

Principles Integrity

January 6, 2024

Christopher Harris, Town Clerk
Town of Whitby
575 Rossland Road East,
Whitby, ON L1N 2M8

Re: Practical Considerations Respecting Bill 241
'An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001
in relation to codes of conduct'
(Municipal Accountability Act, 2024)

Thank you for providing us the opportunity to comment on Bill 241 for the purposes of your anticipated report to Council on the matter. Our comments are of course limited to Schedule 2 of the Bill, which deals with proposed changes to the *Municipal Act*.

It is important to note at the outset that the following critique is given from the perspective of a practicing Integrity Commissioner interested in improving a workable system and preserving the right-sized nature of the consulting, advice, education and complaint administration functions currently being provided to municipal councillors and local board appointees throughout Ontario.

While we recognize the need for some modification to the code of conduct/conflict of interest/integrity commissioner provisions found in part V.1 of the *Municipal Act*, we are concerned that the concepts set out in the Bill, if adopted, could in fact undermine the successes of the scheme. Most important is the significant wasted opportunity arising from what appears to be a singularly-focused attempt to manage only the most serious breaches of codes of conduct by adopting an expensive, lengthy and uncertain process requiring a unanimous Council decision to declare the seat of an offending member to be vacated. The Bill provides little guidance on what might be done to address (and prevent) less egregious breaches that do not warrant contemplation of removal from office, or to offer interim measures to mitigate difficult situations while process unfolds towards seeking a declaration of vacancy.

More specifically:

Focus on Removal

- The process created for addressing egregious breaches that might warrant removal from office will be lengthy and expensive. Given the requirement for a unanimous decision of Council (following investigations from both the municipality's Integrity Commissioner and the Provincial Integrity Commissioner (ICO)), removal from office at the conclusion of the process is far from certain. In the meantime, a victim affected by egregious behaviour would have no remedy while the process plays out (see below under 'Opportunity Cost').
- Because of the potential for removal in serious cases, an Integrity Commissioner should have the opportunity to 'elect' at the beginning of a complaint process to either a) intensely investigate and report with the end goal of providing a brief of information sufficient to serve as a foundation for the ICO's own investigation where removal from

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office is seen to be warranted, or b) review the matter through an investigation geared to resolve the matter or provide recommendations to Council based on reasonable findings, if a complaint is substantiated. It would be overly costly and time-consuming for a municipal Integrity Commissioner to investigate every complaint with the same procedural rigour regardless of severity. While procedural fairness must always be provided, the depth of scrutiny and documentary evidence involved in an investigation should correspond to the nature of the conduct complained of and the realistic opportunities available to resolve the matter in a manner which best serve the public interest.

Lack of Detail

- With so much of the Bill left to future regulation or to standards and training plans to be developed by the ICO, at this point in time one can only attempt to predict what may be implemented if the Bill is adopted. Some significant questions come to mind which remain unanswered:
 - Will there be a standardized Code of Conduct for all municipalities in Ontario? If so, will it be developed with broad consultations involving the public, elected officials, municipal staff, Integrity Commissioners, and other interested parties (all of whom would have important municipal contextual experience)? Will the Code continue to be treated as a policy document as it is at present, being given broad and liberal interpretation, or will it be treated as some sort of subordinate legislation listing discrete non-compliant acts as might be found in a regulatory by-law governing traffic or signage?
 - Will mandated investigation protocols be modeled on litigation procedures (initiating forms, the service of documents, inflexible timelines, narrow adjudications) or will they allow for approaches seeking appropriate course correction and outcomes in the nature of restorative justice? Will every complainant be required to commence an inquiry in the identical way, or will there continue to be opportunity for an Integrity Commissioner to clarify, formulate, or narrow a complaint so as to best serve the public interest by facilitating the complaint to be reasonably addressed?
 - In our parlance, will the Integrity Commissioner be the ‘cop’ or ‘sheriff’, or as we prefer the ‘coach’ or ‘teacher’? Will our role be simply to enforce or will we continue to guide and educate?

Style and Perspective

- The system currently in place enables municipal Integrity Commissioners to advise municipal clients on Codes of Conduct, which Codes serve as effective guides to support elected officials and local board members as they carry out the challenges of their roles. When complaints are received, municipal Integrity Commissioners have the agility to clarify, narrow or dispose of complaints as may be appropriate, and pursue resulting investigations in a right-sized manner that is relatively timely and minimizes costs to the municipality.

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- Will the content in prescribed Code of Conduct provisions be structured as helpful guidance, or will it be burdened by dense rules and procedures setting out the do's and don'ts of elected/appointed office?
- What will inform the nature of the standards and training packages to be developed by the ICO? Will they be based on the challenges of municipal governance, or on compliance models derived from other types of institutions? (It may not be widely recognized that at present the ICO has no relationship or nexus with municipal Integrity Commissioners in Ontario)
- Are Integrity Commissioners to be perceived primarily as complaint investigators, or will their other important functions (educator, advisor, good governance consultant) be recognized?
- Curiously the proposed subsection 223.4.0.2(2) of the Act provides that the ICO in considering the prescribed criteria for removal of a sitting elected official (set out in the proposed 223.4.0.1(1)), may give consideration as follows:

223.4.0.2 (2) In making a determination under subsection (1), the Integrity Commissioner of Ontario may consider, among other matters, whether,

- (a) the contravention negatively impacts public confidence in the ability of the member to discharge their duties; and
- (b) the contravention negatively impacts public confidence in the ability of the council or local board to fulfil its role, including by meeting its statutory obligations.

These are considerations that should be in the mind of every municipal Integrity Commissioner considering a complaint in first instance, and not left to wait for the limited circumstances of an ICO inquiry into whether a seat should be vacated.

The Opportunity Cost

- By focusing, for the most part, on removal from office, (the Bill provides little detail on such things as training approaches and the nature of prescribed Code rules) the Bill fails to address important deficiencies in the current system. For example, the Bill:
 - Fails to offer or clarify the power of municipal Councils to impose remedies (in addition to penalties) that directly address the misconduct giving rise to a complaint. For example under the *Education Act* school boards have the ability, on an Integrity Commissioner's recommendation, to suspend a Trustee's attendance at meetings, which municipal Councils cannot do at present, even where complaints arise from conduct at Council meetings.
 - Though municipal Councils do have broad powers to address the matters that come before them, there is some question as to whether a Council can, in response to an Integrity Commissioner's report, deny the respondent Councillor a privilege that the rest of Council continues to enjoy. For example in the appropriate circumstances the following may be suitable corrective measures, but the ability of a Council to impose the measures on the recommendation of its Integrity Commissioner is uncertain:

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- Suspending the ability of an elected official from carrying out some or all of their functions, including attendance at a meeting(s)
- Restricting speaking time, or the number of questions that might be asked, at meetings of Council or its committees
- Being authorized to attend meetings with outside parties, such as provincial officials
- Using or being present at municipal facilities when the Code breach involved behaviour at those facilities
- Interacting with members of staff, or the public, such as at job interviews; being required to address municipal administration only through identified individuals, such as the CAO, and then only on certain conditions
- Being required to attend meetings only virtually, if their prior attendance at meetings was relevant to the complaint in question
- Being on municipal premises after hours, when the behaviour complained of was relevant to after-hours attendance
- Suspending or restricting discretionary funds, if the complaint resulted from a breach of the rules governing the use of discretionary funds

This list of examples is of course inexhaustive, with remedies depending upon the nature of the breach underlying a complaint

- The Bill does not address current gaps in legislation (for example, by updating the *Municipal Conflict of Interest Act* to recognize non-pecuniary interests and other mechanisms for public transparency) nor does it remedy the text of provisions found to be unclear in practice.

For the information of Council, and to give context to our recommendation for a different approach to modifying the current municipal Integrity Commissioner scheme, attached are the submission made by the Municipal Integrity Commissioners of Ontario (MICO) in 2021 as part of the consultations then underway, and MICO's adopted Statement of Principles.

All of which is respectfully submitted.

Sincerely,

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Integrity Commissioner for
the Town of Whitby

June 18, 2021

Honourable Jill Dunlop
Associate Minister of Children and Women's Issues
Ministry of Children, Community and Social Services
438 University Avenue, 7th Floor
Toronto ON M5G 2K8

Sent by Email: jill.dunlop@pc.ola.org

Dear Associate Minister Dunlop,

Re: Municipal Councillor Code of Conduct Consultations

I write on behalf of the Municipal Integrity Commissioners of Ontario (MICO), which at its meeting of June 16, 2021 endorsed by general consensus this submission to the government's consultations now underway.

Background:

The Ministry of Municipal Affairs and Housing has launched a consultation to strengthen municipal codes of conduct.

The Association of Municipalities of Ontario (AMO) was asked during its December 2020 consultation meeting with the Minister of Municipal Affairs and Housing to provide input on a potential council member recall mechanism, and in response the Association provided a position paper to the Minister on February 3, 2021.

On March 5, 2021 the Province launched consultations with the municipal sector generally, seeking to 'strengthen municipal codes of conduct' through obtaining input on 'ways to increase accountability of council members'. The stated goal is to ensure that members of municipal councils maintain a safe and respectful workplace, and carry out their duties ethically and responsibly.

Broadly stated, the consultation is seeking feedback on:

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

The consultation is being led by yourself, the Associate Minister of Children and Women's Issues "to hear from members of council, municipal associations as well as municipal staff on how to ensure that municipal staff and officials are supported and respected in the workplace."

Having already received AMO’s input, the Province is using the AMO submission as the basis for a short survey seeking the municipal sector’s reflection on AMO’s recommendations to the Minister:

- Increased financial penalties to encourage compliance
- Suspension for certain violations
- Removal from office in certain circumstances
- Better training and standards for integrity commissioners,

The survey also seeks input on mandatory code of conduct provisions, where and when additional and stronger penalties for code violation should occur, and how codes of conduct can be better enforced.

A link to the survey can be found at <https://news.ontario.ca/en/release/61154/ontario-now-accepting-public-feedback-to-strengthen-municipal-codes-of-conduct>

A link to AMO’s submission can be found at <https://www.amo.on.ca/advocacy/strategic-priorities/municipal-code-conduct-consultation-launched>

MICO, the Municipal Integrity Commissioners of Ontario, has compiled a submission to be considered in the consultations.

MICO is a voluntary group of integrity commissioners who meet periodically to discuss issues of importance to the profession. It is, at present, an informal organization with no permanent staff. The administration of the association is undertaken by its members, with some administrative support being provided by the office of the City of Toronto Integrity Commissioner.

Given the focus placed on AMO’s work by the Province, this response is formulated in a way that both reflects and builds upon that organization’s February 3 submission.

The MICO Submission:

<p>PART A: COMMENTS ON AMO SUBMISSION</p> <p>AMO Guiding Principles</p> <p>AMO has endorsed several principles that underpin its submission, and which are recommended to guide the Ministry’s work as it undertakes its review of councillor accountability mechanisms. “The most significant ideas behind these principles are respect for municipal government as a democratic institution including municipal electors, evolution of current mechanisms, practicality and acknowledgement that enforcing criminal law is a separate task from the Code of Conduct compliance matters being considered here.”</p> <p>The AMO submission also identifies a number of discrete considerations, which are listed below.</p>

Additional considerations not contained within the AMO submission are addressed in Part B.	
AMO Position	MICO Comments
<p>1. AMO Guiding Principles</p> <ul style="list-style-type: none"> • Subsidiarity and accountability to electorate – decisions taken at the closest level of their impact and local electors must be consulted/decisions respected. • Mature municipal governments – councils should decide and implement sanctions, not other orders of government. • Clear link to municipal governance – process and actions encourage compliance with governance policies and insulated from vexatious claims and political grievances/reprisals. • Practicality – can the outcome be achieved affordably in a term of office. • Respects other legal processes – does not replace criminal conviction which results in forfeit of a council seat. 	<p>We are supportive of the AMO Guiding Principles.</p> <p>We are concerned, however, that the consultations’ genesis appears to have arisen out of egregious behaviour on the part of a few municipal councillors. Improper conduct runs from mild incivility to outright harassment and bullying, and there is a concern that by focusing on increasing penalties for rare-event circumstances the whole integrity commissioner oversight process will become more litigious, and more expensive, and less focused on public interest solutions.</p> <p>It is important to recognize that integrity commissioners currently serve as guides to proper ethical behaviour and do that by carrying out functions ranging from education and advice to full investigations with recommended sanctions.¹ Preservation of the current accessible, less legalistic, fair and solutions-oriented mechanism should be a guiding principle in the consultations.</p>
<p>2. Removal by Minister and Recall by Voters AMO rejects as solutions the removal from office of an elected official either by the Minister or by political process such as voter recall, as failing to meet several of its guiding principles.</p>	<p>We are supportive of the AMO position.</p> <p>The potential for removal by a Minister of the Crown or by public petition would unnecessarily politicize the matter. If it should occur, removal should only result from a deliberated decision to remove a duly elected (or in some cases appointed) official where their ethical behaviour falls far below an accepted standard, impacting their municipality and/or those around them in a fundamental way. [See also the discussion under Section 6 (Removal from Office) below]</p>
<p>3. Code of Conduct Enforcement and Integrity Commissioners AMO is supportive of enhancing the current code of conduct / integrity commissioner</p>	<p>We agree that Codes of Conduct should be locally adopted policies because there is value in Councillors deliberating on, and adopting, the standards that will apply to them. That said, there should be</p>

¹ It should be noted that a small minority of municipalities delegate to their integrity commissioners the responsibility to *impose* a sanction.

regime through the enhancement of integrity commissioner powers and processes to incent compliance with locally adopted codes of conduct.

At the same time, AMO acknowledges that education and standardization of the role should be pursued over time, seeing a role for the Ministry to provide a continuous improvement regime for qualifications and skill sets of Commissioners regardless of their client base across Ontario.

AMO is also of the view that orientation to the ethical oversight regime be provided through education to municipal candidates, and better reflected in AMO's own educational offerings and the Ministry's Councillor Guide.

mandatory provisions that are to be adopted into every code of conduct.

Municipal officials are better supported than ever before through access to the confidential, binding and timely advice of their own Council's integrity Commissioner, who typically is well-versed in the objectives of municipal governance and the role of the municipal councillor. The current regime also provides an important mechanism to hold municipal elected officials publicly accountable through a fair and publicly accessible process. The code of conduct consultation is a timely opportunity to consider what works well and where room for improvement exists since implementation of the mandatory regime two years ago.

In the interests of setting common standards across Ontario, it may be prudent to adopt a template complaint protocol that deals with the appointment and tenure of integrity commissioners, the application of procedural fairness, requirements that informal processes be available, speaking to whether fees for the filing of complaints should be permitted, the standards of proof required, mechanisms to incorporate statutory and common law conflict of interest complaints, and the status of the integrity commissioner as a legitimate actor in the administration of justice insofar as municipal integrity matters are concerned. The standard complaint protocol should set out, in addition, the procedural steps councils (or as noted in section 9 below, Peer Review Panels) should follow when considering investigation reports from an integrity commissioner.

Regarding continuous improvement, in lieu of the Ministry developing and delivering educational programs to establish qualifications and skill sets for integrity commissioners, MICO proposes to partner with an established municipal or ethics-based organization to institute a training syllabus for integrity commissioners in order to foster best

	<p>practices and common standards for the role, including investigations.</p>
<p>4. Administrative Monetary Penalties AMO recommends that Councils be empowered to establish Administrative Monetary Penalties to account for local circumstances.</p>	<p>The AMO proposal to establish administrative monetary penalties (AMP) is not well understood. Compliance with codes of conduct is not similar to other regulatory law enforcement matters currently using AMPs. A fundamental underpinning of AMPs is that they are treated essentially as strict or absolute liability offences. Unless there is an identification issue, or a factual matter is found to be in error (e.g. offence date, property identification) the AMP defendant is treated as deemed guilty, without the need for a hearing. Context is unimportant in an AMPs matter, but is vitally important in a code of conduct matter.</p> <p>Integrity Commissioners favour an approach to complaint administration that focuses on good governance and effective and equitable solutions, and fear that the introduction of AMPs will introduce parallel processes to deal with adjudication and appeals which would make the regime more expensive, and less certain, for municipalities.</p> <p>While sanctions are necessary, the focus should be on a solutions-oriented system where bad behaviour is well-articulated in public reports, with sanctions reserved to prevent and moderate future offending behaviour.</p> <p>Recognizing that the impact of suspensions of pay varies depending upon the daily salary equivalent earned by Councillors, most of whom are part-time in their roles, there may be room to identify dollar values for sanctions which may be imposed, rather than be limited to increments of days paid up to a maximum of 90 days. The latter approach would certainly be important in regard to local board member matters, given that most local board members receive no salary to suspend. The administration of such penalties could, however, be problematic.</p>

5. Suspension the members of AMO's Board believe that such an action should only be taken where a member's participation in a meeting or meetings is immediately or imminently likely to make response to an emergency situation or other health and safety threat very challenging or impossible.

The AMO position to reserve suspensions to emergency or health and safety circumstances is too narrow. Councils should have the ability to suspend a member from attendance at meetings for specified and time-limited purposes.

For example the *Education Act* provides for the following sanctions that may be imposed upon a finding that a Trustee has breached a code of conduct:

1. Censure of the member.
2. Barring the member from attending all or part of a meeting of the board or a meeting of a committee of the board.
3. Barring the member from sitting on one or more committees of the board, for the period of time specified by the board.

Explicit powers to remove an elected official from attendance at a meeting of Council or meetings of committees of council should be considered.

In addition, consideration should be given to the provision of explicit powers to reverse appointments and privileges conferred on a councillor. Municipalities should also be empowered to fashion remedies directly related to the offending behaviour, particularly to discourage or prevent the reoccurrence of the behaviour, such as:

- Preventing unmonitored access to staff (in the case of harassment or bullying)
- Assigning to someone else the role of hiring a councillor's staff (in the case of inappropriate behaviour during interviews)
- Removing access to resources and tools (such as suspending the use of a corporate credit card for violation of an expense policy)
- Denying access to premises or facilities (where the ethical breach has occurred at a particular location)

	<p>If potential remedies are to include suspension from carrying out the role of councillor for a period of time, or removal from office, it would be appropriate that the decision-maker in those circumstances (even if the decision is to apply to another body, such as the courts, for a remedy) should not be council, but another body, as discussed in Section 9 below.</p>
<p>6. Removal from Office In the most significant situations, the Board believes that there should be the ability to remove members of council when the most significant breaches of Codes of Conduct are found.</p>	<p>If removal from office is to be considered as a potential remedy one option is to recommend a separate application to court in order to do so.</p> <p>Many years of experience with the <i>Municipal Conflict of Interest Act</i>, however, show that the courts are reluctant to remove elected officials from office for breach of that statute. The expectation is the same with respect to the adjudication of ethical breaches where removal from office is a consideration.</p> <p>From a pragmatic perspective, applications to the courts involve lengthy processes, with final decisions often arriving in close proximity to municipal elections.</p> <p>In legislative bodies there is process for the assembly to determine that one of its members has breached accepted standards to such an extent that they should lose their ability to serve. It would be inappropriate to provide this power to a municipal council to remove one of its own. See Section 9 below.</p>
<p>7. Education and Standardization AMO proposes that that MMAH provide funding and resources to improve the education and performance of Integrity Commissioners to create norms and standards in the office holders to improve councillor and public acceptance and trust.</p>	<p>As noted above:</p> <p><i>Regarding continuous improvement, in lieu of the Ministry developing and delivering educational programs to establish qualifications and skill sets for integrity commissioners, MICO proposes to partner with an established municipal or ethics-based organization to institute a training syllabus for integrity commissioners in order to foster best practices and common standards for the role, including investigations.</i></p>

	<p>Ministry support in terms of funding and resources would be welcomed, so long as the involvement of integrity commissioners, who have on-the-ground experience in dealing with the realities of municipal public service, is recognized as beneficial in designing and providing training on best practices.</p>
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PART B: ADDITIONAL CONSIDERATIONS NOT ADDRESSED IN THE AMO SUBMISSION

8. Focus on the full range of behaviours, not just the most egregious

AMO’s general endorsement of the integrity commissioner regime is welcome.

That said, the focus of the consultation seems to be placed on enforcement of codes of conduct, with particular emphasis on the potential for removing members from office in egregious circumstances. Care should be taken to avoid shifting the regime from a right-sized, relatively informal administrative process into one that borrows from and is burdened by the attributes of other, more formal, tribunal processes. At essence an integrity commissioner is a coach or teacher, with some ability to offer course correction, more so than a sheriff or judge. To assist in understanding the role, the MICO Statement of Principles is attached.

Municipal codes of conduct should therefore be regarded as helpful guides to ethical behaviour and not simply as mechanisms for enforcement against non-compliant members. The integrity commissioner’s role should focus on building a strong ethical framework through the improvement of codes of conduct and other policies governing ethical behaviour, conducting education and training, and the provision of discrete and confidential advice and guidance. Complaint administration should be considered an important but residual function.

9. The consideration of code sanctions should not be done by a member’s council.

It is certainly appropriate that sanctions recommended to be imposed on a locally-elected official should be considered by the offending-member’s peers.² The courts should not be burdened with any matter short of an application to suspend or remove a member from office.

It is too often the case, however, that Councils in considering the recommendation of an integrity commissioner find their deliberations affected by local political considerations. There is merit in having the ethical behaviour of municipal councillors adjudged by their peers but that may place too

² As noted above, it is possible for a municipality to delegate the imposition of a penalty to their integrity commissioner.

significant a political burden on colleagues on the same Council, particularly when the Council is few in number.

Consideration should be given to the establishment of regional panels of elected officials (Peer Review Panels, or PRPs) who may i) consider the recommendations of integrity commissioners in first instance relating to councillors within their catchment area and/or ii) consider whether the imposition of a second tier sanction should be imposed, such as suspension or removal from office, or alternatively made the subject of an application to court.

The catchment area for each such review panel would be larger than the largest jurisdiction within it (as is the case with conservation authorities), so that representatives from a diverse set of municipalities would be enabled to come together to consider and decide upon the reports from the various integrity commissioners that would report to it. Regional PRPs would have the dual benefit of removing from the local council the responsibility of deciding upon recommendations about one of its own members, while at the same time ensuring a similarity of approaches across a broad set of municipalities.

Panels would consist of a fair representation from their constituent municipalities, and could also distribute membership by taking into account position on council and length of service, so that a broad cross-section of municipal elected officials would be the decision-makers on integrity commissioner recommendation reports. Selection could be at random, or based on set criteria, in a process administered by the clerks of the participating municipalities.

In egregious circumstances, if suspension or removal from office is to be a consideration, the panels could be authorized to initiate an application to the courts to implement the sanction.

10. Opportunities for progressive discipline would assist in influencing better behaviour, where required

Consideration should be given to the provision of explicit authorization for a municipality to impose a sanction (at minimum a reprimand) with the ability to monitor the offending councillor's behaviour and impose an additional sanction within three months of the integrity commissioner report being first considered. Alternatively, integrity commissioners could be given the express power to remain seized of a matter so that they can return to Council with additional recommendations without being required to commence a new investigation.

11. There are important modifications to codes of conduct, the *Municipal Act* and the *Municipal Conflict of Interest Act* that should either form part of the consultations, or be identified for future implementation:

- Consideration of Collingwood Judicial Inquiry Recommendations, particularly as they relate to the avoidance of conflicts of interest and the codification of non-disqualifying interests

- Consideration of additional mandatory code provisions to be required by regulation, including with respect to:
 - Avoidance of conflicts of interest
 - Obstructions or reprisals
- Clarification of the role of the integrity commissioner to administer *Municipal Conflict of Interest Act* matters
- Extending the role of the integrity commissioner to locally-elected organizations not subject to the *Municipal Act* provisions requiring the appointment of integrity commissioners – such as Library Boards, School Boards, and District Social Services Administration Boards
- Clarifying the definition of ‘local board’ (or replacing it) for the purpose of requiring codes of conduct and integrity commissioner oversight. It should, for example, be clear that the members of bodies which are created by council, appointed by council, and which carry out a municipal purposes should be able to benefit from integrity commissioner advice and oversight. These same bodies are subject to the *Municipal Conflict of Interest Act* but in some cases have no mechanism to seek advice from an integrity commissioner, nor to have conflicts complaints administered except through court process.
- Clarifying the meaning of ‘membership’ under the *Municipal Conflict of Interest Act* so that membership in an organization relates to either an ownership interest (such as being a member of a golf or curling club) or being part of the directing mind of the organization
- Providing for additional *Municipal Conflict of Interest Act* exemptions, such as with respect to deemed pecuniary interests arising merely because the salary or benefits of a child of a member, who is a member of a broad class of municipal employees, might come before council (recognizing that members may discuss and vote on their own salaries and benefits under existing exemptions).
- Clarifying in either section 7 of the *Municipal Conflict of Interest Act* or in the *Municipal Act* that a member’s disclosure that they have a ‘disqualifying interest’ in a matter (in respect of an interest not described in the *Municipal Conflict of Interest Act* but that nevertheless disqualifies them under the code of conduct or the common law) qualifies for the saving provision set out in section 7 of the MCI Act:

7 (1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, despite any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.

12. The responsibility of Council when acting in a disciplinary mode should be clarified.

In addition to setting out the required procedural steps when considering an integrity commissioner's report (see the discussion on standardized complaint protocols set out in section 3 above) consideration should be given to adding a subsection (d.2) to section 224 of the *Municipal Act* (Role of Council) to read:

(d.2) to ensure the accountability and transparency of elected and appointed officials, including members of council when considering reports from the accountability officers established under Part V.1 of the *Municipal Act*;

All of which is respectfully submitted on behalf of the Municipal Integrity Commissioners of Ontario.

Sincerely,

Jeffrey A. Abrams

Principles Integrity
Integrity Commissioner

Jeffrey A. Abrams and
Janice Atwood-Petkovski, Co-Principals
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- c. Honourable Steve Clark, Minister of Municipal Affairs and Housing
(by email: steve.clark@pc.ola.org , minister.mah@ontario.ca)
Municipal Integrity Commissioners of Ontario
Association of Municipalities of Ontario (AMO)
Association of Municipal Managers Clerks and Treasurers of Ontario (AMCTO)

Municipal Integrity Commissioners of Ontario Statement of Principles

As members of the Municipal Integrity Commissioners of Ontario (MICO), we endorse and undertake to promote these attributes and values as we carry out our roles as integrity commissioners in the communities we serve.

We employ the principles of reasonableness, fairness and natural justice to inform the interpretation and application of ethical codifications, so that in any circumstance the principal objective is the enhancement of the public interest.

As independent statutory accountability officers appointed by and reporting to municipal councils and other public bodies, we recognize that our primary role is to foster a culture of healthy ethical behaviour amongst elected and appointed officials.

We do this by exercising our responsibilities in a diligent, expert and respectful manner, guided at all times by a considered assessment of what will best serve the public interest.

We do this by championing the tenets of local democracy, accountability, transparency, procedural fairness and natural justice.

We do this by understanding that our jurisdiction is established by provincial statute, local enactments and judicial decisions.

We do this by exercising our authority in a manner that promotes good governance, and effective and equitable solutions.

We do this by being articulate, careful, curious, courageous, empathetic,

humble, impartial, knowledgeable and timely, whenever there is cause to examine or advise on an issue of ethical responsibility.

We do this by exercising restraint and a solution-oriented perspective, favouring teaching opportunities over sanctions.

We do this by being collaborative, while protecting the independence of our role.

And we do this by making findings on the balance of probabilities, while exercising the judgment of a reasonable person fully informed of relevant facts and circumstances.