

**Municipality of Chatham-Kent**  
**Integrity Commissioner**  
**Annual Report, for the year 2023**

I was appointed Integrity Commissioner and closed meeting investigator for the Municipality of Chatham-Kent effective November 27, 2019. The purpose of this report is to advise Council of my activities as Integrity Commissioner, during 2023 and until the end of my last term. My appointment covers Council as well as the agencies, boards and committees (collectively referred to as “Council”) that report through Council. It has been a distinct pleasure to serve as Integrity Commissioner for the Municipality of Chatham-Kent for the last four years.

The *Code of Conduct* is a living ethics document that members of Council have considered and have endorsed. It is intended to supplement the provisions of the *Municipal Conflict of Interest Act* in a way that makes sense locally, to be used to guide Councillor conduct. The *Code of Conduct* is also intended to uphold values that support the principles of open, accountable and transparent government reflected in the *Municipal Act, 2001*. As a living document, the Code of Conduct is intended to reflect the values that members of Council believe are core to how they conduct themselves in office, knowing that Council will be measured against these values. It is intended to be reviewed and updated regularly, especially after an election when there is turnover in the members of Council. Part of the role of Integrity Commissioner is to educate public officials and the public on the ethical values reflected in the Code and sometimes on those that ought to be in place.

The duties assigned to me as Integrity Commissioner are set out in Section 223.3 of the *Municipal Act, 2001* and Section 18 of the *Municipality of Chatham-Kent Code of Conduct for Members of Council* as follows:

- Providing advice to members of Council, individually or collectively, respecting the application of the *Code of Conduct* and the *Municipal*

*Conflict of Interest Act*, or other policies that govern the ethical behaviour of members of Council;

- Providing educational information to members of Council about the *Code of Conduct*, the *Municipal Conflict of Interest Act* and other matters related to the ethical conduct of members of council;
- Assessing and investigating where appropriate, formal written complaints respecting alleged contraventions of the *Code of Conduct* to determine whether the complaint is within the jurisdiction of the Integrity Commissioner, whether it is substantive or if it is something that could be characterized as frivolous and vexatious, and whether it is within the public interest to pursue either formally or informally;
- Determining whether a member of Council or local board has in fact violated a protocol, by-law or policy governing their ethical behaviour, including this *Code of Conduct*, with the final decision-making authority resting with Council as to whether the recommendation(s) of the Integrity Commissioner are imposed;
- Providing Council, through the Municipal Clerk, with written reports following investigations and otherwise annually, which the Clerk shall include on the next public meeting agenda of Council.

The *Municipal Act, 2001* is clear that I perform my duties independently. Most of the work of an Integrity Commissioner is done in a way that protects the confidentiality of councillors, complainants and others who use the services of this office. There are legislative requirements respecting confidentiality and when confidential information can be released, meaning disclosure is rare. The assurance of confidentiality encourages full disclosure from those who engage in any way with an Integrity Commissioner. The volume of activity that an Integrity Commissioner is engaged in is driven by requests for advice and training and by the number and complexity of complaints received.

Over the course of 2023, I have responded to the following matters:

Requests for advice from members of Council: 23

Requests for advice from members of the public: 2

Requests for advice from staff: 4

Complaints received and determined not within my jurisdiction: 0

Complaints dismissed without investigation: 7

Complaints investigated: 5

Complaint about an agency, board, committee member: 0

Open meeting complaints: 1

Council attendance respecting education session: 1

Council attendance to present report on investigation: 1

Council educational memorandum: 1

Total fees for 2023 by the Integrity Commissioner: \$50,200

Chatham-Kent councillors are proactive and continued to make a number of requests for advice concerning potential conflicts prior to a matter being discussed at a Council meeting. These inquiries fall into four main categories: questions respecting a councillor's employment when that employment requires interaction with municipal staff; questions concerning membership in community organizations that may lead to interactions with municipal staff or respecting applications for grants or for planning approvals that could be before Council; questions regarding family members and potential conflicts related to other matters before Council; questions respecting social media posts and what contravenes the Code of Conduct. I have not provided a summary of the advice provided, as to do so would likely disclose the identity of the councillor seeking advice. Under Section 223.5 of the *Municipal Act, 2001*.

In 2023 I can state that the biggest issues that I was asked to deal with were related to social media posts by members of Council and the development proposed in downtown Chatham that could include the civic centre, library and a community centre and which is most often referred to as the redevelopment of the Downtown Chatham Centre or DCC.

As early as my update to Council presented on October 26, 2020, I have recommended to Council that guidelines respecting the use of social media be included in the Code of Conduct, and this continues to be my recommendation.

I saw a significant increase in the number of complaints and concerns raised by the public concerning social media posts by members of Council, especially after the 2022 election. Most of the matters complained of did not constitute a breach of the Code in my opinion however, they did serve to identify an area of concern in the eyes of those reacting to social media posts by members of Council.

On May 15<sup>th</sup> I submitted an educational memorandum to all members of Council and copied to senior staff respecting the use of Social Media by Members of Council and the nature of the complaints I had received generally. The increased costs related to my office mostly relate to matters related to the use of social media by members of Council.

Respecting the Downtown Chatham Centre, I was able to respond quickly to residents' complaints expressing concern because many members of Council had discussed this proposal with me, and sought advice for a variety of reasons. I was also able to respond to the single closed meeting complaint I received, which concerned this matter, because staff assisted and provided me with the information required.

I consider providing advice to be my most important role as it prevents breaches of the *Code of Conduct* or the *Municipal Conflict of Interest Act*. When asked to provide advice to individual members of Council, as previously noted, it is on a confidential basis, however the member of Council may choose to disclose the advice given, and I have no concerns with sharing the advice provided but would add that before others rely on it, please consider that it is fact-specific advice. It is my practice to confirm in writing the facts explained to me and the advice given, so that members of Council can rely on my advice as a defence if their actions are subsequently challenged, as provided for in section 223.3(2.2) of the *Municipal Act, 2001*. Proactive advice can assist elected officials and those appointed to boards and committees, and I look forward to responding to more requests going forward.

I have received full support and access to corporate records and information from staff whenever I have asked for it. Staff and members of Council that I have interacted with have all been very professional and helpful.

As my term of office and related extensions has come to an end, I would like to thank the Clerk for her professionalism and for her assistance where required to access municipal records and staff. All staff I have contacted have been very helpful. I would also like to thank the Mayor and Members of Council for your actions to proactively seek advice to avoid conflicts, and for your support.

Respectfully submitted,



Mary Ellen Bench, BA, JD, CS, CIC.C

Municipality of Chatham-Kent

Integrity Commissioner

[maryellen@benchmunicipal.com](mailto:maryellen@benchmunicipal.com)