



ADR
C H A M B E R S

Integrity Commissioner Office
for Niagara Region

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SENT BY EMAIL TO:

Ann-Marie Norio
Regional Clerk -Region of Niagara
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Dear Ms. Norio

**Re: Niagara Region Integrity Commissioner Annual Report
August 17, 2019-August 16, 2020.**

Thank you once again for the opportunity to act as the Integrity Commissioner ("IC") for the Region of Niagara over the past year. In accordance with the terms of the Agreement between the Region and ADR Chambers and pursuant to s-s. 223.6(1) of the *Municipal Act, 2001*, I am providing our Annual Report for the third operating period of August 17, 2019 to August 16, 2020.

As you know, the IC's role is to help Members of Council ("Members") ensure that they are performing their functions in accordance with the Region's Code of Conduct ("the Code") and the Municipal Conflict of Interest Act ("MCIA"). The IC is available to educate and provide advice to Members on matters governing their ethical behavior and compliance with the Code and the MCIA. The IC is also responsible for receiving, assessing, and investigating appropriate complaints made by Council, Members, and members of the public respecting alleged breaches of the Code by Members or

complaints by electors of the Municipality or persons demonstrably acting in the public interest that a Member has contravened the provisions of the MCIA.

Historical Review of IC Services

As we have previously advised Council in prior Annual Reports, our services to the Region have varied over the now three years of my appointment as Integrity Commissioner for the Region of Niagara.

1. August 17, 2017 – August 16, 2018

The first year of service after my appointment by Council was very busy as we contended with a number of outstanding complaints and responded to a significant number of new ones.

During that year we processed 14 formal requests for investigation of contraventions of the Code; reviewed a pre-existing draft Code of Conduct and advised Council on the existing and a proposed new Code and developed a new Investigation Protocol for consideration by Council.

The total cost of these services was \$65,218 (including HST) and by the end of the first year of our services most of the 14 Complaints had been completed and reported on to Council with a small number still in process.

2. August 17, 2018 – August 16, 2019

As previously reported to you, our second year of service was significantly less active than the first, perhaps in part because of the election process and statutory moratorium on complaints during that period.

I completed the outstanding requests from the first year and attended before Council in November, 2018 in order to provide an information/education session on the operation of the Code and the forthcoming amendments to the Municipal Act and Municipal Conflict of Interest Act (MCIA) which came into effect on March 1, 2019.

During the year I received no new complaints until June/July 2019 when 10 somewhat related complaints were received from the same Complainant against several Councillors. Of the 10 complaints only one was found by me to warrant an investigation. The remainder were dismissed as being beyond my jurisdiction or failing to disclose a prima facie case that the Code had been contravened.

The cost of dealing with the outstanding cases from the previous year and resolving the 10 complaints as well as the education session, Annual Report and responding with a written opinion to two formal Requests for Advice from Councillors was \$27,992 (including HST) or roughly 42% of the previous year.

It is of some interest to note that no complaints were received during this period involving a claim by one Councillor against another which was a significant change from the first year of service.

3. August 17, 2019 – August 16, 2020

The third year of my service as the Region's Integrity Commissioner was also relatively calm. During this period I undertook and completed a full investigation and Report with respect to a Complaint filed in July 2019 which remained outstanding and found that no contravention of the Code by the Councillor had occurred.

I further responded to a Request for Advice and provided my written opinion to the Councillor concerned. We also provide an Annual Report to Council for our second year of service.

The total cost for our services for the period under review was \$14, 845 (including HST). It should be remembered however that had I not ruled as I did with respect to the complaints that were dismissed without investigation during the review period, the cost would have equaled or exceeded the cost of year one.

Issues to be considered by Council:

1. **Cost**

Clearly there has been a significant drop in the cost of this program over the three years of my service as the Region's appointed Integrity Commissioner.

Viewed from an objective perspective, I attribute this positive development to one or more of the following factors:

- Members of Council are generally much more cognizant of their obligations under the Code and the requirements of the Municipal Act and the MCIA. This might be as a result of increased public focus being placed on these matters by

concerned citizens and the media as well as the expansion of rights and obligations under the Municipal Act and the MCI A;

- The education sessions presented to Council also appear to have had an impact and Council should continue to schedule further information vehicles like this at regular intervals but especially at the commencement of a new term of Council;
- The fact that there has not been one complaint by a Member against a fellow Member since the new Council took office is telling and may reflect a more focused effort to foster respect and collegiality amongst all Members in the interests of the Region and its citizens;
- Councillors are becoming sensitive to the fact that there is a process in place to deal with contraventions of the Code and it should be used for addressing those situations while at the same time acknowledging that the process can be costly in terms of financial and other resources of the municipality.

2. Investigation Protocol

Some three years ago, a draft Investigation Protocol (prepared by myself) was presented to Council for its consideration.

We have been operating under this protocol for three years (with no complaint about the process from those filing the complaints or any Member of Council).

Since the process seems to be working, I recommend it be approved by Council and published as the governing process to advance a complaint of a contravention of the Code or the MCI A.

Having said this however, and with my accumulative experience as the Integrity Commissioner for a significant number of municipalities, I believe that a time limitation should be imposed on the filing of complaints of say six months from the date of the event complained and/or a reasonable time limitation from the point the complainant became aware of the facts giving rise to the alleged contravention. I am now facing a number of complaints (in other municipalities) stretching back over a substantial period of time and, in my view, this type of situation must be limited or the viability of the program will be put in jeopardy.

I would be pleased to provide appropriate limiting language to the Code or Protocol if that is the will of Council.

3. Budget

While it is easy (in light of the Region's experience over the last three years) to seek to reduce the budgeted amount for the cost of this service to a lesser amount, that would, in my view, be imprudent. There is simply no way to predict what might erupt in a given year or what the cost of addressing these situations might be.

The Region has had a significant decline in cost associated with this program over the course of my three years of service as your Integrity Commissioner. As it happens however, I am now seized with two new complaints which arose after the end of the period under Review. One is almost concluded and the other is ongoing and significant in terms of time, importance and relevance. It will inevitably invoke a substantial cost.

It would therefore be prudent in my view, to budget accordingly.

Summary

It has been a pleasure to assist the Region and its Members in contending with the numerous issues which have arisen in connection with the administration of its Code of Conduct. I look forward to continuing to provide my services as Integrity Commissioner to the Region of Niagara in the forthcoming year.

Yours very truly,



Edward T. McDermott
Integrity Commissioner, Region of Niagara