

# **2021 Annual Report of the Integrity Commissioner**

# Message from the Commissioner

I am pleased to present City Council with my first annual report as Integrity Commissioner for the City of Ottawa.

My term as Integrity Commissioner began on September 1, 2021. The majority of the accomplishments detailed in this report occurred during the tenure of my predecessor, Mr. Robert Marleau. He served as the City's first Integrity Commissioner for nine years and I would like to recognize his contribution to the field of municipal ethics.



In my short time as Integrity Commissioner, I have been actively engaged in many facets of the position. In accordance with the Code of Conduct, Members of Council are to perform their roles and duties with integrity and concern for the public good. I thus began my tenure by holding meetings with individual Members of Council to understand how I can best support them in their important work. Efforts have begun to increase education for elected officials, City staff, lobbyists, and the public. I have also observed a high level of engagement on the part of the public who are regularly bringing forward concerns about the conduct of public officials.

All of this attention is good. To foster public confidence, transparency is woven into every element of Council's Accountability Framework including declarations of gifts and conflicts, disclosure of lobbying communication and open meetings. Vigorous participation in the process of creating and protecting transparency demonstrates that Members of Council and the public are attuned to matters of ethics, and are interested in their role in contributing to an ethical culture.

Looking ahead, the upcoming year will focus on the transition from one Term of Council to the next. My efforts will be focused on: supporting Members during the municipal election period; reviewing the by-laws and policies under my authority to bring forward any recommendations for change as part of the next Council Governance Review; and welcoming and educating members of the 2022-2026 City Council.

In closing, I look forward to upholding City Council's ethical culture with the support of the dedicated professionals assigned to me by the Clerk's office. I want to emphasize that the way forward on matters of ethics is not always clear. If in doubt, please don't hesitate to contact me: [integrity@ottawa.ca](mailto:integrity@ottawa.ca).

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'K' and 'S' intertwined, with a long horizontal line extending to the right.

Karen E. Shepherd  
Integrity Commissioner, City of Ottawa

# Integrity Commissioner

The Integrity Commissioner is a statutory officer who reports directly to City Council.

The complete statutory role of the Integrity Commissioner is set out in Section 223.3 of the *Municipal Act, 2001*. In summary, as Integrity Commissioner for the City of Ottawa, I am responsible for:

- Resolving complaints related to an alleged breach of a code of conduct under my jurisdiction, either through informal resolution or a formal investigation;
- Receiving and investigating complaints with respect to alleged contraventions of the *Municipal Conflict of Interest Act* (MCIA);
- Providing advice to Members of Council, citizen members of the Transit Commission and Built Heritage Sub-Committee, and members of local boards regarding their obligations under their respective codes of conduct;
- Providing advice to Members of Council and members of local boards regarding their obligations under the MCIA;
- Offering educational information to members whose codes I oversee, as well as to the City administration and the public on matters within my jurisdiction; and
- Ensuring the application of the Community, Fundraising and Special Events Policy, and providing an advisory function associated with the Council Expense Policy and the Public Conduct Policy.

It has been eleven years since Ottawa City Council first endorsed an Accountability Framework. I believe that the core values of the codes under my jurisdiction – integrity, accountability, transparency and respect – are well known, both by members who are subject to the codes, and by members of the public.

As the City's second Integrity Commissioner, I am dedicated to continuing to support members in integrating those core values in all aspects of their work. I am also committed to ensuring compliance with established rules and values.

*At the core of each code of conduct and ethical policy is the principle of **respect** – respect for **people**, respect for applicable **legislation and regulations**, respect for the **public institution**. I encourage Members to apply the values set out in the codes of conduct in their daily interactions.*

*- Robert Marleau, former City of Ottawa Integrity Commissioner, in his 2020 Annual Report*

# 2021: THE YEAR IN BRIEF

## Compliance

As Integrity Commissioner, I oversee three codes of conduct:

- The Code of Conduct for Members of Council (By-law 2018-400) – this Code also applies to citizen members of the Transit Commission, when acting in their official capacity;
- The Code of Conduct for Citizen Members of the Built Heritage Sub-Committee (By-law 2018-401); and
- The Code of Conduct for Members of Local Boards (By-law 2018-399).

Each code is accompanied by a complaint protocol which sets out the process by which a complainant submits an informal or formal complaint, as well as how the Integrity Commissioner manages the complaint, including intake, analysis, investigation and reporting.

I undertake a thorough intake analysis upon receipt of each complaint to determine whether the matter is, on its face, a complaint with respect to non-compliance with the respective code and not covered by other legislation or other Council policies. I also consider whether the complaint is frivolous, vexatious or not made in good faith, and whether there are sufficient grounds for an investigation.

From October 1, 2020 to September 30, 2021, the Integrity Commissioner did not receive any complaints within the Commissioner's jurisdiction regarding the behaviour or activity of citizen members of the Transit Commission, citizen members of the Built Heritage Sub-Committee or members of local boards.

All complaints within the Integrity Commissioner's jurisdiction that the Commissioner received and managed this reporting year alleged contraventions of the Code of Conduct for Members of Council (the "Code of Conduct").

**Complaints Respecting the Code of Conduct for Members of Council**

<b>2021: Total complaints within the Integrity Commissioner’s jurisdiction respecting the Code of Conduct for Members of Council</b>	
Category	Number
Formal complaints – ongoing from 2020 reporting year	6
Formal complaints – received in 2021 reporting year	6
Informal complaints – received in 2021 reporting year	2

Formal Complaints

As required by the Complaint Protocol, formal complaints must be submitted on the appropriate form, with a signed affidavit, and include information to support the allegation(s) made against a Member including dates, locations, other persons present and all other relevant information.

From October 1, 2020 to September 30, 2021, six formal complaints were filed and work was undertaken. Work continued on the six formal complaints that were ongoing from the end of the 2020 reporting year. The disposition and status of those formal complaints are discussed below.

*Dismissed at intake stage*

Three formal complaints were dismissed at the intake stage.

1. A member of the public alleged that a Member of Council contravened the Code of Conduct when the Member publicly commented on by-law enforcement of an order issued by the Chief Medical Officer of Health related to the pandemic. The Member posted a tweet and made statements on a local news program that they believed it was time that by-law enforcement escalated from warnings to tickets. In doing so, the complaint alleged that the Member of Council had attempted to influence By-law officers performing duties under the *Provincial Offences Act*.

The complaint was dismissed. It is an accepted principle that Members of Council must not attempt to influence or interfere in the activities of enforcement officers. That said, this principle does not preclude Members of Council from

holding opinions and commenting generally on policy matters, including advocating a change in direction.

It was determined that the Member did not address a specific case, nor did they target a particular officer or individual. The tweet (which tagged the By-law Services Twitter account) and later statements were all of a generic nature relating to a public safety issue. The comments were deemed part of an ongoing community policy debate.

2. A member of the public called into question social media posts of two Members of Council which allegedly contributed to defamation and harassment of the complainant by another member of the public.

Upon considering the desired outcomes provided by the Complainant, the Integrity Commissioner was of the opinion that those outcomes could be achieved without initiating an investigation. The Integrity Commissioner suggested the Complainant reach out to the Members and set out their grievances and desired outcomes.

3. A representative of a local community group filed a formal complaint alleging that two Members of Council had breached multiple sections of the Code of Conduct for their role in a decision to select the future site of a public building.

The request for investigation also called into question the actions and decisions of individuals and public bodies outside the jurisdiction of the Integrity Commissioner. Accordingly, those allegations were dismissed outright. With respect to allegations about the conduct of specific Members of Council, the Integrity Commissioner determined there were insufficient grounds for an investigation.

#### *Dismissed without full investigation*

Where it becomes apparent in the course of an investigation that the matter is frivolous, vexatious, not made in good faith or that there are insufficient grounds to continue an investigation, the Complaint Protocol gives the Integrity Commissioner the authority to terminate an investigation. Two complaints were dismissed without a full investigation during the 2021 reporting cycle.

1. A member of the public filed a formal complaint alleging a Member of Council had breached Section 4 (General Integrity), Section 8 (Improper Use of Influence) and Section 13 (Gifts, Benefits and Hospitality) of the Code of

Conduct, stemming from a family employment relationship with an organization in the Member's ward.

As part of the preliminary exchange of information required by the Complaint Protocol, the Member submitted a detailed response and compelling supporting documentation to refute the allegations. In the absence of further details or documentation to support the allegations, it was determined there were insufficient grounds to continue with an investigation.

2. City Council passed a motion which requested the Integrity Commissioner commence an investigation into an alleged leak of a confidential memo. Shortly thereafter, a Member publicly identified themselves as the source of the leak and apologized for the inadvertent oversight. City Council accepted the Member's apology and passed a motion which requested the Integrity Commissioner cease his investigation into the matter. In consideration of the Member's public admission and apology, the investigation was terminated.

*Investigated, sustained and reported to Council*

The Integrity Commissioner filed two reports to Council during the 2020-2021 reporting period. The two reports completed work on three formal complaints ongoing from the previous year. All three complaints were sustained following an investigation with findings that the Members' behaviour or actions contravened the Code of Conduct.

City Council accepted the recommendations of the Commissioner in the first report, including imposing two 90-day suspensions of pay for contraventions of the Code of Conduct arising from two separate complaints, combined for the purposes of the investigation and report.

In consideration of the second report, City Council reprimanded the Member as recommended by the Commissioner and directed staff to bring forward policy recommendations related to an ethical framework for Members' staff, enhancing the procedure for the procurement of consultants by Members of Council, and review the practice of hiring consultants who are also registered lobbyists.

*Investigated, not sustained*

A member of the public filed a request for investigation alleging that a Member of Council had breached Section 4 (General Integrity), Section 7 (Discrimination and Harassment), Section 8 (Improper Use of Influence), Section 9 (Use of Municipal



Property and Resources) and Section 13 (Gifts, Benefits and Hospitality) of the Code of Conduct in relation to a planning file.

An independent investigator conducted a full investigation, consisting of witness interviews and a review of relevant legislation, City policies and procedures and substantial documentation provided by both parties. Based on the investigator's report, witness testimony and documentary evidence, the Integrity Commissioner found no basis to support the allegations against the Member.

At the core of the matter was a fundamental disagreement on the legal interpretation of a particular provision of the *Planning Act*. The City's application of planning and development policy is not within the jurisdiction of the Integrity Commissioner and he refrained from commenting on this point.

The Integrity Commissioner dismissed the complaint, concluding that the Member had not contravened the Code of Conduct.

*Ongoing, still under investigation, or suspended*

Three formal complaints remain open at the end of the 2021 reporting cycle.

### Informal Complaints

While individuals are encouraged to pursue the informal complaint procedure as a first step, the process is not a precondition or prerequisite to filing a formal complaint.

The Complaint Protocol provides that any individual who identifies or witnesses behaviour or an activity by a sitting Member of Council that appears to be in contravention of the Code of Conduct may address the behaviour or activity themselves in a number of ways, including:

- Advising the Member that the behaviour/ activity appears to contravene the Code of Conduct;
- Encouraging the Member to acknowledge and agree to stop the behaviour/ activity and avoid future occurrences;

A complainant may ask the Integrity Commissioner to assist in an informal discussion of the complaint with the Member of Council in an attempt to resolve the issue.

**With the consent of both the complainant and the Member**, the Integrity Commissioner may participate in the informal complaint procedure as mediator.

- Documenting the incidents including dates, times, locations, other persons present, and any other relevant information; and
- If applicable, confirming to the Member one's satisfaction or dissatisfaction with the response.

From October 1, 2020 to September 30, 2021, two informal complaints were filed and closed.

#### *Dismissed at intake*

A member of the public requested the Integrity Commissioner's assistance to elicit responses from Members of Council on a policy matter. The Integrity Commissioner determined the matter did not give rise to a contravention of the Code of Conduct and declined to proceed with the informal complaint procedure.

#### *Resolved through Informal Complaint Procedure*

A member of the public reached out the Integrity Commissioner regarding their interactions with a Member of Council and the Member's staff. The Integrity Commissioner sought the agreement of both parties to participate in mediation. The informal resolution involved the Member acknowledging the resident's concerns and apologizing.

### ***Complaints Respecting the Municipal Conflict of Interest Act***

The Integrity Commissioner did not receive any complaints in the 2020-2021 reporting year with respect to alleged contraventions of the *Municipal Conflict of Interest Act* (MCIA).

An eligible elector or a person demonstrably acting in the public interest who believes a Member of Council or a member of a local board has violated the conflict of interest rules in the MCIA may apply to my Office for an inquiry into the matter.

An applicant must make an application, in writing, within six weeks after they became aware of the alleged violation. The only exception is when the applicant becomes aware of the violation during the period of time between Nomination Day and Voting Day in a municipal election year.

In accordance with the *Municipal Act, 2001*, I must complete an investigation within 180 days after receiving the completed application. If, after completing an investigation, I determine it is appropriate to do so, I may apply to a judge for a determination as to

whether the member has a conflict of interest. Only a judge may make a final determination and apply any or all of the penalties provided in the MCIA.

## **Advice**

The *Municipal Act, 2001* (Section 223.3) requires that a request by a member of council or of a local board for advice from the Integrity Commissioner be made in writing, and that the Integrity Commissioner's advice be in writing. I encourage members, and staff of Members of Council, to submit written requests for advice to [integrity@ottawa.ca](mailto:integrity@ottawa.ca) when the situation permits.

I recognize, however, that urgent matters may arise and Members may prefer to simply reach out to me by phone. In such situations, I document our conversation and the request, and will provide my written advice to the Member through the [integrity@ottawa.ca](mailto:integrity@ottawa.ca) email.

## ***Advice with respect to Codes of Conduct***

The following are samples of advice provided over the past year to Members of Council and members of local boards on their responsibilities in relation to their respective codes of conduct.

This information is not a replacement for advice and should not be considered a substitute for contacting the Integrity Commissioner. I strongly encourage Members of Council, members of local boards, citizen members of the Transit Commission and citizen members of the Built Heritage Sub-Committee, when in doubt, to come to my Office with their specific questions or concerns.

### Accepting gifts

- 1. A Member of Council accepted a gift of an item of apparel from a resident of the Member's Ward who makes and sells clothing for a company. Instead of listing the item in the online Gifts Registry, the Member inquired about making a personal donation, in the amount of the item, to a charity that the company supported.**

Members of Council are required to disclose all gifts, benefits, hospitality and sponsored travel received which individually exceed \$100 from one source in a calendar year.

Exceptions exist for items received as part of the social protocol, and where a gift or hospitality is connected to a Member's duties as an elected official. Where an exception does not apply, however, and a Member accepts a gift exceeding \$100 in value, disclosure in the [Gifts Registry](#) is required.

In this case, the Integrity Commissioner advised that, should the Member not wish to disclose the item in the Gifts Registry, the Member should either return the item to the gift-giver or reimburse the gift-giver for the full value of the item.

The Commissioner noted that by reimbursing funds, the gift-giver can make the determination whether to donate the amount received to a charity that they support.

In such a scenario it is appropriate that the choice to donate the amount to a charity be made by the gift-giver, as opposed to by the Member.

When returning a gift or reimbursing the gift-giver for the full value, it is recommended that Members keep all documentation of the transaction.

- 2. A company with active files in the City's Lobbyist Registry provided gift bags to City staff for distribution to Members of Council. The gift bags contained face masks and sanitizer items. City staff asked the Integrity Commissioner if it was appropriate for Members to accept the gift bags and, if it was not appropriate, if staff could re-distribute the items in the gift bags to City departments.**

The Code of Conduct prohibits Members from accepting gifts from lobbyists with active files:

"Unless pre-approved by the Integrity Commissioner, the acceptance of any gift, benefit, or hospitality from lobbyists with active lobbying registrations or from their registered clients or their employees by Members of Council or their staff is prohibited."

A similar provision in the Lobbyists' Code of Conduct prohibits lobbyists with active files, as well as their registered clients and employees, from offering or providing gifts, benefits or hospitality to Members of Council and/ or Members' staff:

"Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff."

In this particular case, because the company had active lobbying files in the City's Lobbyist Registry, the Integrity Commissioner advised that there existed a real risk for the appearance of influence in accepting the gift bags.

Regarding potential re-distribution to City staff, the Commissioner noted that it is unclear how the items would eventually be distributed or how acceptance of the items would be perceived.

The Commissioner advised staff to decline the items and arrange for their return to the donor company.

If you are unsure of whether a lobbyist has an active file in the City's Lobbyist Registry, please reach out for assistance:  
[integrity@ottawa.ca](mailto:integrity@ottawa.ca)

#### Accepting donations for a community event

**In early 2021, a Member of Council sought advice on accepting donations for an annual community event. The event, hosted by the Member, was planned to take place in early autumn.**

**At the time of the inquiry, provincial restrictions related to COVID-19 prohibited large gatherings. It was not known if restrictions would be lifted in advance of the event. Given the uncertainty around the situation, the Member asked the Integrity Commissioner if it was appropriate to begin accepting donations for the planned event.**

The [Community, Fundraising and Special Events Policy](#) (the “Policy”) provides guidance with respect to Members’ participation in Member-organized community events, as well as Members’ support for benevolent activities. The Policy recognizes that, in the case of repeat annual events, a reasonable operational amount of funds received through sponsorship or donation may carry over to a subsequent year.

In this case, considering that plans for the event were contingent on provincial and public health guidance on gatherings during the pandemic, and that it was

possible the guidance could change before the date of the event, the Integrity Commissioner was of the opinion that it was reasonable that the Member’s Office accept donations before being certain that the event could go ahead.

The Commissioner reminded the Member of the requirement that all donations must be compliant with the Policy, including the requirement that the funds be deposited into a separate account for that specific purpose and not be used for any other purpose.

The Commissioner further cautioned against accepting donations from lobbyists with active files in the City’s Lobbyist Registry. With respect to lobbying, the Policy states that Members shall:

“Not solicit or accept donations from lobbyists or their clients or their employees with active registrations in the Lobbyist Registry without pre-approval from the Integrity Commissioner.”

It is the Integrity Commissioner’s practice to provide Terms and Conditions to Members who seek advice about receiving donations and/ or sponsorships for new community events or benevolent activities.

Should any key elements of an annual event change, I encourage Members to seek my advice. I can review the matter and provide an updated set of Terms and Conditions as needed.

#### Providing support

- 1. A Member of Council received a request for donation from a local not-for-profit organization. The Member sought the Integrity Commissioner’s guidance on providing a donation. The Member also wished to make it known that the donation did not imply endorsement.**

Members of Council are required, under the *General Integrity* provisions of the Code of Conduct, to “avoid conflicts of interest, both apparent and real.”

The Commissioner advised the Member to consider the risk for the perception of a conflict of interest. While the Member wished to make it known that the donation did not imply endorsement, the Commissioner advised it is possible that a member of the public may think otherwise.

The Commissioner cautioned that a discretionary donation of public funds to a not-for-profit entity with clearly stated policy objectives could lead to the appearance of a conflict of interest. For example, a member of the public may perceive that the Member’s ability to decide impartially on the municipal budget had been affected by other interests that the Member demonstrably financed.

Finally, the Commissioner advised that the risk for the perception of a conflict of interest may be exacerbated by the fact that the organization receiving the funds was represented in the Lobbyist Registry. While this issue is not addressed in either the Code of Conduct for Members of Council or the Lobbyists’ Code of Conduct, the situation could contribute to the appearance of favouritism.

*An apparent conflict exists when an outside observer could reasonably conclude that an individual’s judgment is or might be swayed from making decisions in the organization’s best interests.*

*- Justice Bellamy, Report on the Toronto Computer Leasing Inquiry – Toronto External Contracts Inquiry, v. 2 “Good Government”*

- 2. A Member of Council received a request from a medical centre in the Member’s Ward to provide the centre with a letter of support for plans to change a practice model that could have the benefit of bringing new physicians to the area. The Member sought the Integrity Commissioner’s general advice on the matter.**

The Commissioner reminded the Member of their obligations under the Code of Conduct with respect to improper use of influence. Specifically, Members should not use the status of their position as an elected official to the private advantage of another.

The Integrity Commissioner encouraged the Member to consider if the Member believed the community was underserved, and if the Member's support for the medical centre's change in practice model was driven by that conviction. If the Member was so motivated – as opposed to being motivated by advancing a private or personal interest – the Commissioner considered it appropriate for the Member to provide a letter of support.

Finally, the Commissioner offered specific recommendations for the letter itself in order to protect the Member against any potential misuse of the letter.

***When writing a letter of support:***

- ✓ The letter should be addressed to a specific individual or organization. Refer specifically to the organization and to the reasons why the Member is offering support.
- ✓ It is best that the letter is addressed and sent directly to the relevant body.
- ✓ The Member should only provide a letter of support for an organization or individual if the Member is comfortable that they possess sufficient knowledge of the organization or individual to lend their name in support.

Conflict of interest – general matter covered by a Code of Conduct

**A member of a Business Improvement Area (BIA) sought the Integrity Commissioner's advice on considerations with respect to potentially hiring the company of one of their members to undertake administrative services for the BIA.**

The Integrity Commissioner advised that it could be possible for the BIA to contract the services of a member's company, provided it is accomplished within the Board's approved policies and the member adheres to their own personal responsibilities under the Code of Conduct for Members of Local Boards and the MCIA.



It is understood that BIAs wish to support businesses within their boundaries and it is common for members to own or be employed by some of those local businesses.

If a BIA were to award a contract to a member's company without an open and transparent process, concerns of favouritism and preferential treatment could result, which could open the Board and the individual member to allegations of impropriety.

Individual members are strongly advised to consult with the Integrity Commissioner directly regarding any potential conflict of interest. The Commissioner will then provide the member with a legal opinion establishing whether the member has a conflict of interest, and outlining the steps a member must take to avoid breaching the MCIA.

Should a BIA award a contract to the business of one of its members, it is critical that it be awarded with the highest degree of accountability and transparency.

### ***Advice/ Opinion with respect to the Municipal Conflict of Interest Act***

Members of Council and members of local boards have a responsibility to avoid conflicts of interest, and in particular conflicts that are financial (pecuniary) in nature. When a member's personal economic interests intersect with their public duty, it is imperative that members act with concern for the public good and not for their personal benefit.

The *Municipal Conflict Interest Act* (MCIA) at Sections 5 and 5.1 sets out specific statutory responsibilities members must uphold when they are faced with a pecuniary conflict of interest, as follows:

- Disclose the interest and its general nature before the matter is considered at the meeting;
- Not participate in the discussion of the matter nor vote on any question in respect of the matter;
- Not attempt, in any way, to influence the voting on any such question before, during or after the meeting; and
- File a written statement of the interest with the Clerk.

As Integrity Commissioner, I have a mandate to provide Members of Council and members of local boards with advice regarding their obligations under the MCIA. Determining whether a Member has a conflict of interest requires an examination of the potential conflict and an assessment as to whether any of the exceptions set out in the MCIA apply.

Members are encouraged to seek advice if they are unsure about a potential conflict of interest. Whether a Member sought and followed advice from the Integrity Commissioner may be important should the matter ever lead to a complaint and/or application to a judge.

During the 2020-2021 reporting period, the Office was engaged in providing advice in respect of the *Municipal Conflict of Interest Act* to several Members of Council. As necessary, the Integrity Commissioner sought the support of external legal counsel.

Over the past year, a general theme was observed: whether the membership of a Member, or a close relative of the Member (spouse, parent), on the board of a local not-for-profit organization presents a pecuniary conflict of interest for the Member. This question becomes particularly relevant during City Council's decision on the annual budget. In making a determination as to whether a Member is required to declare a conflict of interest, particular consideration was given to whether the Member or their family member received any remuneration in their role on the Board and whether an exception existed under the MCIA that would permit the Member to participate despite having a pecuniary interest.

## **Education and Outreach**

My legislated responsibility includes providing educational information to members whose codes I oversee, as well as to the municipality and the public about codes of conduct, related ethical policies and the *Municipal Conflict of Interest Act*.

As was the case in the 2020 reporting year, the COVID-19 pandemic and its associated restrictions had an impact on the Integrity Commissioner's ability to offer in-person opportunities for education and outreach. Most of the educational sessions and outreach undertaken again this year were through virtual meetings and presentations.

In the 2021 reporting year, the former Integrity Commissioner undertook the following initiatives:

- October 7, 2020 – Orientation to Ward 19 Councillor-elect on the Accountability Framework
- November 9, 2020 – The City Clerk and the Integrity Commissioner provided a professional development session to members of the Committee of Adjustment on members’ roles, responsibilities, procedures, the Code of Conduct for local boards and the *Municipal Conflict of Interest Act* (MCIA).
- Municipal Integrity Commissioners of Ontario (MICO) – attended March 26, 2021 meeting and, with Toronto’s Integrity Commissioner, co-hosted the subsequent meeting on June 16, 2021.

## 2021: THE YEAR IN NUMBERS

### Trends

#### ***Number of Complaints***

The total number of complaints respecting the Code of Conduct for Members of Council has increased since 2019. This year’s total matched that of last year: 14.

The increase in the number of complaints since 2019 correlates with the changes in the *Municipal Act, 2001* which expanded the mandate of the Integrity Commissioner. Some of the key changes to the mandate included:

- New oversight of a code of conduct for local boards;
- The requirement to provide advice to Members of Council and members of local boards regarding their obligations under the MCIA; and
- The requirement to receive and investigate complaints respecting alleged contraventions of the MCIA.

In addition, while education had always been among the Integrity Commissioner’s priorities, it also became the Commissioner’s statutory responsibility to provide educational information to Members of Council and members of local boards, as well as to the City administration and the public. This change reinforced the Integrity Commissioner’s existing practice.

The general increase in complaints may also be attributed to an increased awareness and engagement on the part of members of the public in matters of ethics, including integrity and accountability in municipal government.

### **Source and Type of Inquiries**

In the 2021 reporting year, general trends regarding the source and type of inquiries received by the Office of the Integrity Commissioner remained steady.

Over the last two years, the greatest number of inquiries to the Office came from members of the public. This year saw a slight increase in those numbers. In 2020, the Office received 56 such inquiries, and in 2021 that number increased to 65.

The second largest source of inquiries are from elected officials. In 2021, the Office received fewer inquiries from this group than in the previous year: 50 in 2021 versus 55 in 2020. Elected officials also brought fewer inquiries to the Office about accepting gifts and tickets. In 2020, the Office received eight such inquiries, while this year that number dropped to four.

This year, as in last, the majority of inquiries received from both members of the public and elected officials had to do with the Code of Conduct for Members of Council.

### **Graphs**

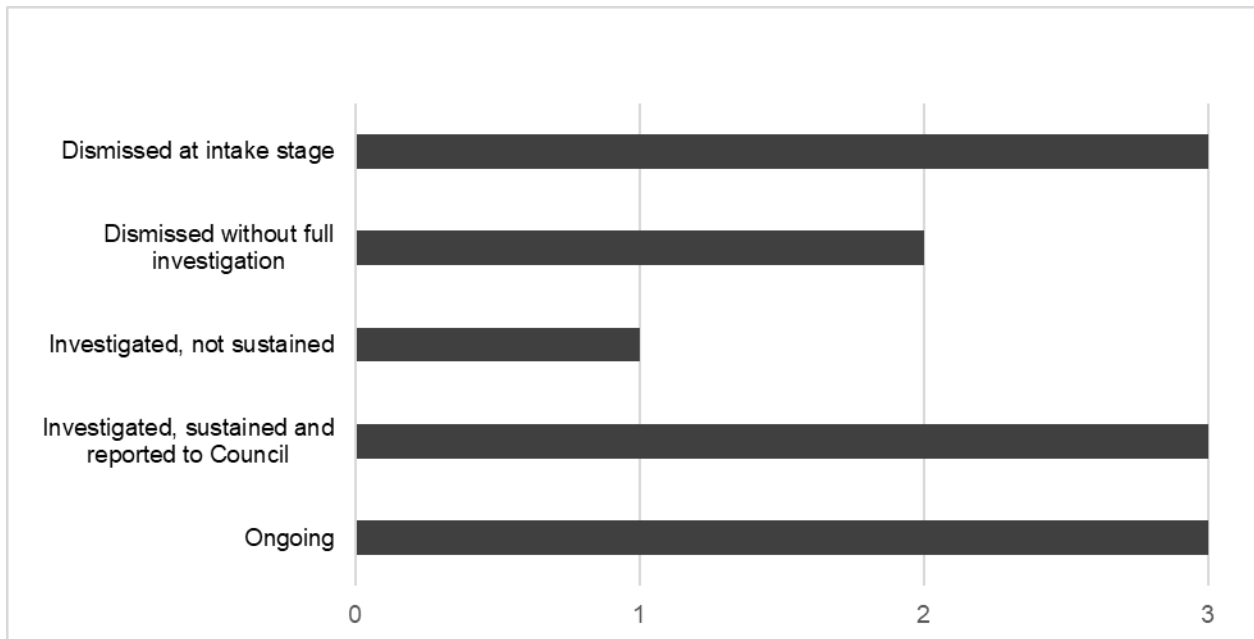


Figure 1: Disposition of Formal Complaints

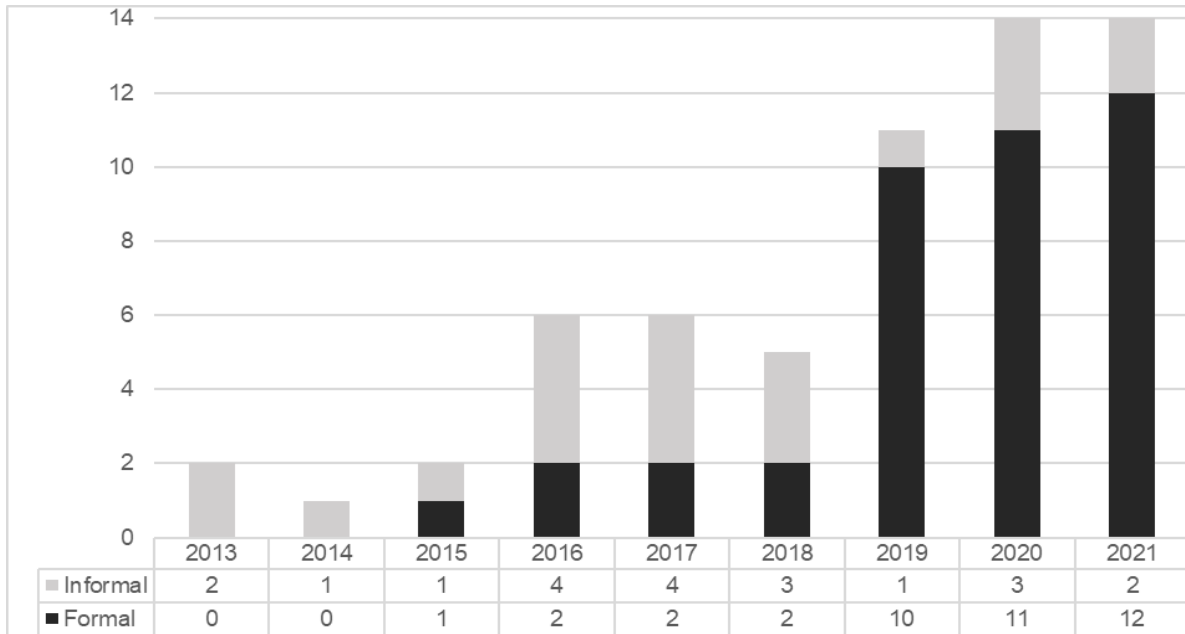


Figure 2: Total number of complaints within the Integrity Commissioner's jurisdiction managed per reporting year

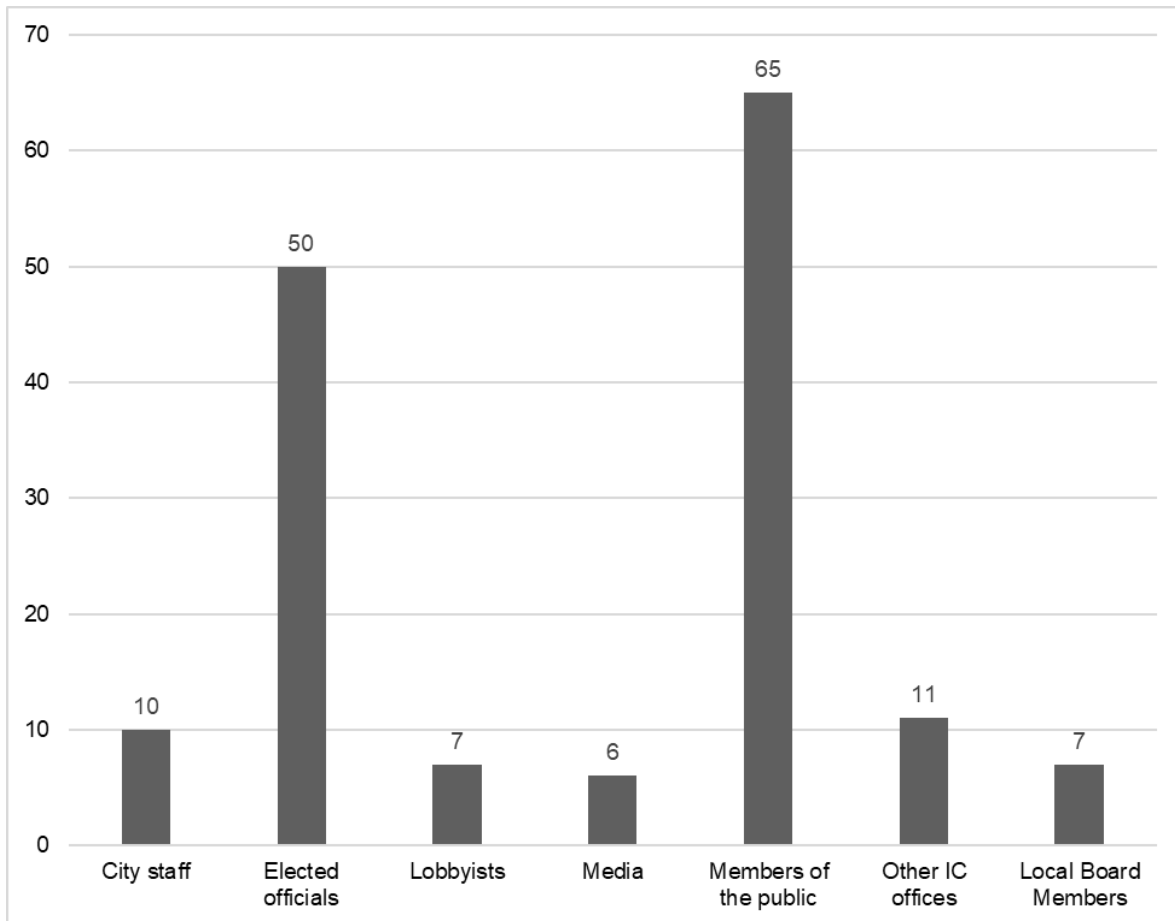


Figure 3: Total points of contact by source

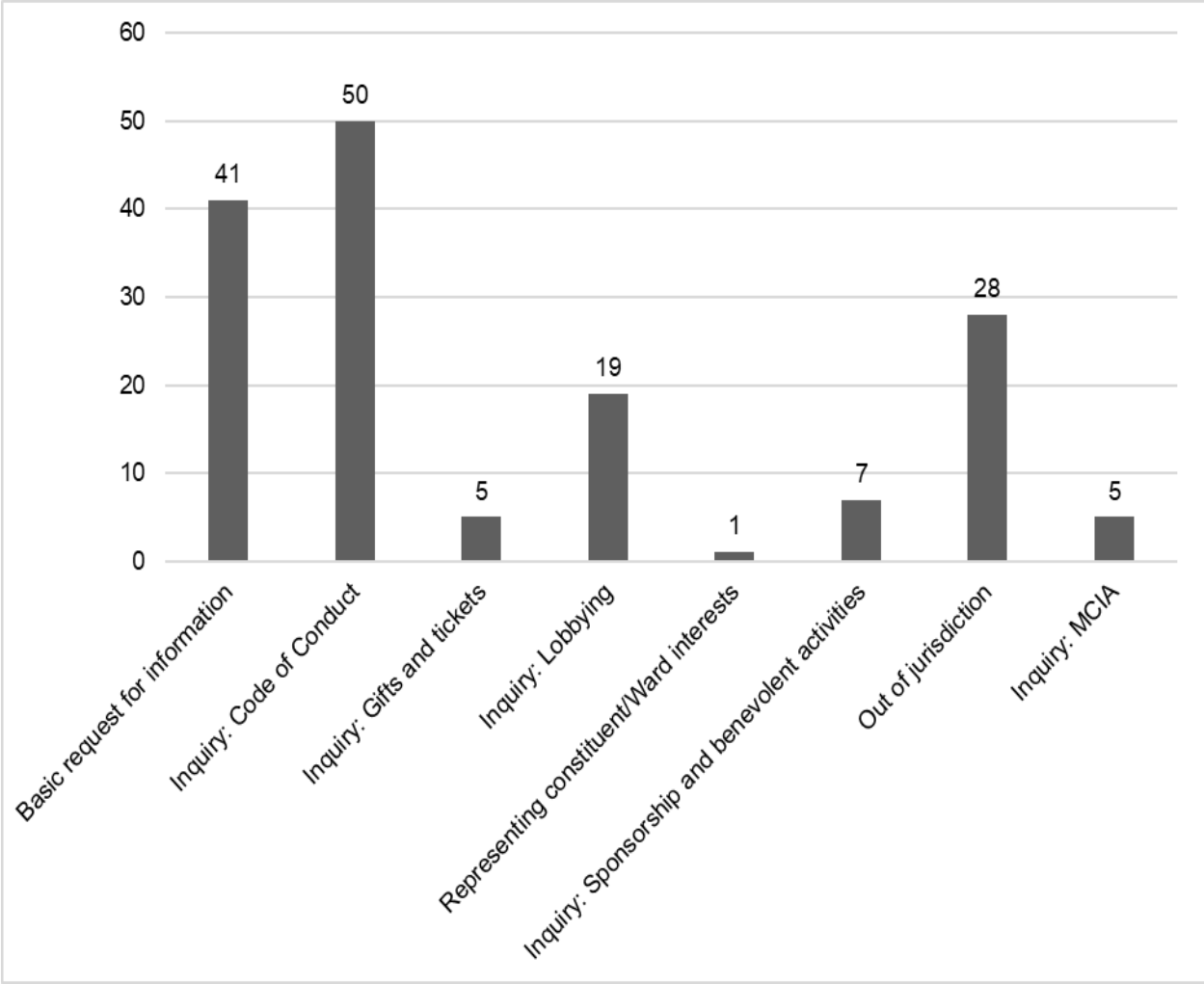


Figure 4: Total points of contact by type

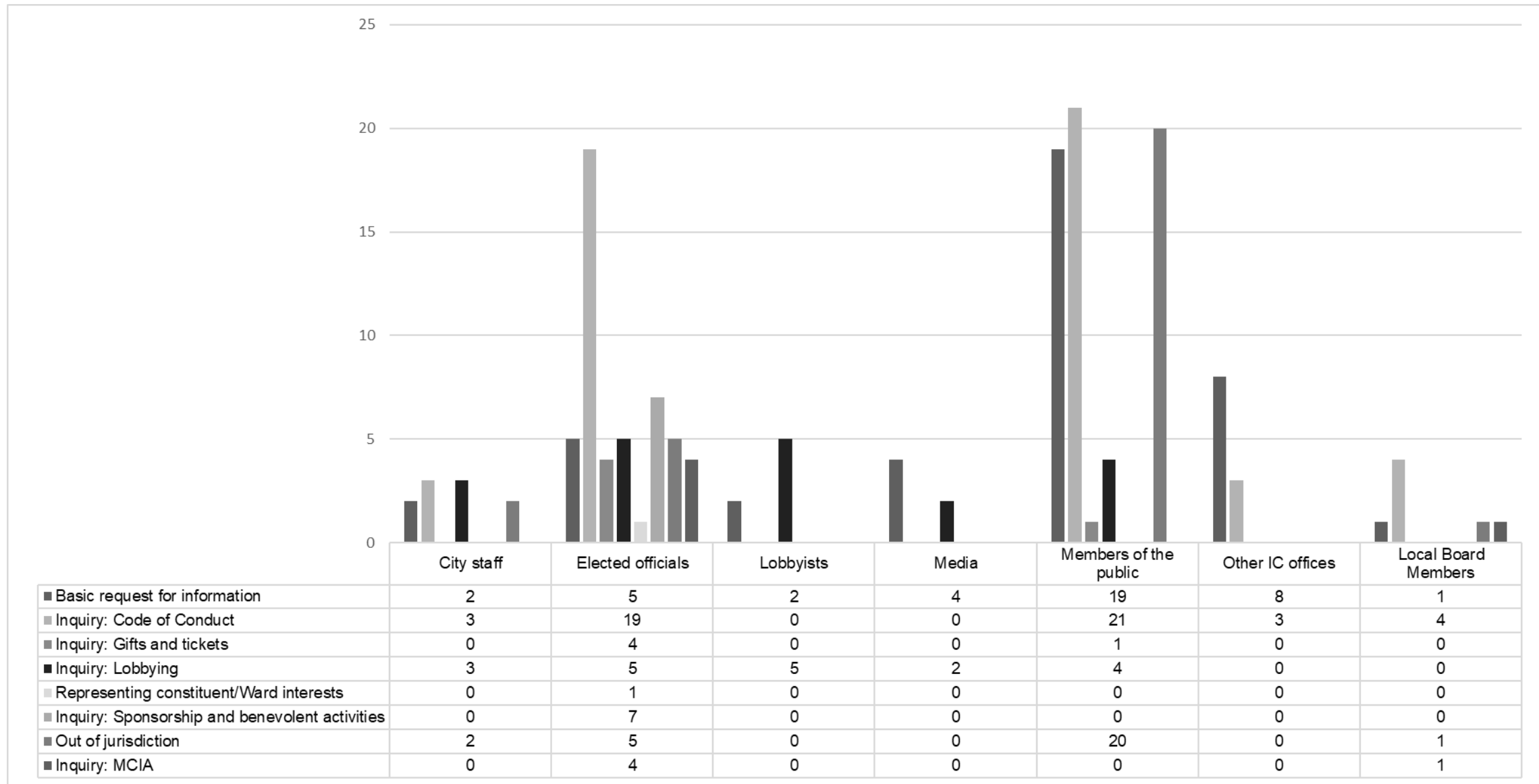


Figure 5: Source and subject matter of inquiries received

## 2021: KEY THEMES AND TOPICS

Over the past year, the Integrity Commissioner monitored judicial review applications that were filed with the court. This was done in order to determine whether rulings might impact the Commissioner's own processes and procedures.

I would also like to highlight two key themes with respect to the broad subject matter of complaints and inquiries received over the past year.

I have summarized these matters below with some considerations for interest.

### **Integrity Commissioner Standards of Practice – Judicial Review Decisions**

Over time, the jurisdiction and authority of municipal integrity commissioners has been tested and examined by the courts. The first judicial review, *Di Biase v. Vaughan*, continues to stand as a seminal decision which confirms the authority of municipal Integrity Commissioners and the standard of practice expected of a municipal integrity commissioner.

Earlier this year, the Superior Court issued its decision in *Dhillon v. Brampton*, an application brought forward by a Brampton City Councillor after an investigation and report from the city's Integrity Commissioner. In respect of the Integrity Commissioner's decisions and process, the Court found: (1) the Commissioner's decision to exercise her discretion and commence an investigation in the absence of a properly filed complaint form was reasonable; (2) there was no denial of procedural fairness and the Respondent received adequate disclosure and had an opportunity to provide substantive comments; and (3) the Commissioner's findings were reasonable in the context of her investigation.

On the point of procedural fairness, the decision in *Dhillon v. Brampton* acknowledged the bar set in *Di Biase v. Vaughan*: "The statutory scheme prioritizes confidentiality; the integrity commissioner's process is investigatory and she may only make recommendations; the maximum penalty if Council accepts recommendations is 90 days suspension of pay; and no councillor may lose his elected position or suffer civil or criminal liability on the basis of an integrity commissioner's report."



Presently, there are a few other judicial review applications that have been filed or are waiting a decision from the court that may have bearing on Integrity Commissioners' standards of practice, including their investigative procedures and jurisdiction.

I will continue to monitor the rulings and assess the impact they may have on my own processes and procedures.

## **Codes of Conduct and the use of Social Media**

Elected representatives engage with members of the public in countless positive and productive ways using social media. There is no doubt that social media platforms such as Facebook and Twitter are valuable communication tools, and ones on which Members may have relied upon more heavily during the pandemic.

I have observed that members of the public are highly engaged with elected officials on social media, and are very aware of their conduct on these online platforms.

Alongside his 2020 Annual Report, the Integrity Commissioner published an [Interpretation Bulletin on the Use of Social Media](#). I would like to take the opportunity to highlight some of the key themes of that Bulletin:

- The entirety of the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards apply to Members' social media activity.
- Section 7 of the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards impose a duty on Members to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

These provisions set standards for the behaviour of Members, regardless of whether they are online or not. Members should be aware that their positions as public officials cannot simply be turned off and should treat their social media presence as extensions of their public personas. Members are expected not to use offensive language when interacting with members of the public or each other online. While heated language and debate are part and parcel of informal expression on social media, Members should endeavour to always conduct themselves with respect and civility.

Members of Council work with a diverse group of colleagues, constituents and citizens at large who expect workplaces free from discrimination and harassment.

As administrators of their accounts, Members of Council should treat public-facing pages as extensions of their offices. Members of Council should be mindful of the safety of their constituents regarding content they create, and the content created by other users on their platforms.

In all social media interactions, I encourage Members to be mindful of the core values of the codes of conduct to which they must adhere: integrity, accountability, transparency and respect.

## **Apparent Conflict of Interest**

This year, the Integrity Commissioner brought forward an investigation report to City Council that focussed on the notion of apparent conflict of interest. Specifically, one of the Integrity Commissioner's findings was that a Member of Council had entered into several employment and contract relationships that had given rise to a non-pecuniary, apparent conflict of interest.

The Integrity Commissioner's report and findings highlight the importance of the requirement, set out in the Code of Conduct, that Members "shall avoid conflicts of interest, both apparent and real."

Citing past municipal judicial inquiries in the Province of Ontario which addressed conflict of interest – real, potential, apparent, pecuniary and non-pecuniary – the Commissioner's report noted: "(e)lected officials' failure to uphold their responsibilities regarding real or apparent conflict of interest can erode public trust in government."

I would like to remind Members of Council and members of local boards that I can provide advice on conflicts of interest – both apparent and real – as covered by both the relevant code of conduct and the MCIA.

I encourage members to seek my assistance with any questions or concerns they may have in this regard.

*In the field of public sector ethics, it has long been established that avoiding the appearance of impropriety can be as important as avoiding the actual impropriety itself.*

*- Former Toronto Integrity Commissioner Valerie Jepson in a 2016 Investigation Report.*

# LOOKING FORWARD: 2022

## Education

A core element of my mandate is education: for Members of Council, for the municipality and for the public. Recognizing the importance of education, City Council included it in the duties assigned to the role of Integrity Commissioner when the position was first established. Almost three years ago, the legislature confirmed the value of education and added it to Integrity Commissioners' list of statutory responsibilities.

I hope to make use of a variety of methods to fulfill my education mandate including in-person or virtual training, stakeholder sessions and publications.

*Important messages always need to be repeated, reinforced, taught by example, and explained once more in new contexts.*

*- Justice Bellamy, Report on the Toronto Computer Leasing Inquiry – Toronto External Contracts Inquiry, v. 2 “Good Government”*

One of my first initiatives was the creation of IntegriTalk, a series of short, monthly bulletins for Members of Council. Each installment will focus on a different aspect of the Accountability Framework, reinforce Members' applicable responsibilities and offer practical guidance for upholding their obligations.

One of the IntegriTalk issues expected to come out before the end of November, 2021, focuses on gifts and hospitality. The bulletin examines the nature of gifts received by Members and encourages Members

to thoughtfully consider questions such as: Who is giving me this gift or hospitality and why? Could the gift/ hospitality be reasonably perceived as an effort to influence my actions or decisions?

In the coming year, I intend to resume education and training sessions for the City's local boards, either in-person or virtually dependent on any restrictions that may continue to be in place due to the ongoing COVID-19 pandemic.

## Governance

The next year presents a timely opportunity to review Council's existing codes of conduct and related ethical policies. The codes of conduct and related policies should reflect City Council's priorities for an ethical culture and Members must be engaged in their development and evolution.

City Council as a whole has identified areas for review and recommendations including:

- An ethical framework for Members' staff;
- Criteria to be considered before entering into contracts with consultants; and
- Considerations related to apparent, real and potential conflict of interest.

Through my meet-and-greets with Members of Council I mentioned the upcoming Governance review, that I would be welcoming Members' ideas on how the Accountability Framework might be enhanced.

Finally, I expect the review will be influenced by the outcome of the Province's "Consultation to Strengthen Municipal Codes of Conduct". In March 2021, the Province announced it was seeking input from elected officials, municipal associations, municipal staff and the public on how to ensure municipal staff and officials are supported and respected in the workplace. A public survey was launched in April 2021. The consultation sought feedback on:

- what changes or mechanisms are needed to better hold council members accountable for municipal code of conduct violations;
- how to more effectively enforce these codes; and
- whether a broader range of penalties for violations of the codes of conduct are needed.

The public survey closed on July 15, 2021. It is possible the consultation might lead to legislative changes which may require amendments to the codes of conduct approved by Council.

# Lobbyist Registry

The Lobbyist Registry is a public database that documents substantive communications between public office holders and individuals attempting to influence their decisions. The system is overseen by the Lobbyist Registrar, who is also responsible for the administration of the registration requirements in the Lobbyist Registry By-law 2012-309 (the “By- law”) and the behavioural requirements in the appended Lobbyists’ Code of Conduct (the “Code of Conduct”).

## 2021: THE YEAR IN BRIEF

### Compliance

The Lobbyist Registry By-law prescribes an escalating compliance scheme, which provides the Lobbyist Registrar with a continuum of tools to ensure that lobbyists comply with the registration and behavioural requirements in the By-law and the Code of Conduct. The tools available to the Lobbyist Registrar include administrative interventions, Letters of Direction, compliance agreements, communication bans and formal investigations.

This year, the Office of the Lobbyist Registrar sent six Letters of Direction to lobbyists in relation to the late registration of lobbying activities. The letters were used by the Lobbyist Registrar to remind lobbyists of the requirement to register lobbying activities within 15 business days of the date they occur and warned them that a one-month ban may be levied for future infractions.

During the year my predecessor found, through an Integrity Commissioner report, that a lobbyist provided benefits to a Member of Council while maintaining active lobbying files in breach of Section 6(3) of the Code of Conduct:

#### ***Section 6 - Improper Influence***

- 3. Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.*

He thus referred this breach of the Code of Conduct to his mandate as Lobbyist Registrar and engaged in a compliance action with the lobbyist.

The lobbyist acknowledged the breach and willingly entered into a compliance agreement with the Lobbyist Registrar, voluntarily committing to a one-month ban on lobbying. In addition to the compliance agreement, the Office of the Lobbyist Registrar issued a Letter of Direction to reinforce the lobbyist's responsibilities and set out future expectations for that individual's conduct as a lobbyist.

## Education

The Lobbyist Registrar also has an education mandate to ensure that all stakeholders are aware of their requirements under the By-law and the Code of Conduct.

This year, the Office of the Lobbyist Registrar produced two interpretation bulletins to provide clarity on the application of the By-law:

- [Interpretation Bulletin on the Application of the Lobbyist Registry By-law to Social Media Communications](#)
- [Interpretation Bulletin on Grassroots Campaigns](#)

The Office of the Lobbyist Registrar also published newsletters for use by lobbyists, Members of Council and senior public office holders. Topics in these newsletters covered lobbying through social media, the closure of lobbying files, late registrations, and legislative updates in other jurisdictions.

## Outreach

This year, I attended the fall meeting of the Lobbyist Registrars and Commissioners network (LRCN). The meeting was held virtually and was hosted by British Columbia's Office of the Registrar of Lobbyists. The conference included:

- Presentations on recent jurisdictional developments and updates on legislative reform
- A roundtable discussion on lobbying and elections
- A roundtable discussion on lobbying and social media
- A workshop session led by the Quebec Commissioner of Lobbying, presented by representatives from the Organisation for Economic Co-operation and Development (OECD)

# 2021: THE YEAR IN NUMBERS

## Trends

The following statistics generally show a slow return to business as usual following the height of the COVID-19 pandemic restrictions in 2020.

In 2019, a total of 243 new lobbyist registrations were made, which dropped to 193 new lobbyist registrations in 2020. In 2021, the total number rose to 223 new lobbyist registrations made, for an increase of 15.54% over the previous year—a return to pre-pandemic levels.

The changes in these registration figures, however, are contrasted by trends in the number of new lobbying files created per year. In 2019, prior to the pandemic, a total of 392 lobbying files were created. In 2020, the number of new files created fell to 219, rising slightly in 2021 to 240 new lobbying files created. The disparity between pre-pandemic and pandemic figures for new lobbying files may indicate a continued slowdown in the growth of new business.

Of note is that “Health and Safety” has risen to one of the top 3 most popular subject matters for lobbying this year, alongside “Information Technology” and “Transportation”. In 2019 and 2020, the top 3 most popular subject matters for lobbying were “Information Technology”, “Transportation” and “Infrastructure”.

## Graphs

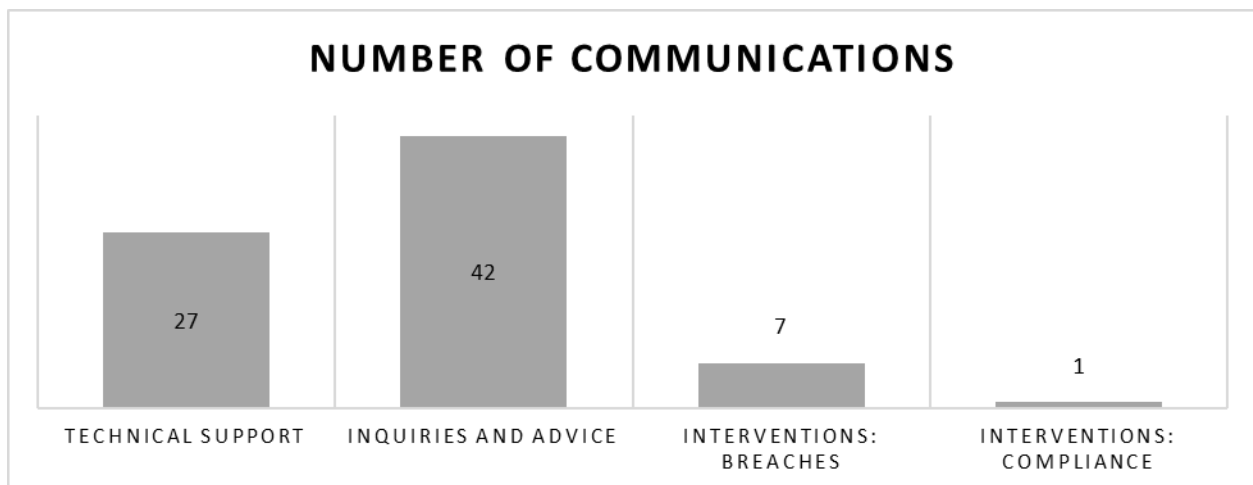


Figure 6: Total number of communications (initial points of contact)

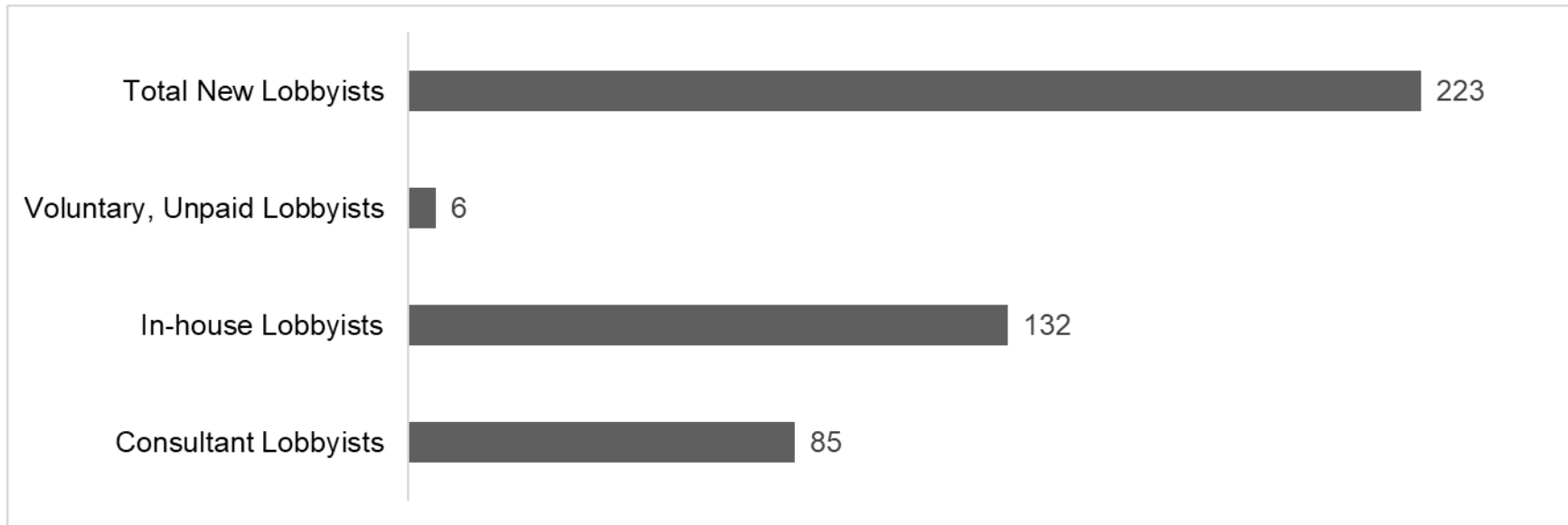
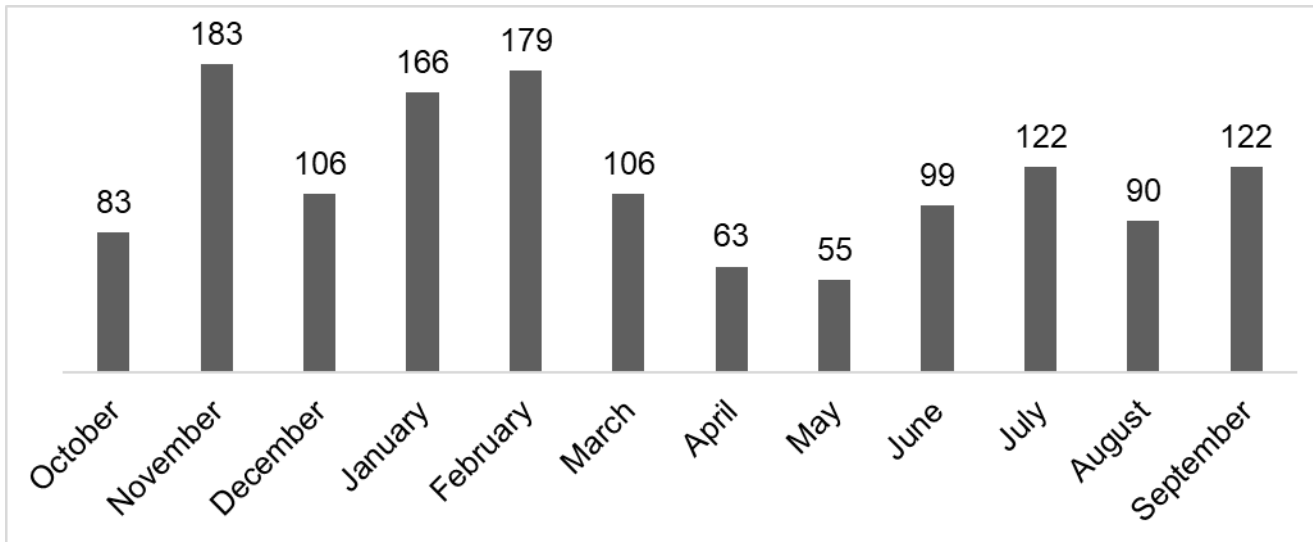


Figure 7: Total number of new lobbyists

Rank	Subject	Total Lobbying Files Registered, 2021
1	Information Technology	34
2	Transportation	33
3	Health & Safety	18
4	Planning and Development	18
5	Procurement	16
6	Infrastructure	12
7	Affordable Housing	8
8	Garbage/Recycling	8
9	Environment	8
10	Transit/OC Transpo; Zoning By-law	7

Figure 8: Top ten registered subject matters





An increase in the total number of activities created—from 873 in 2020 to 1374 in 2021—could indicate that lobbyists have adapted to the COVID-19 pandemic by leveraging greater access to public office holders through virtual methods of communication.

Figure 9: Total lobbying activity by month

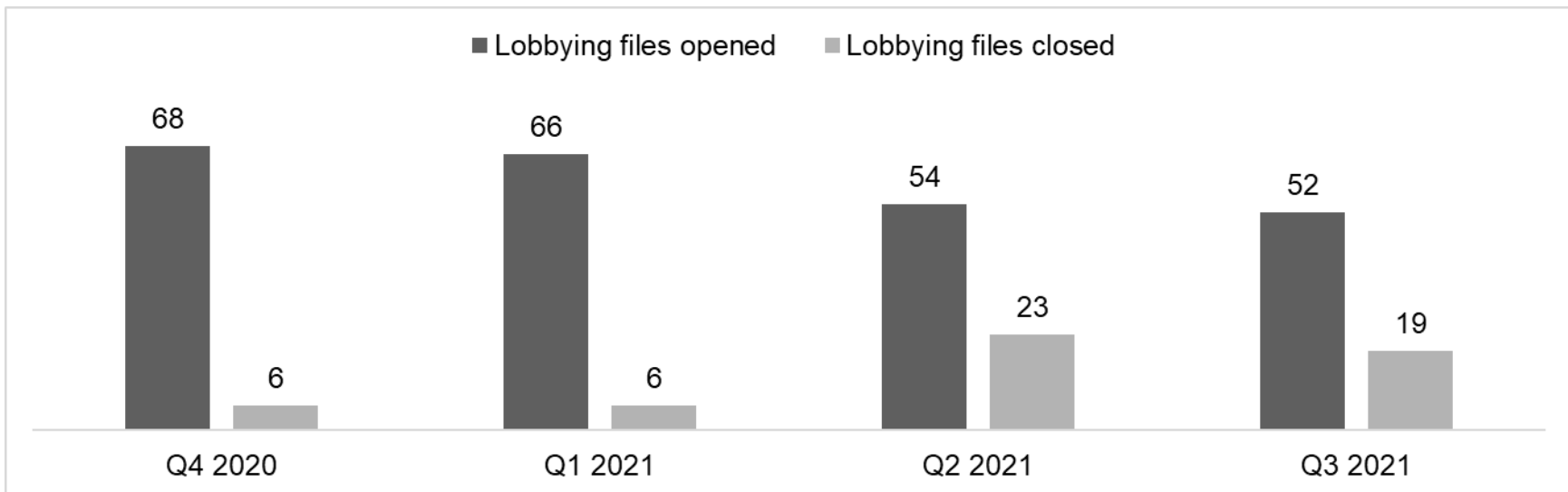


Figure 10: Lobbying files opened and closed by quarter

## 2021: KEY THEMES AND TOPICS

Over the past year, the Office has noted emerging themes related to the By-law and the Code of Conduct, which I have summarized below with some considerations for interest.

### Lobbying as a Legitimate Activity

In 2021, the Office of the Lobbyist Registrar received several inquiries and complaints alleging breaches of the By-law and the Code of Conduct. Upon review of these inquiries, the Office determined that a written explanation sufficed as a response, because the actions in question fell within the boundaries of the By-law and the Code of Conduct.

These kinds of inquiries and complaints demonstrate an enduring issue in the field of lobbying regulation: that, for a variety of reasons, lobbying has become inextricably associated with negative connotations.

It is important to note, however, that the Office of the Lobbyist Registrar operates on the principle that lobbying is legitimate activity that plays an important role in democratic society. Like any other process involving public office holders, lobbying must be done transparently and performed with the highest ethical standards.

Lobbying is a legitimate activity that creates an open flow of information between a variety of individuals representing different interests and public office holders.

The By-law purposefully employs a broad definition of lobbying that captures a variety of individuals and interests:

“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.”

This definition includes scenarios that are traditionally associated with lobbying:

- A developer proposing new construction on a parcel of land.

- An information technology firm demonstrating a new product.

As well as scenarios that are not traditionally associated with lobbying:

- A not-for-profit organization with paid staff seeking to expand their operations.
- A small business owner increasing the number of parking spots outside their store.

Interactions like these create an open flow of information—from all sectors of society—that contributes to the ability of public office holders to make informed decisions. The aim of the Lobbyist Registry By-law is not to discourage this flow of information, but rather to ensure that lobbying communications take place within defined parameters, and to include members of the public in this process by providing transparent information on what takes place during these conversations. Through these mechanisms, lobbying can be seen to benefit not only lobbyists, but public office holders and members of the public as well.

## **Gifts, Benefits and Hospitality**

Both the Code of Conduct for Members of Council and the Lobbyists' Code of Conduct are clear on the practice of providing gifts, benefits or hospitality.

Section 12(4) of the Code of Conduct for Members of Council prescribes that:

Unless pre-approved by the Integrity Commissioner, the acceptance of any gift, benefit or hospitality from lobbyists with active lobbying registrations or from their registered clients or their employees by Members of Council or their staff is prohibited.

Section 6 of the Lobbyists' Code of Conduct requires that:

1. Lobbyists shall avoid both the deed and the appearance of impropriety.
2. Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.
3. Lobbyists with active lobbying registrations, their registered clients or their employees shall not, directly or indirectly, offer or provide any gift, benefit or hospitality to Members of Council or their staff.

These rules apply equally to large gifts, like box tickets to a hockey game, and small gifts, like a cup of coffee.

While the latter of these examples may seem inconsequential, the spirit of these rules is to mitigate the risk of creating a sense of obligation that could lead to bias, perceived or real, in the decision-making process.

## Pre-registration

The pre-registration of lobbying activities is not a requirement of the By-law. When public office holders ask individuals to pre-register, they create unnecessary administrative burden on themselves, potential lobbyists, and Lobbyist Registry staff. A request to pre-register might also have a stifling effect on access to public office holders, which runs counter to the spirit of the By-law.

To reduce the administrative burden on users, the Lobbyist Registry was designed to act as a database only for lobbying that has already taken place. Lobbyists are allowed to lobby at any time—the only reporting requirement for lobbyists is that they register any lobbying communications within 15 business days after they have occurred.

When lobbyists pre-register without a definite meeting, they create incomplete entries in the Registry, which might give the appearance of non-compliance.

A complete registration includes at least one lobbying file and one lobbying activity.

Public office holders are expected to check the Lobbyist Registry monthly to verify whether instances where they have been lobbied are properly registered. The Office of the Lobbyist Registrar is available to intervene in cases of repeated non-registration.

## LOOKING FORWARD: 2022

I began my tenure during a time of great change for the Office of the Lobbyist Registrar. My first year as Lobbyist Registrar is proving to be an exciting one, and I look forward to working on the following issues in 2022.

## Education

One of the initiatives I undertook during my first month was to meet with Members of Council. While these meetings were primarily established as meet-and-greets, they also

provided an opportunity to discuss the Accountability Framework, including my various responsibilities as Integrity Commissioner.

A recurring theme that arose during these meetings was a request for more education, which led to the creation of IntegriTalk, a short, monthly bulletin targeting Members, focusing on the different responsibilities set out by the Accountability Framework. The first IntegriTalk discussed Members' duties regarding lobbying and provided some advice to help in carrying out these obligations.

In the coming year, I plan to continue the educational initiatives started by my predecessor, as well as continue discussions with public office holders and meet with lobbyists regarding the By-law, the Code of Conduct and the Lobbyist Registry platform.

## **System updates**

The original Lobbyist Registry platform was designed in 2012 without expenditure by repurposing existing database software. While the Registry has performed well over the years, the Office of the Lobbyist Registrar has steadily received comments from stakeholders noting limitations in the system.

I am encouraged to note that lobbyists want to enter their files more efficiently, and that both public office holders and members of the public want to search the Registry more thoroughly. To that end, I am pleased to report that the Office of the Lobbyist Registrar has already begun working with the City's Innovative Client Services department to develop an improved replacement for the current system. Lobbyist Registry staff have compiled a list of potential features for the new platform, including:

- An improved, step-by-step registration process with a review function to identify incomplete entries
- A larger selection of search options
- The ability to print records or export search results directly to a spreadsheet
- The ability for users to receive registration alerts for profiles.

Given that the current Registry platform has been able to satisfy the requirements of the By-law using existing resources, I look forward to furthering the mandate of this Office through the next iteration of the system. I encourage Members of Council to begin

thinking about the changes they may wish to see in the Lobbyist Registry, and I look forward exploring these with them.

## **Governance**

In 2021, my predecessor recommended a concurrent review of elected officials' and lobbyists' codes of conduct, specifying the following items for potential update:

- Non-disclosure agreements for contracted consultants who are also lobbyists
- A duty to disclose lobbying activity as part of contracts with Members of Council
- A prohibition on lobbying while under a City consulting contract
- A “cooling-off” period for consultants to prevent lobbying after a contract ends
- Considerations related to apparent, real and potential conflicts of interest.

Council directed the Integrity Commissioner, alongside the Office of the City Clerk, to carry out this review, and to include considerations related to post-employment lobbying restrictions, as part of the 2022-2026 Governance Review.

# Meetings Investigator

The *Municipal Act, 2001* requires that all meetings of City Council, its committees and local boards be open to the public, except as permitted by specific discretionary and mandatory exceptions.

The exceptions permit closed meetings of City Council, a local board or committee of either, to discuss a number of matters including, but not limited to: labour relations or employee negotiations, litigation or potential litigation affecting the municipality or local board, advice that is subject to solicitor-client privilege, and personal matters about an identifiable individual.

The open meetings requirements of the *Municipal Act, 2001* cover in-person meetings, as well as electronic meetings featuring remote participation.

Anyone who feels that a meeting or part of a meeting of City Council, a local board, or a committee of either was closed to the public for the wrong reason, or that other rules for closed meetings were broken, may submit a request for investigation to my Office.

In my capacity as Council-appointed Meetings Investigator I receive such requests and investigate as required.

Upon receipt of a request, I conduct an initial analysis to determine whether a formal investigation is required. An initial analysis might include reviewing the meeting agenda, disposition and confidential minutes from the *in camera* session to ensure I have sufficient information to render a decision on whether to proceed.

Where an investigation is necessary, I investigate in order to determine if the meeting, or portion of the meeting, contravened the open meeting provisions of the *Municipal Act, 2001*. As required by internal procedures, an official Notice of Intent to Investigate will be issued to meeting attendees through the City Clerk.

At the end of an investigation, I submit my findings and recommendations in a public report to City Council or the local board.

## ***How to submit a request for investigation***

- ✓ Complete the “Request for investigation of a closed meeting” form online at Ottawa.ca.
- ✓ Provide as much information as is known, including the date of meeting and the name of the body holding the meeting.
- ✓ There is no fee for submitting a request.

When a violation of the open meeting rules has been reported, City Council (or the local board) is required to take action. Specifically, City Council must pass a resolution stating how it intends to address the report.

## **2021: THE YEAR IN BRIEF**

From October 1, 2020 to September 30, 2021, the Meetings Investigator did not receive any requests for investigation of a closed meeting.

During that period, Council and its committees went into closed session eight times. The body holding the meeting, date, reason for resolving *in camera* and open meeting exception(s) cited were as follows:

### *Council*

- November 25, 2020: City Manager's 2018-2020 Performance Appraisal and Related Employment Matters
  - personal matters about an identifiable individual, including staff;
  - labour relations or employee negotiations; and
  - the receiving of advice that is subject to solicitor-client privilege

### *Audit Committee*

- April 27, 2021: Follow-up to the 2015 Audit of Information Technology Security Incident Handling and Response
  - the security of the property of the city; and
  - personal matters about an identifiable individual, including staff

### *Auditor General Hiring Panel*

- October 29, 2020: Select the candidates to interview for the position of Auditor General, as well as to consider matters related to the next steps in the hiring process, including the interview guide
- November 6, 2020: Interview the selected candidates for the position of Auditor General



- November 16, 2020: Consider the selected candidate(s) for the position of Auditor General and consider next steps. (The *in camera* meeting was recessed and re-commenced on December 15, 2020, and subsequently recessed and resumed on December 17, 2020)

All *in camera* sessions of the Auditor General Hiring Panel were held pursuant to the following open meeting exceptions:

- personal matters about an identifiable individual, including staff; and
- labour relations or employee negotiations

#### *Finance and Economic Development Committee*

- March 2, 2021: LRT Stage 1 – Claims Update
- May 18, 2021: LRT Legal Updates – Stages 1 and 2

Both *in camera* sessions of the Finance and Economic Development Committee were held pursuant to the following open meeting exceptions:

- litigation or potential litigation affecting the City; and
- the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose

#### *Information Technology Sub-Committee*

- June 14, 2021: A presentation on portions of the Information Technology Services' 2021 Workplan Update related to the Security and Digital Risk program
  - the security of the property of the City

City Council is not required to go *in camera* every time an exception applies. During the 2020-2021 reporting period, there were two instances where *in camera* items were listed on an agenda, but the items were discussed in open session. Both of these instances occurred during meetings of City Council:

- December 9, 2020: Appointment of an Associate Medical Officer of Health
- December 18, 2020: Recommended candidate for the position of Auditor General and related matters

## **Advance Notice of *in camera* Items**

During the Integrity Commissioner's 2014-2015 reporting cycle, the Office of the City Clerk initiated a practice of notifying the Meetings Investigator in advance of the public notice of any Council or committee meeting where it was expected that matters would be considered *in camera*. The practice provided the Meetings Investigator with the opportunity to review the appropriateness of the planned closed session before the Clerk's Office issued public notice as part of the meeting agenda.

In December, 2020, as part of the 2018-2022 Mid-term Governance Review, City Council endorsed the informal practice as a formal protocol of the Office of the City Clerk through an amendment to the Council *Procedure By-law*.

Throughout 2020-2021, staff of the Office of the City Clerk and the Meetings Investigator have upheld this protocol.

# Financial Statement

The Integrity Commissioner’s Office is funded through the Office of the City Clerk. As of September 1, 2021, the Integrity Commissioner’s remuneration consists of a \$25,000 annual retainer and a per diem of \$250 per hour to a daily maximum of \$1,250.<sup>1</sup> Prior to September 1, 2021, the per diem was \$200 per hour to a daily maximum of \$1,000.

The work of the Integrity Commissioner, including the frequency and complexity of the investigations conducted by the Office, has evolved over the past few years and external services have been retained, as necessary. The cost of these additional services is reflected in the breakdown below.

The following is a breakdown of the period of October 1, 2020 to September 30, 2021.

	<b>Q4 2020</b>	<b>Q1 2021</b>	<b>Q2 2021</b>	<b>Q3 2021</b>	<b>TOTAL</b>
<b>Retainer*</b>				\$25,440	\$25,440
<b>Salary*</b>	\$35,616	\$23,099	\$32,054	\$23,507	\$114,276
<b>Ancillary Costs</b>	\$1,001	\$750	\$744	\$567	\$3,062
<b>Materials and Services</b>	\$101,504	\$37,255	\$56,461	\$2,646	\$197,866
<b>Hours Logged</b>	175	113.5	159	102.5	550

\*includes tax less eligible municipal rebates

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<sup>1</sup> On March 10, 2021, City Council approved Motion 50/9 which included the new remuneration schedule.