

2014 Annual Report of the Integrity Commissioner

COMMISSIONER'S REMARKS

This is my second annual report as Integrity Commissioner for the City of Ottawa. I was appointed on August 29, 2012 as the City's "three-in-one" commissioner: Integrity Commissioner, Lobbyist Registrar and Meetings Investigator. The City's Lobbyist Registry was launched on September 1, 2012, and the Code of Conduct for Members of Council and its related policies were enacted on July 1, 2013. The details of these foundational measures are documented in my first annual report.

This year, the behaviour of Members of several municipal councils in Ontario has been in the spotlight. Elected officials' personal conduct, misuse of corporate resources, alleged contravention of codes of conduct, and abuse of closed meetings have made headlines both provincially, and internationally.

One could bemoan these events, regarding the alleged misdeeds as reason to distrust our elected officials and public institutions. I believe, however, that recent media attention to matters of elected officials' conduct, the public reaction and the response of municipalities have demonstrated a renewed commitment to integrity.

That elected officials face increased public scrutiny on ethical issues "...tells me one important thing – in today's political world, ethics matter", wrote Ontario Integrity Commissioner Lynn Morrison in her 2012-2013 Annual Report.¹ Indeed, over the past year, members of the public, the media, and public office holders alike have participated in a dynamic public conversation on the ethical expectations we hold for our local representatives. The pieces we have put in place with respect to Members' integrity – codes of conduct, proactive disclosure of gifts received, and policies governing Members' spending, to name but a few – have served as important points of reference for that conversation.

As I write this, debate in the Ontario Legislature has begun on 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 be a major legislative leap for transparency and accountability for the public office holders throughout Ontario.

While writing ethics laws, codes of conduct and transparency policies are together the genesis of any ethics regime, the best way to keep these "pieces" useful and relevant is to keep the conversation going. In her 2005 Report on the Toronto Computer Leasing Inquiry, Justice Denise E. Bellamy wrote: "(v)alues must be more than 'ethical art': a nicely framed code of conduct hanging on the wall (...) (t)hey should animate everyday

¹ Morrison, Lynn. "Office of the Integrity Commissioner of Ontario Annual Report 2012-2013", p. 2.

decisions by everyone at all levels of activity.” The only way to realize our codified commitments, Bellamy indicates, is to weave them into the everyday “ethical culture” of our institutions.²

Over the past year, conversations on matters of ethics have occurred at the City of Ottawa on a day-to-day basis. I’m pleased to report that the most substantial part of my mandate as Integrity Commissioner has been to provide advice and interpretation on the Code of Conduct for Members of Council in response to Members’ inquiries and of the public at large.

Members are asking “can I...”, or “should I...” on a regular basis, and are coming to my office *before* making their decisions. That my core function has been to participate in such conversations, and not to investigate Code of Conduct complaints, indicates that a culture of integrity has taken root.

In my capacity as Lobbyist Registrar, staff and I have been having daily conversations with lobbyists, City staff and Members of Council in order to uphold the requirements of the City of Ottawa’s Lobbyist Registry By-law. A major function of my office over the past year has been to conduct a compliance audit of the Lobbyist Registry. The aim of the audit has been to ensure that registered lobbyists have disclosed all necessary information with respect to their lobbying activities. Over the course of the audit, when a profile was discovered to have incomplete and/or unclear records of lobbying, my office contacted and worked with registered lobbyists to educate them on the requirements of the Lobbyist Registry By-law. We have found a willingness to learn and comply with the By-law on the part of all Lobbyist Registry stakeholders.

Reflecting on the past year, I can report we have built on strong foundations by realizing our goals for the year: to focus on the educational and advisory function of my office, and to achieve greater compliance with the Lobbyist Registry By-law.

I would like to acknowledge the ongoing support and dedication of the City Clerk and Solicitor, the Deputy City Clerk, and of the staff of their office. Though the team is small, their achievement in developing the Office of the Integrity Commissioner from idea to realization and now, into our second full year of operations, is noteworthy.

I look forward in the coming year to becoming acquainted with the new Members of the City of Ottawa’s 2014-2018 Council, as well as continuing to support those returning Members in their renewed mandate.

Robert Marleau, Integrity Commissioner, City of Ottawa

² Madame Justice Denise E. Bellamy, *Toronto Computer Leasing Inquiry*, Volume 2: Good Government: 25.

KEY FUNCTIONS AND ACTIVITIES OF THE OFFICE

KEY FUNCTIONS AND ACTIVITIES

POLICY CREATION & RENEWAL

- Participation in creation of Code of Conduct, Expense Policy and Gifts Registry for Members of Council
- Reviewing and renewing the City of Ottawa's ethics-related policies on a regular basis

GUIDANCE & INTERPRETATION

- Assisting Members of Council in interpreting the Code of Conduct, and ensuring consistency in its application
- Receiving inquiries and providing prompt, confidential advice to Members of Council on ethical behaviour

EDUCATION & OUTREACH

- Communicating with Members of Council, their staff, and citizen Committee and Commission members through training and information sessions
- Providing redacted summaries of advice to inform Members and the public of how policies are applied

REVIEW & INVESTIGATION

- Investigating alleged violations of the Code of Conduct for Members of Council, while respecting confidentiality
- Submitting reports on investigations
- Recommending sanctions when necessary

LOBBYIST REGISTRAR

- Overseeing registration of lobbying activity
- Ensuring compliance with the Lobbyist Code of Conduct
- Providing lobbyists with assistance and advice
- Following-up with lobbyists regarding incomplete registrations

Integrity Commissioner

MANDATE

The statutory role of the Integrity Commissioner is set out in Section 223.3 of the *Municipal Act, 2001*:

Integrity Commissioner

223.3(1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

- (a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- (b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or
- (c) both of clauses (a) and (b).

As Integrity Commissioner, I have the powers of inquiry and delegation as well as a duty of confidentiality and reporting requirements as follows:

- I report directly to Council on matters related to the Code of Conduct and other policies, rules or procedures related to ethics for Council, the Built Heritage Sub-Committee and the Transit Commission;
- I have the power to undertake investigation into complaints alleging contraventions of the applicable code of conduct while respecting confidentiality; and
- My reports are public and I am permitted to disclose necessary information related to the findings while maintaining confidentiality. I can make recommendations to City Council relating to Code of Conduct breaches, but only Council can sanction one of its Members.

Council also has the authority to assign additional powers and duties to the Integrity Commissioner.

OVERVIEW

As part of the 2010-2014 Governance Review, City Council endorsed Mayor Jim Watson's initiative for the development of an Accountability Framework for Members of Council. The portions of the Accountability Framework that fall within the Integrity Commissioner mandate include the Code of Conduct for Members of Council and its related policies (the *Council Expense Policy* and the *Community, Fundraising and Special Events Policy*), all of which came into effect on July 1, 2013.

Additionally, the Code of Conduct for Members of Council, Section X, contains provisions governing Members' acceptance of gifts, benefits and hospitality. To enhance transparency and accountability with respect to gifts, benefits and hospitality, Members are required to disclose all such items received, including sponsored travel, which individually exceed \$30 from one source in a calendar year. In October, 2013, Members of Council began the regular public disclosure of this information in the Gifts Registry posted on ottawa.ca.

EDUCATION AND OUTREACH

In addition to my statutory role as Integrity Commissioner, I have a responsibility to provide education and advice on the application of the Code of Conduct for Members of Council ("the Code"). The Code applies to Members of Council and citizen members of the Transit Commission and Built Heritage Sub-Committee (when acting in their official capacity).

The City of Ottawa's Code is a hybrid of a rules-based, and a values-based code. As such, it establishes high-level ethical standards but also provides some specific rules designed to enhance public trust and accountability.

The Code was not designed to provide for every scenario a Member of Council may encounter; rather, it establishes a model of ethical behaviour that forms the starting point of an ongoing conversation on matters of ethics and integrity. The Code is one part of a living Accountability Framework that is reviewed and renewed on a regular basis.

As the Code came into effect on July 1, 2013, this was the first full year in which it was in place. I noted in my last annual report that, since the Code had been enacted, many Members of Council and their staff had taken advantage of my education and advice function. I am pleased to report that providing advice and interpretations in response to

inquiries of Members of Council and their staff continues to be the core function of my mandate as Integrity Commissioner.

As part of my ongoing focus on providing education and advice, in response to Members' inquiries, I seek to not simply provide an answer (e.g. "yes, under the Code, it is permissible to attend X event"), but to also explain my interpretation with clear reference to the Code's provisions. I believe such exchanges with Members of Council, their staff, City Staff, and members of the public forward an ongoing conversation on ethics that has changed, and continues to change, the culture of accountability and integrity at the City.

The Office of the Integrity Commissioner seeks to report and make accessible to the public interpretations on common inquiries. This year, my office published an interpretation bulletin on ottawa.ca to clarify the obligations of Members of Council or their staff, when acting on the Member's behalf, when they are in a position where they may receive gifts, benefits or hospitality.

This year, my office has also sought to build dialogue with those of other Ontario municipal Integrity Commissioners, as well as with the Office of the Integrity Commissioner of Ontario and those of Federal accountability officers. Maintaining a cross-jurisdictional conversation on best practices is vital to the continued success of the City's Accountability Framework.

COMPLAINT INVESTIGATION AND ADJUDICATION

Anyone who identifies or witnesses behaviour or an activity that they believe to be in violation of the Code of Conduct may pursue the matter either through the informal or formal complaint procedures. All complaints received are handled in accordance with the Complaint Protocol. There is no fee charged for making a complaint.

In my 2013 Annual Report, I noted that a complaint relating to a matter between a Member of Council and a constituent was still pending. This complaint was resolved through the informal process.

For the period of October 1, 2013 to October 31, 2014, I have received ten complaints, all of which were sent to my office by members of the public. All of those were deemed outside of my jurisdiction, and most often fell within the jurisdiction of the City Clerk and Solicitor, the Auditor General, or the City Manager.

As Municipal elections in Ontario were held on October 27, 2014, the restriction set out in Part B; Section 8 of the Complaint Protocol regarding the Integrity Commissioner's receipt of complaints was in effect:

No Complaint Prior to Municipal Election

8. Notwithstanding any other provision of this Protocol, no complaint may be referred to the Integrity Commissioner, or forwarded by the Clerk for review and/or investigation after the last meeting of Council in July, in any year in which a regular municipal election will be held.

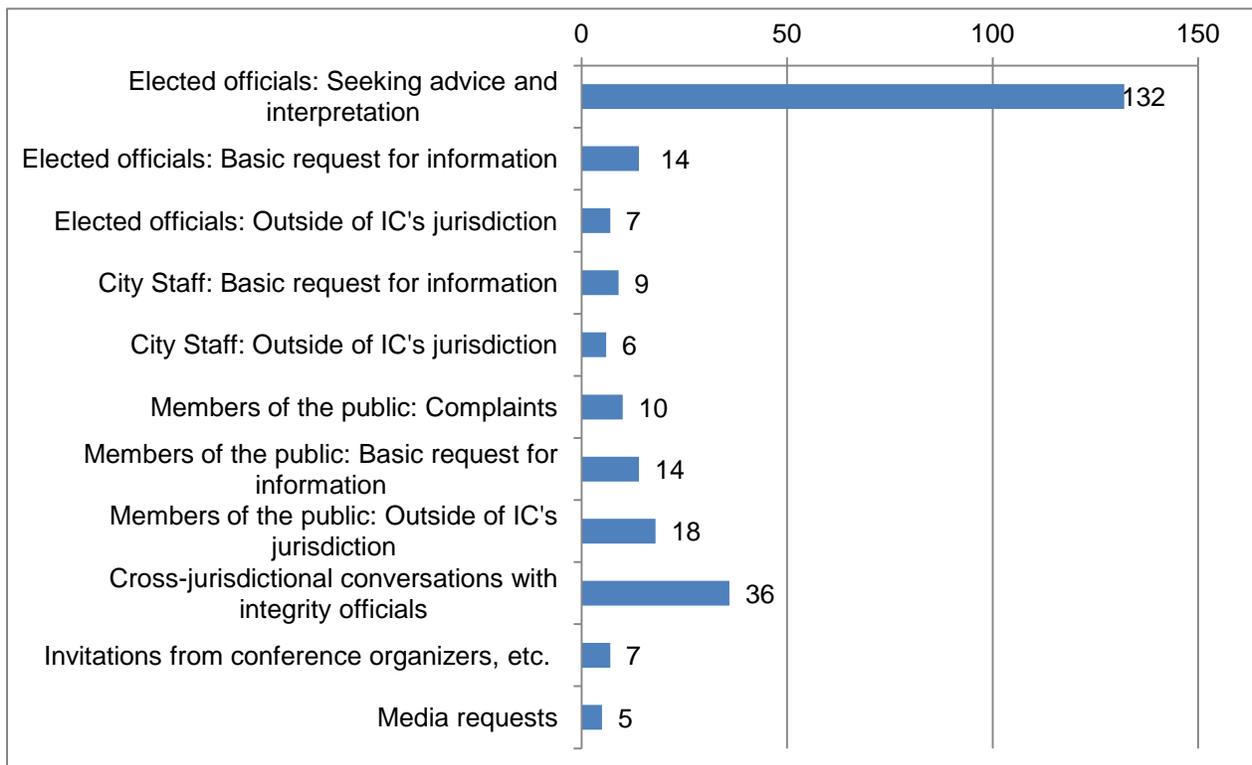
In 2014, the last meeting of Council in July occurred on July 9th.

INQUIRIES AND ADVICE

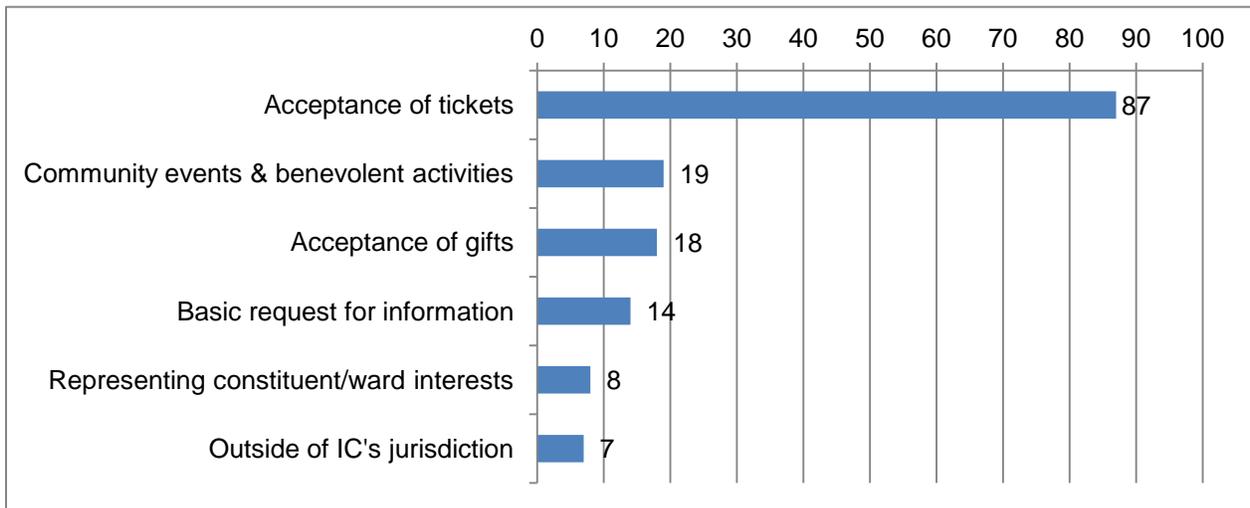
Providing written advice and interpretations to inquiries Members of Council and their staff send to integrity@ottawa.ca continues to be the core function of my Integrity Commissioner mandate.

Most inquiries received this year were from Members of Council and their staff seeking advice and interpretation of Code of Conduct provisions.

Origin and Nature of Inquiries Received by the Office of the Integrity Commissioner:



Nature of inquiries received by the Office of the Integrity Commissioner from Members of Council:



The following are samples of inquiries I have received and the interpretation or advice that has been provided. The redacted summaries have been provided in an effort to ensure the Code is applied consistently and to assist Members with applying the Code to real life situations.

It is important to note that each inquiry is accompanied by its own specific context and facts. The following anonymized summaries should not be relied upon as rulings nor be considered a substitute for calling or writing my office when in doubt.

Acceptance of Tickets

Guidelines for the acceptance of tickets as outlined in the Code of Conduct are as follows:

- Tickets/hospitality/benefits may not be accepted from lobbyists or their clients and employees with active lobbying files;
- A limit of two tickets for up to two events from one source in a calendar year is permitted and requires quarterly disclosure in the Gifts Registry; and
- A ticket with an estimated value exceeding \$30 that is not exempted based on the Member's representative role requires disclosure, along with the disposition thereof (e.g. who attended with the Member, or if donated, to whom or what organization).

Inquiry:

Members of Council were provided all-event tickets for themselves and a guest to attend a series of sporting events to take place over four days. How does the Code of Conduct apply to these tickets?

Interpretation:

If Members accept the tickets, they must disclose them on the Gifts Registry. The name of the individual with whom each Member attended the events must also be disclosed.

The basis of the Integrity Commissioner's assessment is as follows:

- The event does not relate directly to the Member's representative role, and is therefore not exempt from disclosure on that basis; and
- The website for the event states that tickets range in price from \$125 to \$185 per ticket. As the tickets exceed the \$30 monetary threshold for disclosure, if accepted, the tickets would require disclosure in the Gifts Registry.

Inquiry:

A Member of Council was invited to attend an annual fundraising event for a not-for-profit organization within the Member's ward. The invitation was for the Member and a guest, and was to include a dinner. If the Member were to attend, would the Member be required to disclose the tickets on the Gifts Registry?

Interpretation:

The annual fundraising event is to support the organization's activities as well as community events that it undertakes throughout the year. As such, the event qualifies as one for which the Member would be attending in an official capacity.

Additionally, as there are no files in the Lobbyist Registry associated with the organization, the prohibition in Section IX of the Code of Conduct against accepting any gift, benefit or hospitality from lobbyists with active registrations does not apply.

In establishing the Code of Conduct, consideration was given to the representative role of Members of Council particularly as it relates to their attendance at a variety of events including many types of festivals as well as community, cultural and sporting events. The oversight applied in the area of tickets was not meant to unduly limit a Member's ability to attend such events.

Participation in Community Events

Community Events are events for which Members themselves seek and receive donations or sponsorships to organize events that benefit their ward, a specific community within their ward, or a local charity.

For example, in undertaking a community event, a Member may seek sponsorship from a local business for an annual community breakfast. Other examples of community events include winter carnivals, seniors' teas, and events associated with celebrations such as Canada Day or Christmas.

As outlined in the *Community, Fundraising and Special Events Policy*, when undertaking community events, Members shall observe the following parameters:

- Unless pre-approved by the Integrity Commissioner, Members shall not solicit or accept donations from lobbyists or their clients or their employees with active files in the Lobbyist Registry.
- Members shall report on these activities as part of Public Disclosure on an annual basis.
- In an election year, Members must not seek donations and sponsorships for any event that has not been staged in the previous two years, and shall not accept donations or stage any new event supported by donations and sponsorships after she or he has filed nomination papers for election.

Inquiry:

A Member is seeking sponsorship for an annual event that has been held for the past several years. Although the event occurs in an election year, it falls outside of the 60-day "blackout period" leading up to, and including Voting Day, as described in the City's *Election-Related Resources Policy*. What kind of restrictions are there on soliciting sponsorship for this annual event?

Interpretation:

When seeking a sponsor for an event, the Member is encouraged to be mindful of important provisions of the *Community, Fundraising and Special Events Policy* ("the Policy") and the *Election-Related Resources Policy* ("the ERRP"). The ERRP is enforced by the City Clerk and Solicitor.

Under Section 2 of the Policy, without pre-approval from the Integrity Commissioner, a Member may not solicit or accept donations from lobbyists or their clients or their employees with active files in the Lobbyist Registry.

This provision complements the prohibition in the Code of Conduct on Members' acceptance of any gift, benefit, or hospitality from lobbyists, their clients or employees with active files. If a Member has a compelling reason to accept sponsorship from a lobbyist, their client or employees with active files, the Member may contact the Integrity Commissioner.

The Member must also be aware of what action is permitted during an election year. Section 2 of the Policy provides the following instruction with respect to this matter:

- In an election year, a Member of Council must not seek donations and sponsorships for any event that has not been staged in the previous two years nor accept donations or stage any new event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Ottawa.

As the Member's event had been staged in the previous two years, the above-stated prohibition does not apply.

Finally, the Member must also be mindful of the prohibition in the ERRP on the use of Members' budgets to sponsor any advertisements for the 60-day period prior to, and including, Voting Day. Although the event itself falls outside of this period, the Member must not use corporate resources and/or the Member's budget to advertise for the event during the blackout period.

To confirm, the Member may seek a sponsor for the annual event, and will not be in breach of the ERRP or the Policy as long as the Member:

- Does not seek sponsorship from lobbyists, their clients or their employees with active files in the Lobbyist Registry, and
- Does not use corporate resources and or his/her Member's budget to advertise for the event during the blackout period of August 28th – October 27th, 2014 (Voting Day)

Support for Benevolent Activities

A Member undertakes a benevolent activity when he or she assists a third party entity, such as a charity, in activities run by or benefitting that entity. If a Member lends his or her name in support of a charity's fundraising campaign – for example, "The annual Jane Doe hockey tournament, benefitting community youth sports programs" – he or she is undertaking a benevolent activity. Other examples of benevolent activity include:

- Accepting honorary roles in organizations, such as that of an honorary Chair of a fundraising campaign.
- Signing letters to donors inviting them to a fundraising event for a new community playground.

Inquiry:

A not-for-profit organization in a Member's ward asked the Member to serve as honorary co-chair of a community fundraising campaign. Responsibilities of the Member's position would include helping lead fundraising among local businesses. Would the Member's participation in the initiative contravene the Code of Conduct?

Interpretation:

In taking on the role of honorary co-chair of the community fundraising campaign, the Member would be operating within the terms of the Code of Conduct and the *Community, Fundraising and Special Events Policy* ("the Policy").

Section 3 of the Policy addresses Members' involvement with organization such as charities and non-profits, and provides guidelines regarding the use of influence and the solicitation of funds:

Members of Council are called upon to assist and support various charities, service clubs, and other non-profit and community-based associations. For example, Members support their communities in a variety of ways including, but not limited to:

- Accepting honorary roles in organizations;
- Lending their names to organizations and events to assist in fundraising; and
- Encouraging community and corporate donations to registered charitable, not-for-profit, or other community-based groups.

By accepting the honorary role and lending his/her name to assist in fundraising and encouraging donations, the Member will be operating within the accepted terms of the Policy.

The purpose of the accountability measures set out in the Code of Conduct and the Policy is to ensure the separation of support of charitable and community events from any benefit that might accrue to the Member on a personal level. The Member will not be in breach of either the Policy or the Code as long as the Member is not involved in any activity that might be, or be perceived to be, in support of his/her own private interests.

Acceptance of Gifts

Guidelines for the acceptance of gifts as outlined in the Code of Conduct are as follows:

- The acceptance of a gift, benefit or hospitality can imply favouritism, bias or influence on the part of the Member; however
- At times, the acceptance of a gift, benefit or hospitality occurs as part of the social protocol or community events linked to the duties of an elected official and their representative role
- Members of Council are required to disclose all gifts, benefits, hospitality and sponsored travel received which individually exceed \$30 from one source in a calendar year.

Inquiry:

A Member of Council received a gift basket from an organization that has active lobbying files in the City's Lobbyist Registry. How should the Member manage this situation?

Interpretation:

Under the Code of Conduct, Section IX (Conduct Respecting Lobbying), unless pre-approved by the Integrity Commissioner, Members of Council and their staff are prohibited from accepting any gift, benefit, or hospitality from lobbyists with active lobbying files or from their registered clients or their employees.

Furthermore, lobbyists are directed under the Lobbyist Code of Conduct to conduct their relations with public office holders with integrity and honesty, to avoid both the deed and the appearance of impropriety, and to not knowingly place a public office holder in breach of his/her code of conduct.

As the lobbyist has active files in the Lobbyist Registry, the Member cannot accept a gift from the organization.

It is recommended that the Member thank the lobbyist for the gift, but advise them that, under the Code of Conduct, Members of Council are prohibited from accepting such gifts from lobbyists with active files. This will provide the lobbyist with written confirmation that the Member did not, and cannot, accept the gift. The Member can then arrange to have the gift returned to the lobbyist, perhaps by offering to return it in person the next time a representative of the organization is at City Hall.

Inquiry:

A Member of Council and the Member's family attended the opening dinner for a new restaurant in the Member's ward. The Member did not incur any cost at the event. Should the Member declare the meal as a gift on the Gifts Registry?

Interpretation:

As the restaurant is in the Member's ward, provided that the value of the dinner was reasonable and this was the first such invitation the Member received from the restaurant, the event falls under one of the recognized exceptions to registration, as outlined in Section X of the Code of Conduct:

- (g) food and beverages consumed at banquets, receptions or similar events, if:
1. attendance serves a legitimate business purpose;
 2. the person extending the invitation or a representative of the organization is in attendance; and
 3. the value is reasonable and the invitations infrequent.

The Member's acceptance of future such invitations from the same restaurant would, however, require disclosure pursuant to the Code of Conduct provisions regarding gifts, benefits and hospitality in excess of \$30.

Representing Constituent/ward interests

Inquiry:

A community organization is applying for funding from a government agency, and asked a Member of Council to write a letter in support of its application. Would writing a letter of support constitute improper use of influence or a conflict of interest, or otherwise contravene the Code of Conduct for Members of Council?

Interpretation:

As long as the targeted agency is not a quasi-judicial body, writing letters of support or recommendation on behalf of community groups or organizations does not contravene the Code of Conduct. The Member was provided with some guidelines for writing such letters:

- Ensure that the wording of the letter is specific. For example, address the letter to the grant-awarding body, or to a particular individual, not “To Whom it May Concern.” Make specific reference to the name of the organization, and the particular reasons why support and/or recommendation are being offered. This way, the recipient can only use the letter for the intended purpose.
- Make sure to address and send the letter directly to the body awarding the funding. This step will ensure you maintain control over the letter’s use.
- It is permissible for letters in support of a community organization to be on constituency office letterhead.
- Finally, you are not obliged to provide a letter of support for the organization. Only do so if you feel you have sufficient knowledge of the organization, and are comfortable lending your name in its support.

Inquiry:

The Chairperson of a not-for-profit corporation requested that a Member of Council arrange a meeting with City staff to discuss a potential tax exemption under the *Municipal Act, 2001*. The corporation is located in the Member’s ward, and the Member had been appointed by the City of Ottawa Council as one of several directors of the corporation. Can the Member of Council participate in discussions between the corporation and City staff? Further, if the matter were to rise to Council, would the Member be required to declare a conflict of interest?

Interpretation:

It is the view of the Integrity Commissioner that the Member would not be in conflict if he were to participate in discussions between the corporation and City staff regarding the possibility of a tax exemption. Rather, the Member would be undertaking this action as part of his municipal duties, as director, to manage the corporation’s facilities.

The Code of Conduct complements existing federal and provincial legislation governing the Conduct of Members of Council, including the *Municipal Conflict of Interest Act* (“the

Act"). It is outside of the Integrity Commissioner's jurisdiction to provide advice on provincial legislation; however, the Member may review the Act if he so desires.

From the perspective of the Code of Conduct, the Integrity Commissioner sees no conflict of interest or improper use of influence. Consequently, also from the perspective of the Code of Conduct, should the exemption be granted and the matter rise to Council for approval, the Member of Council would not be required to declare a conflict of interest.

CONCLUSION

I have no recommendations related to the Code of Conduct for Members of Council at this time.

Lobbyist Registry

MANDATE

As Lobbyist Registrar, the Integrity Commissioner is responsible for general compliance with the Lobbyist Registry By-law (“the By-law”) in addition to oversight and administration of the Lobbyist Registry.

The Lobbyist Registry is an online bilingual tool that documents instances of substantive communications between individuals who lobby public office holders, such as Members of Council and/or City staff, in a centralized database that is easy to access and search by the public and interested stakeholders.

The requirements of the Registry and the position and duties of the Lobbyist Registrar are set out in By-law 2012-309 which was approved in accordance with Section 223.9 of the *Municipal Act, 2001*.

OVERVIEW

At its meeting of July 11, 2012, Council approved the establishment of the Lobbyist Registry and the Lobbyist Code of Conduct, as part of its Accountability Framework. On August 29, 2012, Council enacted and passed By-law 2012-309, establishing both the Registry, and the position and duties of the Lobbyist Registrar. On the same day, I was appointed Integrity Commissioner, Lobbyist Registrar and Meetings Investigator.

The Lobbyist Registry was launched shortly thereafter on September 1, 2012. The Registry application was developed in-house by City Information Technology (IT) staff and the costs absorbed within IT’s existing budgets. Those costs consisted mostly of staff time, as no hardware or software was required for the development or launch of the application. IT repurposed an existing application to create a very simple lobbyist registry system, with a focus on user-friendliness, simplicity and transparency.

The Lobbyist Registry and its By-law were designed to ensure not only the transparency of City business, but that such business is also conducted in an ethical and accountable manner. In defining what items must be entered into the Lobbyist Registry, the By-law focuses on the type of communication, as opposed to defining who falls under the definition of a lobbyist. Specifically, except for certain exempted persons and organizations and exempted activities, communication that falls under the definition of lobbying must be disclosed through the Lobbyist Registry.

Lobbying occurs when an individual representing a financial or business interest, or the financial interest of a not-for-profit with paid staff, communicates with a Member of Council or City staff to try to influence a decision on governmental matters that are outside of standard processes. This definition of lobbying is meant to capture

substantive and/or meaningful forms of communication in either a formal or informal setting.

In its first year of implementation, I focused on the education and promotion of the Lobbyist Registry. This past year, my office expanded its goals to encapsulate another important facet of the Lobbyist Registry By-law: compliance. As part of my commitment for 2014 outlined in my first annual report, my primary goals have been to continue my mandate of education, and to promote and encourage greater compliance and understanding of the Lobbyist Registry By-law, including the Lobbyist Code of Conduct, amongst all stakeholders.

OPERATIONS

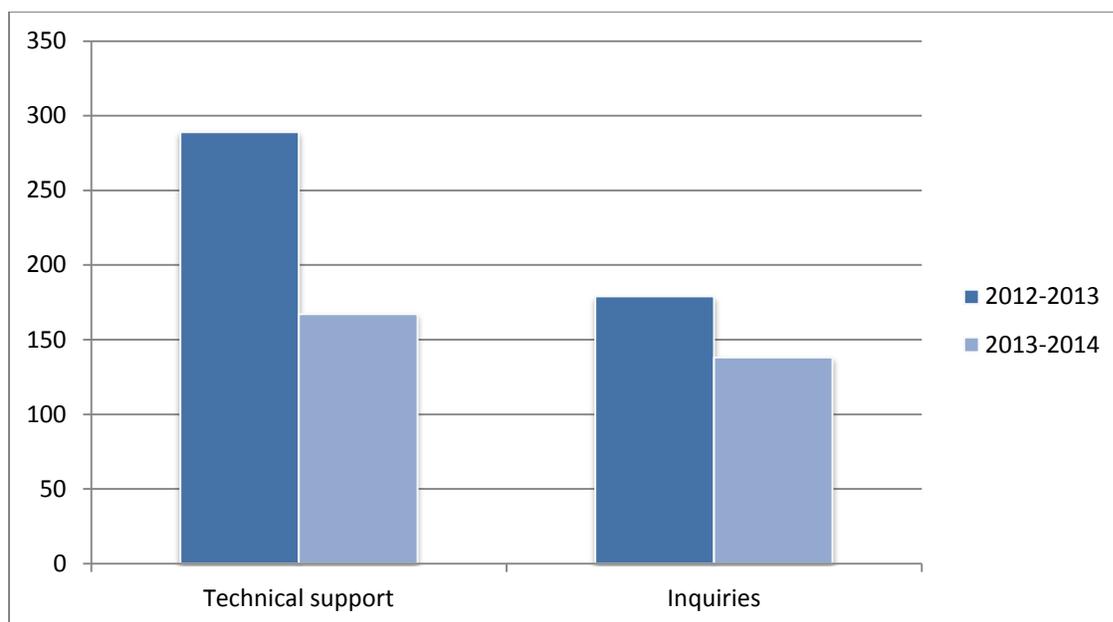
Supporting the Lobbyist Registry on a part-time basis is a support assistant employed by the City Clerk and Solicitor's Department. Specifically, the support provided to the Lobbyist Registry is in the form of administrative and technical assistance, such as approving registrations, responding to inquiries, monitoring compliance and intervening when necessary, as well as providing technical support. Staff supporting the Lobbyist Registry also assists the Integrity Commissioner in communicating with Lobbyist Registry stakeholders through notices, interpretation bulletins and individualized correspondence as well as group presentations.

Immediately following the Registry's launch on September 1, 2012, we encountered a few technical issues with the tool, resulting in an influx of requests for technical assistance. Over the course of the past year, we have observed a significant decrease in requests for technical support. In my view, this is a result of fewer complex technical issues with the system.

While registered lobbyists are still seeking technical support from my Office, it is commonly due to technical issues encountered on the user's end, such as:

- Forgotten username and/or password;
- Locked account due to repeated inputs of wrong password;
- Internet browser (in)compatibility view settings.

Nature of Requests Received by the Office of the Lobbyist Registrar:



The majority of inquiries received so far have been from registered lobbyists seeking interpretations of the Lobbyist Registry By-law.

The following are samples of inquiries I have received and the interpretation that has been provided. It is important to note that each inquiry is accompanied by its own specific context and facts. The following anonymized summaries should not be relied upon as rulings nor be considered a substitute for calling or writing my office when in doubt.

Inquiry:

Recently, the City of Ottawa contacted my company to discuss working together on project X. We have since met and conducted business on project X. I would like to know if the Registry requires that I update our activity with the City of Ottawa, if the City made first contact with our company.

Interpretation:

Pursuant to section 4(i) of the Lobbyist Registry By-law, “communication with a public office holder by an individual on behalf of an individual, business or organization in direct response to a written request from the public office holder” is exempt from the Lobbyist Registry. As such, communication initiated by a public office holder does not require disclosure through the Lobbyist Registry. Should you meet and then expand the communication’s scope (beyond the original intent) or promote additional services, this would in fact be considered lobbying and require disclosure.

Inquiry:

Our company will occasionally meet with Members of Council to inform them of work that is being conducted in their ward so that they can answer constituent questions with respect to this work. In such cases, all permits and planning have been approved by the City of Ottawa. Does this constitute lobbying?

Interpretation:

These communications, as you describe them, do not appear to be captured by the Lobbyist Registry By-law. More specifically, the definition of lobbying is as follows:

“any communication with a public office holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a Ward Councillor or staff member acting under delegated authority.”

Accordingly, it does not appear to me that there is any intent to influence any legislative action and therefore these meetings do not require registration.

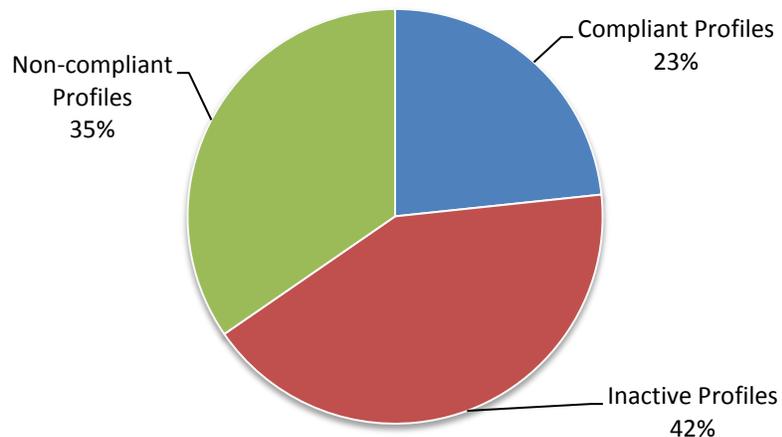
Compliance Audit

In December 2013, my office began a compliance audit of the Lobbyist Registry. As stated in my first annual report, my primary goal for 2014 was to encourage greater compliance, with a focus on the quality of entries and compliance with the 15 business day deadline for the registration of lobbying activities.

Individuals who lobby the City are expected to register with the Lobbyist Registry within 15 business days of the communication occurring, and disclose their lobbying activities in a transparent and accountable manner, in accordance with the Lobbyist Code of Conduct. Pursuant to Section 3 of the Code “Disclosure of Identity and Purpose”, lobbyists are required to identify the specific subject matter of their communication and on behalf of whom they are lobbying, when submitting a lobbying file. They are subsequently required to add their lobbying activity against said lobbying file, in which they disclose who was lobbied, the method of their communication and the date the lobbying occurred.

As of October 31, 2014, 1,046 profiles in the Registry were audited. Every registered lobbyists’ profile was reviewed to ensure their records of lobbying were accurate and clear.

Total Audited Lobbyist Profiles: 1,046



Non-Compliant Profiles

Out of 1,046 audited profiles, 362 were found to be in contravention of the Lobbyist Code of Conduct, specifically of Section 3 “Disclosure of Identity of Purpose”:

3. DISCLOSURE OF IDENTITY AND PURPOSE

- (1) Lobbyists communicating with a public office holder shall disclose the identity of the individual or organization on whose behalf they are acting, as well as the reasons for the communication.
- (2) Lobbyists shall register the subject matter of all communication with public office holders that constitutes lobbying under the Lobbyist Registry By-law.

It is important to note that these were minor contraventions, as the majority of the profiles found to be non-compliant were genuine user mistakes and/or misunderstandings of the tool.

My office identified four common minor infractions over the course of this year’s audit.

- 1) Misunderstanding the By-law’s definition of lobbyist

The Lobbyist Registry requires that new registrants disclose what type of lobbyist they are, in accordance with the three types of lobbyists defined by the By-law: Consultant lobbyist, In-house lobbyist and Voluntary unpaid lobbyist. This was the most prevalent misinterpretation of the By-law among registered lobbyists. Individuals commonly

registered as “Consultant lobbyists”, where they should have registered as “In-house lobbyists”.

2) Lobbying files with no registered lobbying activities

To uphold the Lobbyist Registry By-law and Lobbyist Code of Conduct’s intent for transparency and accountability, registered lobbyists are required to disclose the subject matter of their lobbying, on behalf of whom they are lobbying, as well as the details surrounding the lobbying activity (person lobbied, method and date of communication). Lobbyists found to not have disclosed the details of their communications were contacted to determine whether or not lobbying had in fact occurred on this file. As a result of these conversations, staff determined that many empty lobbying files were pre-registered by mistake, with the intention of eventually lobbying on the disclosed subject matter. In such cases where lobbying did not ensue, the lobbying files were deleted. If, on the other hand, substantive communications were found to have taken place, said registered lobbyists were required to populate their lobbying files immediately.

3) Lobbying files with incomplete and inaccurate record of the subject matter

When creating a lobbying file, lobbyists choose a subject matter from a drop-down menu that lists common issues on which public office holders are lobbied, such as planning, economic development, transportation, etc. Furthermore, they are required to outline the specific subject matter of their lobbying in their own words, in the “Issue” field of their lobbying file. The quality of these entries was another common issue, as they lacked in specificity, leading to inaccurate and incomplete records of their lobbying. For example, if staff found an entry in the issue field such as “re-zoning”, the lobbyist was contacted and encouraged to include the location and type of “re-zoning” for a more transparent and accurate account of their lobbying communications.

4) Information entered in the wrong field

In addition to listing their subject matter when creating a lobbying file, registered lobbyists are also required to disclose the name of the individual on behalf of whom they are lobbying – whether they represent themselves, their own company, or a client. At this step, a number of registered lobbyists mistakenly input the name of the City of Ottawa public office holder(s) they have lobbied. This misinterpretation leads registered lobbyists to inadvertently not disclose the names of their clients.

My office followed up on every profile found to have a minor contravention. So far, 52 percent of those profiles have been rectified to meet the expectations of lobbyists in accordance with their Code of Conduct. Among those who amended and updated their profiles into compliance, I witnessed a willingness to comply and learn.

My office also encountered a couple of obstacles. The contact information in some profiles seems to have expired, some for reasons unknown, others we discovered had moved on to other employment. Other registered lobbyists simply did not respond to the informal request to update and amend their lobbying files.

My office is working to find those whose contact information has expired to ensure their lobbying files are amended in accordance with the Code. Furthermore, I will be following up with those who have not yet responded with a more formal request.

Inactive Profiles

Forty-two percent of the audited profiles were found to be inactive, in other words, without any registered lobbying files and/or activities. Staff discovered that profiles remained inactive mostly due to the misunderstood notion of pre-registration. Individuals who lobby the City are often under the impression pre-registration is required which is common in other jurisdictions; however, the City of Ottawa By-law only requires that lobbyists enter their communications within 15 business days of them taking place or in the case of a new lobbying entity to create a new profile within that 15 business day period.

With this feedback, my office began to personally touch base with each new registrant to confirm their registration type, highlight their obligations as newly registered lobbyists and to clarify the purpose of creating lobbying files and registering lobbying activities.

I launched the compliance audit to ensure every Lobbyist Registry entry was a complete and accurate record of the lobbying activities taking place at the City of Ottawa. Screening each registered profile allowed my office to personally educate registered lobbyists on their obligations and expectations in accordance with the By-law and Code of Conduct.

Registration Activity

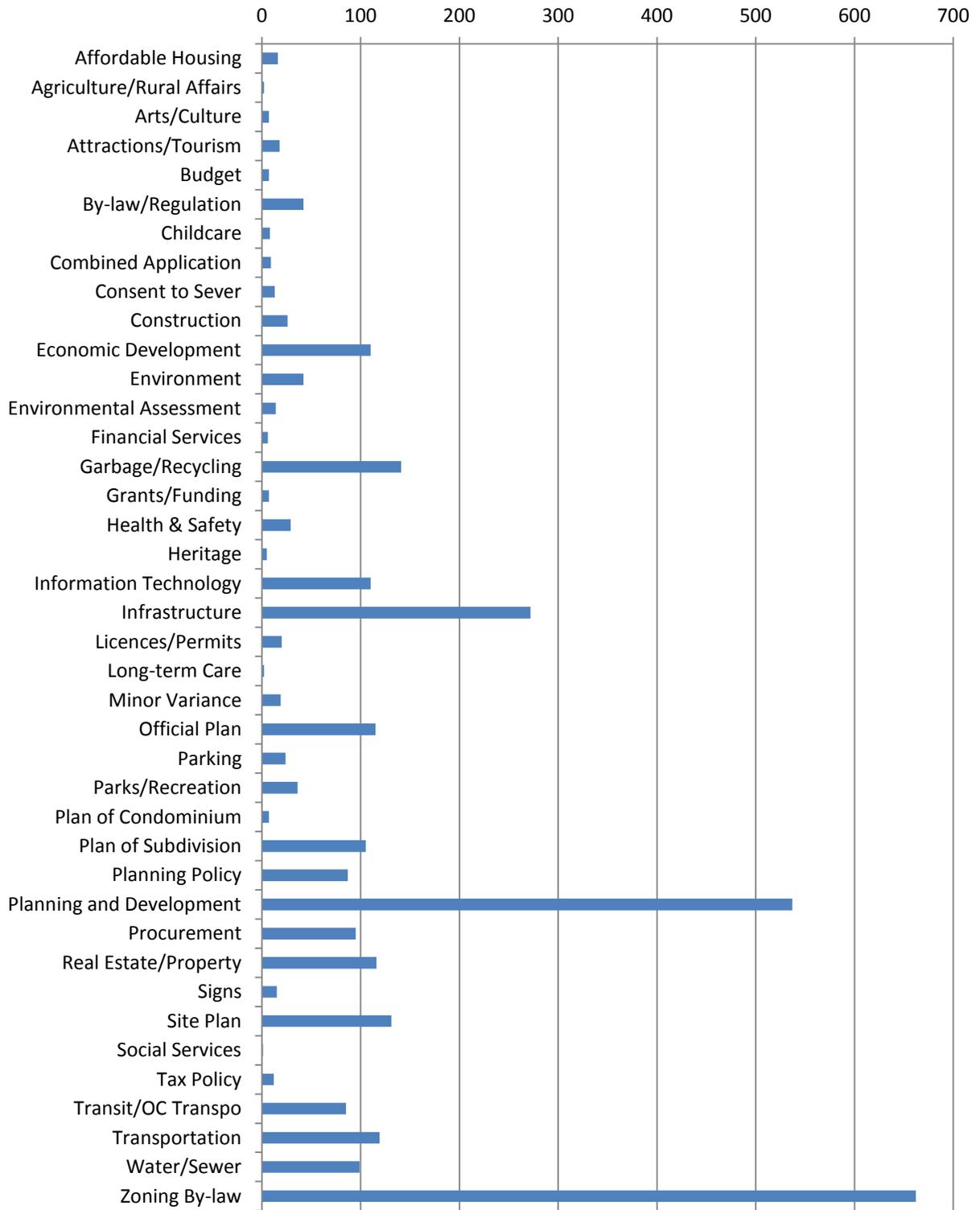
In its first year, the Lobbyist Registry witnessed a surge of registrations, with an average of 56 registrants per month, resulting in 748 approved lobbyists by September 30, 2013. Registrations have slowed over the course of the past year, with a decreasing average of 23 profiles being approved per month, bringing the number of total registered lobbyists to 1,051 by October 31, 2014.

	September 1, 2012 – September 30, 2013	October 1, 2013 – October 31, 2014	Current*
Registered Lobbyists	748	303	1,051
Consultant Lobbyists	464	84	461
In-house Lobbyists	247	207	544
Voluntary, Unpaid Lobbyists	37	12	46
Lobbying Files	786	356	1,142
Lobbying Activities	1,958	1,215	3,173

*Current numbers pulled on October 31, 2014.

A common mistake identified in the compliance audit was the misunderstanding of the By-law's definition of 'lobbyist'. Over the course of the audit, many profiles were rectified to correctly reflect the type of lobbyist: consultant, in-house, or voluntary unpaid. As a result, the current total numbers for consultant lobbyists, in-house lobbyists and voluntary, unpaid lobbyists are not consistent with registration numbers of the first and second year.

Total Lobbyist Activity by Subject Matter



Improving the Lobbyist Registry Tool

In early April 2014, another comprehensive update was launched in order to address two outstanding issues. Changes to the Lobbyist Registry tool included providing users the ability to create profiles and register clients with international addresses, as well as an update to the interface to provide users the ability to close a lobbying file.

The need to mark lobbying files as "closed" was identified as important by users of the Registry, as well as by Members of Council and their staff, given the obligations placed on all concerned in the Code of Conduct for Members of Council and related policies with respect to "active" lobbying files.

Pursuant to Section IX (Conduct Respecting Lobbying) of the Code of Conduct for Members of Council, the acceptance of any gift, benefit, or hospitality from Lobbyists with active lobbying files, or from their clients or their employees by Members of Council or their staff is prohibited. In turn, pursuant to the Lobbyist Code of Conduct, lobbyists shall not knowingly place public office holders in a breach of their codes of conduct.

When a lobbying file is created, its status is marked "active" from the outset. A lobbying file remains active as long as lobbyists continue to lobby public office holders and register their lobbying activities against said file. With the new update, when all substantive communications have concluded and no further lobbying is anticipated or required on a lobbying file, lobbyists can now mark it as "closed". For example, if a lobbyist has a lobbying file directly related to a specific planning application and the application has received all of the necessary approvals, the relevant file should be closed. Lobbying on a file is no longer permitted once it has been closed. This update also provides users of the Registry the ability to search and identify the status of each public lobbying file as "active" or "closed".

At the same time of the update, I held a Lobbyist Registry Stakeholder session. Approximately sixty registered lobbyists attended. I devoted a portion of the presentation to receiving comments, questions and constructive feedback on the registered user's experience. In order to amass general feedback on the Lobbyist Registry in a simple fashion, the attendees were asked to fill out a straightforward questionnaire designed by my office.

Upon compiling the data and feedback from the questionnaire it was determined that the majority of attendees consult the Lobbyist Registry information provided to them online, and are satisfied with the quality of service and information provided by our office. It was also expressed that the rules governing lobbying at the City of Ottawa are still not well understood by lobbyists and public office holders alike. This has also been the experience of my office in dealing with those who lobby and those who are lobbied. Specifically, public office holders commonly, and mistakenly, request that lobbyists pre-

register their intended lobbying activities, or register simple requests for meetings and/or information. Both of these situations are not captured under the definition of 'lobbying' in accordance with the Lobbyist Registry By-law.

Following this feedback, with the assistance of the City Manager and the City Clerk and Solicitor's offices, a simple communication was extended to all City of Ottawa network users to clarify that the Lobbyist Registry By-law does not require any form of pre-registration before a meeting, contact or lobbying activity occurs.

CONCLUSION

While the compliance audit conducted by my office highlighted various misapprehensions of the registration tool and By-law, I believe there continues to be a great willingness among lobbyists and public office holders to understand and comply with the Lobbyist Registry By-law. Increasingly, lobbyists are contacting my office proactively for advice and to seek interpretations of the By-law. In my two years since becoming Registrar, I have witnessed a growing understanding of lobbying as a legitimate activity that is part of one's right to communicate with their elected officials and municipal staff.

The audit also permitted us another educational platform, where we were able to reach registered lobbyists on an individual level to raise awareness about their obligations in accordance with the By-law and Code. By doing so, lobbyists were also provided with another avenue to present us with their feedback. Similar to the feedback received at the Stakeholder Session, the notion of pre-registration as a leading misconception emerged.

I believe the way to debunking many of the misconceptions outlined in this section is through continued education and outreach. This past year, we have reached out to all Lobbyist Registry stakeholders through mass communications and by posting interpretation bulletins and notices online on a wide variety of relevant topics, such as the obligations of registered lobbyists under the Lobbyist Code of Conduct, the importance of marking a lobbying file closed, and establishing a best practice with respect to lobbying Members-elect.

I will continue to educate and promote better understanding of the Lobbyist Registry and its By-law among those who lobby and those who are lobbied, as the City of Ottawa's commitment to accountability and transparency around lobbying remains one of my top priorities.

Meetings Investigator

MANDATE

The *Municipal Act, 2001* provides that all meetings of Council, its committees or local boards shall be open to the public, except as provided through eight discretionary exemptions. Section 239 of the Act permits closed meetings of City Council, a local board or a committee of either, to discuss the following:

1. The security of the property of the municipality or local board
2. Personal matters about an identifiable individual, including municipal or local board employees
3. A proposed or pending acquisition or disposition of land by the municipality or local board
4. Labour relations or employee negotiations
5. Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board
6. Advice that is subject to solicitor-client privilege, including communications necessary for that purpose
7. A matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.

Further, meetings of City Council, a local board or a committee of either may be closed to the public if:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

Anyone who wishes to question the appropriateness of a meeting of Council, its committees or local boards (with some exceptions) that was closed in full or in part may request an investigation under Section 239.1 of the Act.

Section 239.2 of the Act outlines my authority as Council-appointed Meetings Investigator. Operating in an independent manner and respecting confidentiality, I investigate on receipt of a complaint made to me by any person in respect of a meeting or part of a meeting that was closed to the public. I determine whether an investigation

is warranted and, if so, conduct an investigation and submit my findings and recommendations to an open meeting of City Council or the local board. In carrying out these functions, I may exercise such powers and perform such duties as may be assigned to me by Council. As prescribed in Section 239.2(5) of the Act, I operate with regard to the importance of:

- My independence and impartiality as investigator;
- Confidentiality with respect to my activities; and
- The credibility of the investigative process.

OVERVIEW

Since September 2013, I have received one request for investigation of a closed meeting. Upon review, I determined that the matter did not constitute a complaint regarding a closed meeting, but was a complaint about a matter outside of my jurisdiction. As such, it was not within my mandate to undertake an investigation.

The City of Ottawa is a leader in the province in open meetings. Members of Council and City Staff continue to be committed to holding open meetings and to disclosing as much information publicly as possible. For that reason, as in 2013, I can report that the Meetings Investigator function has been the lightest of my three-part mandate.

City Council and its Committees went into closed session a total of four times in the last quarter of 2013:

- Members of the Auditor General Hiring Panel moved *in camera* during their meetings of October 7 and 10, 2013, to consider:
 - personal matters about an identifiable individual, including staff;
 - labour relations or employee negotiations; and
 - the receiving of advice that was subject to solicitor-client privilege, including communications necessary for that purpose.

The Panel considered these matters in order to select candidates to interview for the position of City Auditor General, as well as to consider matters related to contract negotiations.

- Members of the Finance and Economic Development Committee moved *in camera* during the meeting of November 5, 2013, in order to consider matters related to collective bargaining mandates.
- At its meeting of December 11, 2013, Council moved *in camera* to consider matters related to an individual's employment contract.

From January 1st, 2014 to October 31st, 2014, inclusive, Council and its Committees went into closed session a total of four times:

- Members of the Transit Commission moved *in camera* during the meeting of March 26, 2014, in order to receive an update on a tentative collective agreement.
- On May 6, 2014, the Finance and Economic Development Committee moved in closed session to receive an update related to collective bargaining.
- On June 3, 2014, Members of the Finance and Economic Development Committee moved in closed session to receive information on the Airport Parkway Pedestrian and Cycling Bridge project. The item was discussed *in camera* as it had to do with ongoing litigation, advice subject to solicitor-client privilege, as well as labour relations and employee negotiations.
- During the July 9, 2014 joint meeting of the Finance and Economic Committee and the Audit Sub-Committee, Members of the Joint Committee moved *in camera* to consider the Office of the Auditor General Audit of procurement practice related to the source separated organics contract.

CONCLUSION

I have no recommendations related to open and closed meetings at this time.

Outreach, 2015 Goals and Financial Statement

EDUCATION, OUTREACH AND MEDIA RELATIONS

Over the course of the past year, I have continued to place education at the forefront of my mandate as the Integrity Commissioner for the City of Ottawa. I have been steadily busy educating stakeholders, including working with registered lobbyists to facilitate compliance with the Lobbyist Registry By-law, and providing advice and interpretation to Members of Council and their staff. In the coming years, I endeavor to continue to prioritize my education and outreach functions. Below is a list of events that took place in the last year:

Meetings with Stakeholders

- One-on-ones with all Members of Council
- Lobbyist Registry sessions with City staff:
 - Real Estate Partnership & Development Office
 - Economic Development
- Meetings with representatives of the following organizations/associations:
 - Consulting Engineers of Ontario
 - Andrew Fleck Child Care Services

Education

- Lobbyist Registry Presentation to Housing Services Branch; November 19, 2013
- Lobbyist Registry Presentation to Real Estate Partnership & Development Office; January 31, 2014
- Lobbyist Registry Presentation to various Childcare organizations; February 10, 2014
- Lobbyist Registry Stakeholder Session; April 7, 2014
- Lobbyist Registry Session for Consulting Engineers of Ontario; June 18, 2014

Outreach (and Presentations)

- English Presentation to Ethics Class at University of Ottawa; November 6, 2013
- French Presentation to Ethics Class at University of Ottawa; November 7, 2013
- Ethics Class presentation at Carleton University; November 26, 2013
- City of Ottawa's Code of Ethics seminar with Mayor, at Carleton University; February 10, 2014
- Ethics class presentation at Carleton University; March 3, 2014
- Ethics class presentation at University of Ottawa; March 31, 2014
- Kiwanis Speaking Engagement; April 23, 2014
- Accountability Framework presentation to Regional and Single Tier Clerks; April 11, 2014
- Accountability Framework presentation to Kenyan Parliamentarians; June 4, 2014
- Accountability Framework presentation to the Senate of Canada Executives and Administration; May 14, 2014

Media Relations

- Interview with Lobby Monitor; November 12, 2013
- Interview with The Ottawa Citizen; November 13, 2013
- Interview with CFRA; November 13, 2013
- Interview with the Ottawa Citizen; April 7, 2014
- Interview with Hamilton Spectator; May 29, 2014
- Interview with Hamilton Spectator; September 9, 2014

Conferences

- 35th Annual COGEL Conference in Québec City; December 8 – 11, 2013
- Sharpening Your Teeth Training Conference in Toronto; January 20 – 22, 2014
- Lobbyists Registrars and Commissioners Network (LRCN) Conference in Ottawa; February 3, 2014
- Integrity Commissioners Meeting in Caledon, ON; April 29, 2014

Publications

- Marleau, Robert. "A Commitment to Integrity and Transparency: The City of Ottawa's Accountability Framework" *The Guardian* (a publication of The Council on Governmental Ethics Laws [COGEL]). Vol 35, Issue 1 (June 18, 2014): 5.

GOALS FOR 2015

To date, my office has strived to provide honest advice, thorough interpretations and a wide-range of support in a timely manner to all those who are affected by the Accountability Framework. In doing so, we have cultivated a dynamic, honest and frank conversation. I believe that it is the fostering of such a dialogue that has made the Accountability Framework a success at the City of Ottawa.

My goals for the upcoming year are summarized in the following categories:

Education

Education of new Members of Council and their staff will be a chief focus this year. I plan to hold training sessions for new Members and their staff on such matters as the Code of Conduct for Members of Council, the Lobbyist Registry and the requirements of the Lobbyist Registry By-law, including the Lobbyist Code of Conduct.

My office will also put in place a system for sharing information with Members of Council on relevant news stories, public reports and other public items related to matters of ethics in Ontario municipalities. These experiences can identify issues that the City of Ottawa has not yet contemplated as well as emerging best-practices.

This information-sharing initiative will build upon processes already in place, and therefore not require the use of any additional resources. Specifically, my office is already in frequent contact with other municipal accountability officers in the province, and this dialogue facilitates a productive sharing of information on non-confidential matters. Additionally, staff of the Clerk's office also currently monitors for material on integrity and ethics-related matters in Ontario municipalities.

Compliance

With the compliance audit of the Lobbyist Registry now complete, key misunderstandings of the Lobbyist Registry tool and By-law have been identified. As a result, staff will work with new lobbyists as they register, complete their profiles and enter lobbying activity, in order to ensure that all information supplied is in compliance with the Lobbyist Registry By-law.

The quality of entries in the Lobbyist Registry will remain a priority, however, in the upcoming year a greater emphasis will be placed on the compliance with the fifteen business day deadline for entering lobbying activity.

Recommendations for legislative improvements

As 2014 was an election year for Ontario municipalities, the 2014-2018 City Council is undergoing the customary end of term/beginning of term governance review. With that said, this 2014 annual report does not contain recommendations for legislative and policy changes relating to the Accountability Framework's components. Instead, said recommendations can be found in the 2014-2018 Council Governance Review report.

FINANCIAL STATEMENT

The Integrity Commissioner's remuneration consists of a \$25,000 annual retainer and a per diem of \$200 per hour to a daily maximum of \$1,000.

The following is a breakdown of the period of September 1, 2013 to September 30, 2014.

	Sept. 2013 – Dec. 2013	Q1 2014	Q2 2014	Q3 2014	TOTAL
Retainer*	\$25,000	-	-	\$25,000	\$50,000
Salary**	\$25,744	\$17,910	\$11,702	\$11,802	\$67,158
Ancillary Costs (parking, cell phone, business travel)	\$2,053	\$1,271	\$1,568	\$645	\$5,537
Hours logged	126.5 hrs	88 hrs	57.5 hrs	58 hrs	330 hrs

*annual retainer every September

**includes tax less eligible municipal rebates

As noted in my first annual report, it was anticipated the first year of my mandate would require significant time allotted to my advisory and educational roles, and that my hours would decrease in the second year of my term as Integrity Commissioner for the City of Ottawa. As a result of the part-time status of my position and the ongoing support of the Clerk's Office Staff, my average workload has decreased to a monthly average of 25 hours in 2013-2014, from 48 hours in 2012-2013.