

**Municipality of Chatham-Kent**

**Corporate Services**

**Municipal Governance**

**To:** Mayor and Members of Council  
**From:** Judy Smith, Director, Municipal Governance/Clerk  
**Date:** February 7, 2023  
**Subject:** Integrity Commissioner 2022 Annual Report

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**Recommendation**

It is recommended that:

1. The Integrity Commissioner 2022 Annual Report be received for information.

**Background**

The purpose of this report is to fulfill a requirement within the Code of Conduct for Members of Council. "The Integrity Commissioner shall provide an annual report to Council which shall include:

- the number of instances in which the Integrity Commissioner provided written advice to a member with respect to interpretation of this *Code of Conduct*,
- complaints received but determined to be not within the jurisdiction of the Integrity Commissioner,
- complaints deemed to be frivolous, vexatious, *de minimus*, not made in good faith, or where there were insufficient grounds to investigate,
- complaints investigated and number of reports written, and
- total costs of investigations annually, including all fees and disbursements by the Integrity Commissioner,

but shall not disclose information that could identify a person concerned."

**Comments**

Mary Ellen Bench was appointed as the Integrity Commissioner/Closed Meeting Investigator for the Municipality of Chatham-Kent for a two-year period beginning November 27, 2019 with an extension for one additional year to November 25, 2022 and an extension for one additional year to November 25, 2023.

The 2022 annual report (Appendix A) is for the period of January 1, 2022 to December 31, 2022.

**Areas of Strategic Focus and Critical Success Factors**

This report supports the following areas of strategic focus:

			
<b>Economic Prosperity</b>	<b>Healthy &amp; Safe Community</b>	<b>People &amp; Culture</b>	<b>Environmental Sustainability</b>
	2.1		

**Consultation**

No other department was consulted.

**Communication**

Communication is proposed to be through the inclusion of this report on the Council agenda and minutes.

**Diversity, Equity, Inclusion and Justice (DEIJ)**

This report does not have implications related to diversity, equity, inclusion or justice.

**Financial Implications**

For 2022, the Integrity Commissioner fees totalled \$10,800 which was covered by the base budget for this service.

Prepared by:  
 Judy Smith, CMO  
 Director, Municipal Governance/Clerk

Reviewed by:  
 Cathy Hoffman, MPA, CHRL  
 General Manager, Corporate Services/Chief Human Resource Officer

Attachment (1)

1. Appendix A – Integrity Commissioner 2022 Annual Report

**Municipality of Chatham-Kent**  
**Integrity Commissioner**  
**Annual Report, for the year 2022**

I was appointed Integrity Commissioner and closed meeting investigator for the Municipality of Chatham-Kent effective November 27, 2019. The purpose of this report is to advise Council of my activities as Integrity Commissioner, during 2022. My appointment covers Council as well as the agencies, boards and committees (collectively referred to as “Council”) that report through Council. It has been a distinct pleasure to serve as Integrity Commissioner for the Municipality of Chatham-Kent. 2022 was a year when workplaces re-opened and meetings were held in hybrid or in-person formats. 2022 was also an election year meaning that for the period between Nomination Day (May 2, 2022) and Election Day (October 24, 2022) I was prohibited from carrying out all of my duties. Subsection 223.4(9) of the Municipal Act provides that an Integrity Commissioner shall not receive requests for investigations and shall not issue reports concerning breaches of the Code of Conduct during the election period.

The *Code of Conduct* is a living ethics document that members of Council have considered and have endorsed. It is intended to supplement the provisions of the *Municipal Conflict of Interest Act* in a way that makes sense locally, to be used to guide Councillor conduct. The *Code of Conduct* is also intended to uphold values that support the principles of open, accountable and transparent government reflected in the *Municipal Act, 2001*. As a living document, the Code of Conduct is intended to reflect the values that members of Council believe are core to how they conduct themselves in office, knowing that Council will be measured against these values. It is intended to be reviewed and updated regularly, especially after an election when there is turnover in the members of Council.

The duties assigned to me as Integrity Commissioner are set out in Section 223.3 of the *Municipal Act, 2001* and Section 18 of the *Municipality of Chatham-Kent Code of Conduct for Members of Council* as follows:

- Providing advice to members of Council, individually or collectively, respecting the application of the *Code of Conduct* and the *Municipal Conflict of Interest Act*, or other policies that govern the ethical behaviour of members of Council;
- Providing educational information to members of Council about the *Code of Conduct*, the *Municipal Conflict of Interest Act* and other matters related to the ethical conduct of members of council;
- Assessing and investigating where appropriate, formal written complaints respecting alleged contraventions of the *Code of Conduct* to determine whether the complaint is within the jurisdiction of the Integrity Commissioner, whether it is substantive or if it is something that could be characterized as frivolous and vexatious, and whether it is within the public interest to pursue either formally or informally;
- Determining whether a member of Council or local board has in fact violated a protocol, by-law or policy governing their ethical behaviour, including this *Code of Conduct*, with the final decision-making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner are imposed;
- Providing Council, through the Municipal Clerk, with written reports following investigations and otherwise annually, which the Clerk shall include on the next public meeting agenda of Council.

The *Municipal Act, 2001* is clear that I perform my duties independently. Most of the work of an Integrity Commissioner is done in a way that protects the confidentiality of councillors, complainants and others who use the services of this office. There are legislative requirements respecting confidentiality and when confidential information can be released, meaning disclosure is rare. The assurance of confidentiality encourages full disclosure from those who engage in any way with an Integrity Commissioner.

Over the course of 2022, I have responded to the following matters:

Requests for advice from members of Council: 22

Requests from advice from members of the public: 2

Complaints received and determined not within my jurisdiction: 1

Complaints dismissed without investigation: 4

Complaints investigated: 3

Complaint about an agency, board, committee member: 0

Council attendance and staff meeting: 0

Council educational session: 0

Total costs, including all fees by the Integrity Commissioner: \$ 10,800

Chatham-Kent councillors are proactive and have made a number of requests for advice concerning potential conflicts prior to a matter being discussed at a Council meeting. These inquiries fall into four main categories: questions respecting a councillor's employment when that employment requires interaction with municipal staff; questions concerning membership in community organizations that may lead to interactions with municipal staff or respecting applications for grants that could be before Council; questions regarding family members and potential conflicts; questions respecting social media posts and what contravenes the Code of Conduct. I have not provided a summary of the advice provided, as to do so would likely disclose the identity of the councillor seeking advice. Under Section 223.5 of the *Municipal Act, 2001*.

I consider providing advice to be my most important role as it prevents breaches of the *Code of Conduct* or the *Municipal Conflict of Interest Act*. When asked to provide advice to individual members of Council, as previously noted, it is on a confidential basis, however the member of Council may choose to disclose the advice given, and I have no concerns with sharing the advice provided but would add that before others rely on it, please consider that it is fact-specific advice. It is my practice to confirm in writing the facts explained to me and the advice given, so that members of Council can rely on my advice as a defence if their actions are

subsequently challenged, as provided for in section 223.3(2.2) of the *Municipal Act, 2001*. Proactive advice can assist elected officials and those appointed to boards and committees, and I look forward to responding to more requests going forward.

I have received full support and access to corporate records and information from staff whenever I have asked for it. Staff and members of Council that I have interacted with have all been very professional and helpful.

In respect of the complaints received concerning possible violations of the Code of Conduct, informal investigations were carried out, and I responded to the parties that no breach of the Code was found.

I did not provide a Council training or education session in 2022, but was pleased to participate in a Council education session early in 2023 to discuss the Code of Conduct and the *Municipal Conflict of Interest Act*.

I would like to thank the Clerk for her professionalism and for her assistance where required to access municipal records and staff.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'M. Bench', with a long horizontal flourish extending to the right.

Mary Ellen Bench, BA, JD, CS, CIC.C

Municipality of Chatham-Kent

Integrity Commissioner

[maryellen@benchmunicipal.com](mailto:maryellen@benchmunicipal.com)