered to 3.

Respectful Workplace Policy

That page 8 of the *Respectful Workplace Policy* (Policy 01-03-04) be amended by adding after:

“All complaints will be investigated in an unbiased, impartial and timely manner by the Investigator. Management Staff who receive a formal complaint must immediately forward the complaint to the Complainant’s Human Resources Manager.”

the following:

“Notwithstanding the investigation procedures included in this Policy, all investigations of members of Council will be forwarded by the Human Resources Business Partner Manager to the Integrity Commissioner appointed under the *Council Code of Conduct* who shall conduct the investigation in accordance both with this Policy and the *Council Code of Conduct Complaint Protocol*.”