

**OFFICE OF THE INTEGRITY COMMISSIONER
AND
CLOSED MEETING INVESTIGATOR**

TO: Mayor and Members of Council

FROM: Suzanne Craig, Integrity Commissioner/Closed Meeting Investigator

RE: 2025 Annual Report

Integrity Commissioner Remarks

In fulfilment of my role as the Municipality's appointed Integrity Commissioner (and Closed Meeting Investigator) pursuant to the rules of Part V.1 of the *Municipal Act*, I respectfully submit the 2025 Report of the Office of the Integrity Commissioner for the Municipality of Chatham-Kent for Council's consideration and receipt. Subsection 223.6(1) of the *Municipal Act* states that: "[i]f the Integrity Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person considered".

24. Annual Reports

24.1 The Integrity Commissioner shall provide a periodic report to Council which shall include:

- (a) the number of instances in which the Integrity Commissioner provided written advice to a member with respect to interpretation of this Code of Conduct,
- (b) complaints received but determined to be not within the jurisdiction of the Integrity Commissioner,
- (c) complaints deemed to be frivolous, vexatious, de minimus, not made in good faith, or where there were insufficient grounds to investigate,
- (d) complaints investigated and number of reports written, and
- (e) 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.

This Report covers the period from January 2025 to December 2025.

Queries about the Application of the Code

From Members of Council (Requests for IC Advice)	From the Public	From staff	Total Questions on Code application
8	10	4	22

Code of Conduct Related Questions to Integrity Commissioner

Relating to staff from staff	2
Relating to process from staff	4
Relating to Members from staff	4
Relating to staff from public	0
Relating to process from public	12
Relating to Members' obligations from public	7
Total	29

Code of Conduct Complaints

Formal complaints	9
- Disposition	2 - (Consolidated report) Sustained with recommendations to Council 3- Dismissed after preliminary review 2- Dismissed - insufficient grounds 2- Ongoing
Informal complaints	3
- Disposition	1 – Dismissed- no jurisdiction 2 – Informal resolution
Total Code of Conduct Complaints	12

Total Inquiries Received – 63¹

¹ Includes queries to the Office of the Integrity Commissioner Code and non-Code related

Example of Advice to Members of Council:

- Q. A Member of Council asked if requesting a copy of a municipality contract would potentially contravene any Code rules.

“It’s simply about knowing what type of financial commitments we are entering into. As a Councillor that’s an important part of our role. I also believe it’s a reasonable approach to ensure transparency, that I am able to explain to constituents at least on some level what [the amount] is being spent on”

- A. Individual Members of Council, like any member of the public, may use the FOI Request process to access information in the custody or control of the Municipality. Information requests are to be processed in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) and the process adopted by Chatham Kent.

Non-confidential information provided to Council is publicly available as posted on the Chatham Kent website in accordance with the Municipality's access policies. In accordance with MFIPPA, no personal or proprietary information can be provided to an individual Member of Council, subject to restrictions and exemptions under MFIPPA and other applicable legislation and policies. Such information can be provided to all Members of Council as part of a closed meeting of Council only, and as needed and with redactions pursuant to terms of the agreement.

It is a long-standing principle of municipal law that an elected member of municipal council is not an agent or employee of the municipal corporation in any legal sense. Individual council members have no authority to act for the corporation (including requesting personal or proprietary information) except in conjunction with other members of council constituting a quorum at a legally constituted meeting; with the exception of the mayor or other chief executive officer of the corporation, they are mere legislative officers without executive or ministerial duties.¹

- Q. Can a Member bring forward a Code complaint regarding an organization that promises to donate a large sum of money if a municipal project goes forward.
- A. The Integrity Commissioner has no authority over the actions of a private citizen (promising to donate to the municipality large sums of money if a project goes forward).

The Integrity Commissioner has authority over the actions of individual members of council (not Council or a group of councillors) with respect to compliance with the rules of the Council Code of Conduct and sections 5.1, 5.2 and 5.3 of the MCIA. A member of council will have a pecuniary interest in a matter in very specific prescribed

¹ St. Elizabeth Home Society v. Hamilton (City).

circumstances. When a matter is at Council for a vote, a member will take into consideration all relevant issues regarding a decision on how to vote on a matter. The MCIA prohibits a member from participating in a debate or voting on an item at a committee or council meeting in which they have a direct, indirect or deemed pecuniary interest. Considering the pros and cons of a private donor's promise to gift money to the municipality does not engage the MCIA for the purposes of individual members of council unless there a member has promised to vote in favour or against a matter on the promise of receiving a private benefit solely to him or her.

- Q. A Council Member wanted to file a Code complaint about the comments of another Member of Council at a Council meeting. At the meeting the other Member of Council during their discussion regarding their Notice of Motion regarding the Province's proposed legislation related to Integrity Commissioner's expanded authority, referenced an opinion of a former Integrity Commissioner previously shared with Council on this subject. The Member stated what the previous Integrity Commissioner had said as their opinion regarding the proposed legislation.
- A. Members of Council are prohibited from disclosing the substance of deliberations of a closed meeting. No member shall disclose or release by any means to anyone any confidential information acquired by virtue of their office, in either oral or written form, except when required to do so by a Court of competent jurisdiction.

Query from Member of the Public

- Q. A member of the public asked this Office if actions/behaviour of a Member of Council that took place at their residence, were captured by the Code rules and whether the alleged behaviour could be investigated by the Integrity Commissioner. The resident said that the Member of Council had allegedly continuously berated them at their residence
- A. The statutory basis for municipal codes of conduct is subsection 232.2(1) of the *Municipal Act*: "A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards." A code of conduct may only apply to conduct that is connected to or affects a Member's duties as a Council Member or member of a local board.

That is not to say that private conduct can never have an impact on official duties. However, if a Member of Council was not communicating in their capacity of a Council Member, in other words, they were "off the clock", having conversations at a location where they were not conducting themselves in her official capacity, their conduct will likely not be captured by the Code rules. To be clear, some offsite conversations are governed by the Town's Respect in the Workplace policies. However, interactions in a private conversation where a Member was acting in their personal/private capacity, are not governed by the Code. Even if the facts alleged were borne out, and the Member was an "aggressive neighbour", if this conduct does not occur while the Member was carrying out their official duties, the conduct typically will not be enforced under the rules of the Code for which the Integrity Commissioner has jurisdiction to review or investigate.

Issues of Note

Council Deliberations and Decisions:

During this reporting period, Members of Council and residents asked this Office if criticizing a Council Member colleague or a Council decision was conduct that runs afoul of the Code. Individuals purported that they did not believe that expressing criticism should be deemed to be contrary to the Code because it was simply an expression of their opinion. I advised that generally, a Member of Council may express their opinion and may do so energetically, but must avoid disparaging or calling into disrepute colleagues, staff or the public. In short, Members of Council may express their opinions speaking to issues. Once Council has made a decision, a Member of Council cannot distance themselves from the Council decision. A Member can express why they disagreed with the decision, by citing their comments made a Council during the debate.

Generally, the Code does not prevent a Member from asking questions of clarification to better understand the recommendations in a staff report. However, language that overtly or implicitly suggests that a colleague or staff person is “lying” is a serious statement that disparages an individual and calls their reputation into disrepute. When participating in deliberations and discussions at meetings of council, including Committee of the Whole, Working Sessions and Public Meetings, Members have been reminded of their obligations under the Code, in particular those rules that underpin the integrity of Members of Council vis a vis a respectful relationship with their colleagues, staff and the public.

Although the role of individual members of Council are not set out in the *Municipal Act, 2001*, their role can be discerned from the articulation of the role of council as set out in section 224 of *the Municipal Act, 2001*, which include, *inter alia*, to represent the public and to consider the well-being and interests of the municipality to ensure that administrative policies, practices and procedures are in place to implement the decisions of council and to ensure the accountability and transparency of the operations of the municipality.

The Council Staff Relations Policy (the “Policy”) provides assurance to Council and the public that Staff is neutral and professional. Under the Policy and the Code, a Member understands that the rules therein are to promote a respectful relationship between Members of Council and the officers and employees of the Municipality of Chatham-Kent. Should a Member have any issue with respect to any staff member or department, such issue shall be referred to the CAO, in private.

It is not a Code contravention to have an opinion, even a strong one and a dissenting perspective that differs from the perspective of colleagues on Council. However, the Code requires a Member be mindful of her or his utterances that may injure the professional reputation of staff and integrity of Council.

A Member does not have limitless free speech. A Member’s utterances at meetings and on social media are limited by the rules of the Code of Conduct, in particular statements that would discredit or compromise the integrity of Council, Staff and the municipality, made in bad faith or that suggest wrongdoing or illegal activity of another Member of Council, the municipality or the administration.

The Role of the Integrity Commissioner: Weaponizing the Code:

Some Members of Council have expressed to this Office that they view to Code and Code Complaint Process as “weapons” used to silence their freedom of expression. Freedom of expression is not restricted to any one Member of Council, but rather, the full breath of freedom of expression exists to protect the right of all to be heard. This means that a Member’s voice is allowed to be heard, even if raising a matter not supported by all, as long as the subject matter is properly within the jurisdiction of a municipality under the Municipal Act and the language used to raise the issue complies with policies and statutes in place to ensure a respectful workplace free from harassment and discrimination. Individual Members need to be mindful of avoiding attempts to have a much louder voice, and must remember that she/he/they speak publicly as a Member of Council, not as an ordinary citizen. It is recognized that while Members are political representatives, they are also private citizens. Municipal councils are not elected on the basis of the political party system. Municipal Councillors may, in their capacity as private citizens, choose to endorse political parties and hold positions that may be different from the adopted position of the Municipality. However, Members are reminded to take care to clarify that they do so as a private individual and must not be seen to be using their office to endorse a political party of platform.

In response to the position held that Members may attempt to weaponize the Code, this Office has explained that there is a robust accountability regime with an independent integrity commissioner and rules of the Code to give teeth to the suite of sanctions that an integrity commissioner can recommend. This regime will enhance good governance; facilitate Members working as a collective Council, in the best interests of the public, not as individual Members of Council or private citizens, but as a corporate body empowered by the Province of Ontario’s governing statute, the Municipal Act.

The Code is neither an impediment to freedom of expression nor a weapon to stifle Members expressing their opinions and perspectives.

My goal as Integrity Commissioner has always been to “de-weaponize” the Code. This Office takes the position that the goal of the Code is not to punish, but rather to maintain public confidence in Council as a body. These days, credible organizations “call out” and self-regulate their members and communicate to the public through approved ethics regimes that they are guided by core values to which all agree to uphold. The Code bridges the divide between “legal” and “value-based” requirements. The Code is an operational and governance re-set tool. Its not a mechanism to “get someone in trouble” or silence someone with the assistance, of the Integrity Commissioner. Rather, the Integrity Commissioner applies the rules of the Code, which is a bylaw mandated by the Province and approved by Council to facilitate good governance and investigate and determine the appropriate remedy for inappropriate behaviour, with a goal to restoring public confidence.

It’s the difference between pointing fingers and punishing, navigating governance to a re-set. This Office has heard Members state that someone will “Code of Conduct” them. The inference in using the word as a verb appears to underscore that an individual (including a Member of Council, staff or public) is attempting to weaponize the Code by filing a Code complaint in such a way as to silence criticism or a different perspective of a Member. Some

Members have expressed that the very word “Code” seems to invoke both a feeling of being harassed and threatened.

In response to Members who assert that a Code Complaint is by very definition, frivolous or harassing and that the Office of the Integrity Commissioner is being weaponized, this Office has taken the position that the role of the Integrity Commissioner is that of a third-party decision-maker vested with the statutory power to receive and evaluate a Code complaint. If the Integrity Commissioner determines that on its face, a complaint is frivolous, vexatious or not made in good faith, she will dismiss the matter with reasons to the Complainant. However importantly, if the Integrity Commissioner determines that a complaint, while touching on matters that may be viewed by a Respondent as frivolous or politically motivated or animus is properly addressed to matters within the Code, that does not by itself mean the complaint is frivolous or made in ‘bad faith.’ As set out in Code complaint investigation reports of this Office, a valid complaint that addresses conduct caught by the Code will generally not be in bad faith, in the absence of actual or constructive fraud, design to mislead or deceive, or a dishonest purpose.² Some Members have indicated to me in their comments, that the complaint is motivated by animus and thus they should not be required to provide a response or the matter should be dismissed as the substance to the complaint seeks to have this Office carry out an investigation that is politically or otherwise motivated and that the failure to “provide evidence” acceptable to a Member named in the complaint demonstrates a desire to cause an investigation to be made without any proper factual foundation.

The Integrity Commissioner is a statutory officer appointed by and accountable to Council, with a legislated mandate to independently and objectively apply the municipality’s Code of Conduct, which is enacted as a by-law of the municipality.

Where a Member of Council has concerns regarding the exercise of that mandate, the appropriate course is not to question the Commissioner’s ability to assess whether her Office is being influenced by political considerations, nor to impugn her qualifications based on the manner in which investigations have been conducted.

Rather, Council retains the authority to review and, if it deems appropriate, terminate the appointment of an Integrity Commissioner in accordance with the governing agreement. Alternatively, as some have suggested in broader policy discussions, Council may advocate for provincial oversight of the Code of Conduct regime, including the establishment of a provincial body to review allegations of unethical conduct.

Education and Outreach

April 7, 2025: Code of Conduct Council Education Session.
The Session was entitled: Council Members Working Together With Respect.

² *Modi v. Paradise Fine Foods Ltd.*, 2007 HRTO 30 at para. 18

The Session covered: Roles, Responsibilities and Relationships of Members of Council and Staff, Fair Comment/Official versus Personal, the Council Code of Conduct and Procedure, the Role of the Integrity Commissioner, the Municipal Conflict of Interest Act, Confidentiality

November 14, 2025: Office of the Integrity Commissioner Information Bulletin: Accuracy and Council Member Public Comments

The Information Bulletin was written in exercise of the advice and education function of the Integrity Commissioner and in anticipation of the upcoming Council Training Session on November 17, 2025.

In the Bulletin, this Office provided information on Councillor Statements of Opinion versus Statements of Fact. Many situations in a municipality become subject of lengthy deliberations at Council. Some issues can result in divided community positions, and this division is often played out at Council meetings. Democracy allows division as uncomfortable as it may be. Members of Council are not prevented from stating their opinion but should be mindful of the unfairness of labelling opinion as fact. The Supreme Court of Canada has cautioned that it is very difficult to separate fact from opinion: the difference is “vague” and “elusive”.¹

November 17, 2025 Code of Conduct Council Education Session.

The Session covered: The History of Codes of Conduct – the Role of the Integrity Commissioner, the Council Code of Conduct, the Procedure/Integrity Commissioner and Council Member Use of Social Media

Statement of Expenditures

Integrity Commissioner

	Service from	Amount + HST	Paid
Invoice # CK0125	January 1-July 21, 2025	\$27,440.00	August 20, 2025
Invoice # CK0225	July 22 – December 12, 2025	\$18,290.00	January 11, 2026
Invoice # CK0225	Mileage, hotel	\$ 522.31(at cost)	January 11, 2026
	Total	\$46,252.31	

The expenses of the Office include review and drafting for reports and final determination of formal and informal complaints, virtual meetings with complainants, respondents, witnesses and staff, written advice to Members with respect to the Code and the Municipal Conflict of Interest Act, virtual meetings and telephone calls with Members, staff and the public with respect to the application of the Code rules to circumstances of Members of Council and generally with reference to municipal policies.

In conclusion, I would like to extend my appreciation to the Municipality's Director, Municipal Governance/Clerk, Judy Shantz, CMO, who has again assisted me in this reporting period in navigating the various Municipal policies and processes in fulfilment of my mandate.

Respectfully submitted,

February 13, 2026

A handwritten signature in blue ink, appearing to read 'Suzanne Craig', written in a cursive style.

Suzanne Craig,
Integrity Commissioner and Closed Meeting Investigator

