

## **ADR Chambers Process for Investigating Code of Conduct Complaints**

ADR Chambers will use the process outlined below, which from the City’s perspective, has worked effectively during their tenure as the City’s Integrity Commissioner.

### **Intake & Complaint Assessment**

Complaints can be submitted through a City-approved Complaint Form and Affidavit supplied by ADR Chambers. The Complainant will complete and submit the Complaint Form and Affidavit to the City Clerk who will then email it to ADR Chambers. Upon receipt of the Complaint Form and Affidavit by ADR Chambers, an Intake Officer at ADR Chambers will open a file, assign the complaint a file number and record the Complainant’s contact information.

The Intake Officer will then send a Consent and Confidentiality Agreement (“CCA”) to the Complainant if a CCA has been adopted by the City. The CCA outlines the confidential nature of the process and expectations of the Complainant. The Complainant signs and returns the CCA to the Intake Officer.

As Integrity Commissioner, Mr. Harnick will examine the complaint to determine whether the Office of the Integrity Commissioner has the jurisdiction to investigate it. Mr. Harnick will investigate only complaints over which he has jurisdiction. Complaints that are abusive, vexatious, frivolous, inapplicable or dealt with under alternative legislation (or policies) or otherwise outside of the jurisdiction of the Office of the Integrity Commissioner will not be investigated.

If the complaint is outside the Integrity Commissioner’s jurisdiction, Mr. Harnick will instruct the Intake Officer to advise the Complainant and the City Clerk of the reasons and close the file. Otherwise, Mr. Harnick will assess whether the allegations would constitute a breach of the Code of Conduct or the *Municipal Conflict of Interest Act* (“MCIA”), if substantiated.

If the allegations could not constitute a breach of the Code of Conduct, then the Office of the Integrity Commissioner will send the Complainant an “Initial View Letter” explaining why an investigation would not be appropriate in the circumstances, and the Office of the Integrity Commissioner will close the file.

If the complaint could constitute a potential breach of the Code of Conduct the matter will proceed to investigation.



## **Investigation, Report Drafting and Recommendations**

In consultation with the City, Mr. Harnick will first determine whether the matter is one that he should investigate personally or have one of the Associate Investigators undertake the investigation. If the City wants Mr. Harnick to investigate any complaint personally, he will do so.

Mr. Harnick or his designate will then conduct an investigation to determine whether a Member of Council has violated the Code of Conduct, the MCIA or a municipal protocol, by-law or policy governing ethical behaviour.

The investigator will invite the Member to respond to the complaint within 10 days of the Member's receipt of the request. The Member's response will be sent to the investigator and then to the Complainant. The Complainant will be given 10 days from receipt to submit a reply.

The investigator will then interview the Member, the Complainant and any other relevant person. The investigator will also request all relevant documents and review the written material.

With the parties' consent, the investigator may explore whether the issue may be resolved by mediation, if appropriate, and can try to mediate a resolution of the matter. All the proposed investigators are trained mediators.

The investigator will draft a report using a template. Each report includes an outline of the original complaint and responses, a review of relevant documents; analysis – including a review of applicable policies bylaws and legislation; and a conclusion and recommendation.

In any investigation conducted by one of the Associate Investigators, a Draft Report will be sent to Mr. Harnick for his review and approval. All reports are also subject to the ADR Chambers internal review process. The review process ensures that the conclusions and any recommendation reached are supported by the facts and legislation and are appropriate in the circumstances. The internal review process is conducted by an ADR Chambers employee who is a lawyer. The reviewer will provide recommendations to Mr. Harnick and he will revise the report as he deems appropriate.

The Draft Report will then be sent to the Member and the Complainant for their review and comment; they are given 10 days to provide comments.



Mr. Harnick will consider any comments received and finalize the report (the “Final Report”). The Integrity Commissioner Office endeavors to complete all investigations within 90 days of receiving a Complaint Form and Affidavit.

If Mr. Harnick decides that there is insufficient evidence to establish a breach of the Code or an ethical violation, then the Office of the Integrity Commissioner will close the file, notify the parties and the City Clerk of the closure, and provide the associated rationale for the closure of the file. The Office of the Integrity Commissioner may also close a file where the complaint becomes frivolous, abusive or vexatious.

If Mr. Harnick determines that there has been a violation of the Code of Conduct or the MCIA , he may make a recommendation respecting an appropriate sanction in the Final Report. The City Clerk distributes the Final Report to Council. It is ultimately Council’s decision whether to impose a sanction, based on the recommendation in the Final Report. The Final Report may then be made available to the public (in accordance with the confidentiality obligations).

### **Sample Timeline for Completing Investigations:**

The timeline below illustrates ADR Chambers’ proposed response times for investigations.

	Time from receipt of complaint	Description:
<b>Step: 1</b>	Day 1	The Intake Officer receives the completed Complaint Form and Affidavit from the City
<b>Step: 2</b>	Up to Day 8	<p>Within 2 days the Intake Officer opens the file and forwards the Consent and Confidentiality Agreement (“CCA”) (if one is adopted by the City) to the Complainant for signature.</p> <ul style="list-style-type: none"> <li>• The Complainant has 5 days to return the signed CCA (if one is adopted by the City) to the Intake Officer</li> <li>• The Intake Officer forwards the signed CCA (if one is adopted by the City) to the Integrity Commissioner</li> </ul>
<b>Step: 3</b>	Up to Day 18	<p>Within 10 days the Integrity Commissioner determines whether he has jurisdiction to review the complaint</p> <ul style="list-style-type: none"> <li>• After determining the Integrity Commissioner has jurisdiction he either sends the Complainant an Initial View Letter (explaining why an investigation is not appropriate) or starts an investigation</li> </ul>



<b>Step: 4</b>	Up to Day 28	<ul style="list-style-type: none"> <li>• If the complaint proceeds to investigation the Intake Officer sends the complaint to the Councillor and invites the Councillor to respond to the allegations</li> <li>• The Councillor has 10 days to send a Response to the Intake Officer</li> <li>• The Integrity Commissioner may grant the Councillor an extension to provide a Response</li> </ul>
<b>Step: 5</b>	Up to Day 38	<ul style="list-style-type: none"> <li>• After receiving the Response from the Councillor the Intake Officer forwards it to the Integrity Commissioner</li> <li>• The Intake Officer also forwards the Response to the Complainant who has 10 days to send a Reply to the Intake Officer</li> <li>• The Integrity Commissioner may grant the Complainant an extension to provide a Reply</li> <li>• The Integrity Commissioner may attempt to settle the complaint at any point</li> </ul>
<b>Step: 6</b>	Up to Day 63	<ul style="list-style-type: none"> <li>• Once the Intake Officer receives the Reply from the Complainant the Intake Officer forwards it to the Integrity Commissioner</li> <li>• The Integrity Commissioner conducts and completes the investigation within 25 days</li> <li>• Throughout the investigation the Integrity Commissioner may continue to explore the possibility of dispute resolution</li> </ul>
<b>Step: 7</b>	Up to Day 73	<ul style="list-style-type: none"> <li>• The Integrity Commissioner has 10 days to prepare a Draft Report</li> </ul>
<b>Step: 8</b>	Up to Day 78	<ul style="list-style-type: none"> <li>• After the Intake Officer receives the Draft Report from the Integrity Commissioner ADR Chambers has 5 days to review the Draft Report</li> <li>• The Intake Officer sends any suggested revisions to the Integrity Commissioner for consideration</li> <li>• The Integrity Commissioner finalizes the Draft Report</li> </ul>
<b>Step: 9</b>	Up to Day 88	<ul style="list-style-type: none"> <li>• The Intake Officer sends the Draft Report to the Councillor and the Complainant for comment</li> <li>• The Councillor and the Complainant have 10 days to provide any comments to the Intake Officer</li> </ul>



<b>Step: 10</b>	Up to Day 90	<ul style="list-style-type: none"><li>• The Intake Officer receives any comments on the Draft Report from the Councillor and/or the Complainant and forwards the comments to the Integrity Commissioner</li><li>• The Integrity Commissioner prepares the Final Report</li><li>• The Intake Officer sends the Final Report to the Complainant and the Councillor</li><li>• If there has been a violation of the Code of Conduct the Integrity Commissioner will make a recommendation to Council for an appropriate sanction in the Final Report</li><li>• The Intake Officer will send the Final Report the City Clerk who can distribute it to Council</li><li>• Council may decide whether to impose a sanction based on the recommendation in the Final Report</li><li>• The Final Report may then be made available to the public (while maintaining the confidentiality obligations as set out in the Bill 68 amendments)</li><li>• If the Integrity Commissioner determines that there is insufficient evidence to conclude there was a breach of the Code or an ethical violation then the Intake Officer will close the file notify the parties and the City Clerk of the closure and provide reasons.</li></ul>
-----------------	--------------	---