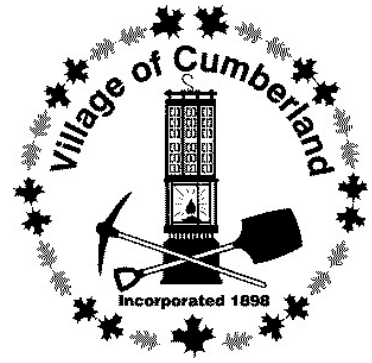


# COUNCIL POLICY



Title: Council Code of Responsible Conduct  Adopted Date: February 10, 2025 Amended Date:	No. 1.0  Section: Administration Motion No.
--	--

## Purpose

1. This policy sets out shared standards and expectations with respect to the conduct of Council members in their capacity as elected officials. These standards of responsible conduct are essential to providing good governance and are based on the foundational principles of integrity, accountability, leadership, responsibility, respect, openness, and collaboration.

## Application

2. This policy is to be interpreted broadly and in a manner that is consistent with the *Community Charter*.
3. The intention of Council in enacting this Code of Conduct is not to stifle Council members or to limit their ability to fully perform the governmental and advocacy functions that their position entails, with all the vigour, flair and freedom that is typical of a well-functioning democratic institution, but instead to guide Council members to undertake those functions in a manner that accords with sound ethical principles.
4. The foundational principles are to inform the interpretation of the substantive provisions of this policy and shall not form stand-alone bases for complaints.
5. Nothing in this policy is intended to preclude Council Members, prior to the filing of a complaint, from speaking to each other in order to resolve matters which may otherwise be captured by this policy.
6. This policy applies to all Council members, inclusive of their actions in their capacity as members of various Councils, committees, and other discretionary appointments.

7. Unless otherwise provided, this policy does not apply to a Council member's conduct in their personal life, except to the extent that such conduct reasonably undermines public confidence in local governance.
8. This policy applies without limitation to a Council Member's use of personal and professional social media accounts.
9. This policy will be provided as information to candidates for election, provided to new members of Council, included in new Council member orientation, and published on the Village website.

## **PART 1: ETHICAL CONDUCT**

### **Foundational Principles**

10. Responsible conduct is based on the following foundational principles:
  - (a) Integrity: Council Members are keepers of the public trust and must uphold the highest standards of ethical behaviour including by acting lawfully, being free from undue influence, and making decisions that benefit the community;
  - (b) Accountability: Council Members are trusted to act competently, diligently and responsibly and are accountable to the public for their actions and decisions;
  - (c) Leadership: Council Members must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour, including by demonstrating behaviour that builds and inspires the public's trust and confidence in the Village;
  - (d) Respect: Council Members must conduct public business efficiently, with decorum and with proper attention to the Village's diversity, by always treating each other and others with respect;
  - (e) Openness: Council Members must conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information;
  - (f) Collaboration: The social fabric of communities and the wellbeing of residents depends on solid and sustainable community partnerships. Council Members shall seek to collaborate whenever possible and appropriate.

### **General Conduct**

11. Council members must comply with all applicable federal, provincial and municipal laws in the performance of their public duties.

12. Council Members shall not engage with others, including committee members, staff, members of the public and other Council members, in a manner that is abusive, bullying, intimidating or derogatory.
13. Council Members shall not use their office to attempt to gain personal or financial benefits for themselves or their family members, friends or business interests.
14. Council Members shall perform their duties in accordance with the policies, procedures and rules of order established by Council from time to time.

### **Interactions with Staff, Public and Media**

15. Council members must direct questions and inquiries regarding Village operations and services to the Chief Administrative Officer and must refrain from contacting staff directly, unless the communication is minor and for the purpose of seeking administrative clarity.
16. Council Members shall not:
  - (b) interfere with, hinder, or obstruct staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions;
  - (c) impair the ability of municipal officers or staff to implement Council policy decisions in accordance with section 153 of the *Community Charter*;
  - (d) request or require that staff undertake personal or private work for or on behalf of a Council member; or
  - (e) request or require that staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.
17. Council Members must not publicly misrepresent a decision of Council, even if they disagree with that decision.
18. Council members must not make any disparaging comments about other Council Members or staff.
19. When presenting their individual opinions and positions, Council Members shall explicitly state that it is their own personal view and that their opinion does not represent Council or the Village in those views. For a social media account, this may be accomplished through a statement on the Council Member's profile.

### **Conduct at Meetings**

20. Council Members shall conduct themselves with decorum at meetings. This includes:
  - (a) complying with all conduct provisions set out in the Council Procedure Bylaw;
  - (b) adequately preparing for meetings;
  - (c) using respectful language;
  - (d) not using offensive gestures or signs;

- (e) listening courteously and attentively to all discussions before the body, and focusing on the business at hand;
- (f) not making comments not germane to the business of the body;
- (g) not interrupting other speakers, except to raise a point of order; and
- (h) not otherwise interfering with the orderly conduct of a meeting.

### **Handling of Confidential Information**

- 21. Council Members shall keep information and records prohibited from release under section 117 of the *Community Charter* in strict confidence.
- 22. Without limiting the generality of subsection (1), Council Members shall not disclose:
  - (a) information or records concerning the property, personnel, legal affairs, or other information of the Village distributed for the purposes of, or considered in, a closed Council meeting;
  - (b) resolutions or staff report contents from a closed meeting of Council unless and until a Council decision has been made for the information to become public; or
  - (c) details on Council's closed meeting deliberations or how individual Council Members voted on a question in a closed meeting.
- 23. Council Members shall not use confidential information to advance, directly or indirectly, their own personal, financial or other private interests.

### **Conflict of Interest**

- 24. Council members shall not participate in discussion of a matter, or vote on a question in respect of that matter, if the Council Member has a conflict of interest.
- 25. In respect of each matter before Council, a Council Member shall:
  - (a) assess whether they have a conflict of interest; and
  - (b) determine whether it is necessary to seek independent legal advice at their own cost, except where provided for by Village policy, with respect to any situation that may result in a conflict of interest.
- 26. If a Council Member believes that they have a conflict of interest in respect of a matter in a Council or committee meeting, the Council member shall:
  - (a) prior to the matter's consideration, notify the Mayor or chair of the meeting that they have a conflict of interest, stating in general terms why they consider that to be the case;
  - (b) leave any meeting if the matter is discussed and not return until the discussion has ended or voting has been concluded;

- (c) refrain from discussing the matter with any other Council Member publicly or privately; and
- (d) refrain from attempting in any way to influence the voting on any question in respect of the matter.

### **Gifts**

- 27. Council Members shall not accept a gift or personal benefit, except in accordance with section 105 of the *Community Charter*.
- 28. Council Members shall disclose a gift or personal benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*

### **Use of Public Resources**

- 29. Council members shall not use resources provided to them by the Village for private gain, personal purposes, or election-related purposes, including but not limited to:
  - (a) Staff time,
  - (b) Equipment, technology, and supplies, and
  - (c) Facilities and other property.
- 30. Council members shall not undertake municipal election campaign related activities at buildings, facilities or properties owned by the Village unless
  - (a) the facilities are publicly available for use and have been booked or rented through that process, or
  - (b) the facilities have been made available for a non-partisan candidate information session event by the Village for candidates for a local election.

## **PART 2: INVESTIGATION, COMPLIANCE AND ENFORCEMENT**

31. As an expression of the standards of conduct for Council Members expected by the Village, this Code of Conduct is intended to be self-enforcing.
32. This Code of Conduct is most effective when Council Members are thoroughly familiar with it and embrace its provisions
33. At any point in this procedure, including assessment or investigation, the Corporate Officer or person assisting with an informal investigation may, through the Corporate Officer,
  - (a) obtain professional advice or consult with an independent third party, including a solicitor, mediator, or consultant, provided there is budgeted funds to do so, and
  - (b) consider culturally appropriate or transformative or restorative justice approaches.

### **Step 1: Submission of Complaint**

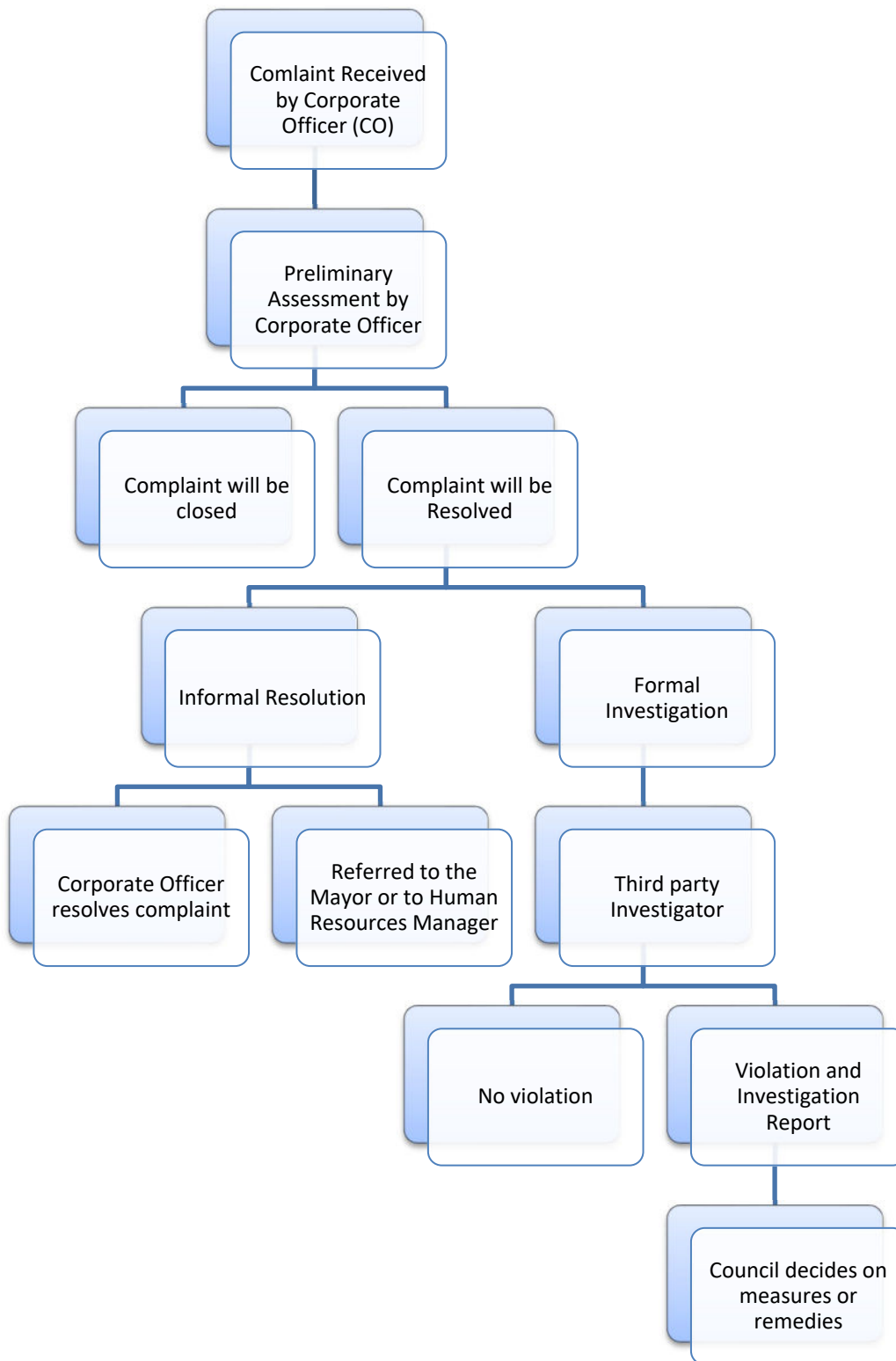
34. If a Council Member believes that they have observed another Council Member engaging in conduct that would breach this policy, they must attempt to resolve the complaint directly with the other Council Member, if possible, prior to submitting a complaint under the following section.
35. Subject to the previous section, a Council member or staff member may submit a complaint to the Corporate Officer or, if the complaint involves the Corporate Officer, to the Director of Corporate Services.
36. A complaint must be in writing, must be submitted within 60 days of the time that the complainant knew or ought to have known of the alleged breach, and must include, with sufficient detail:
  - (a) the name of the complainant;
  - (b) the name of the respondent Council Member(s);
  - (c) the conduct that the complainant alleges was in breach of this Code of Conduct;
  - (d) the date of the alleged conduct;
  - (e) the parts of this Code of Conduct the alleged conduct breached;
  - (f) the basis for the complainant's knowledge of the conduct; and
  - (g) whether, if the complainant is a Council Member, there was any attempt to resolve the complaint informally.
37. A complaint may be accepted despite that it does not comply with every requirement in section 36, if the Corporate Officer determines that there has been substantial compliance or if the circumstances otherwise warrant acceptance.
38. A complaint submitted outside the time limits set out in section 36 must be rejected, except that the Corporate Officer may grant an extension of no more than 30 further days if the circumstances of the complaint are sufficiently serious.

39. The Corporate Officer will inform the Council and the Council member respondent of the complaint.

**Step 2: Preliminary Assessment**

40. On receipt of a complaint, the Corporate Officer shall conduct a preliminary assessment of the complaint within 30 days of receipt. Upon request from the Corporate Officer, Council may extend the time for preliminary assessment.
41. If the Corporate Officer determines that any of the following circumstances apply, the Corporate Officer must notify the complainant and respondent Council Member in writing that the complaint will be closed, stating the reasons for the closure:
- (a) the complaint is not with respect to a breach of this policy;
  - (b) the complaint is frivolous, vexatious, or not made in good faith;
  - (c) the complaint would be more appropriately addressed through another process;
  - (d) the complaint is not in compliance with sections 35 and 36 and the respondent Council Member will be prejudiced by the complainant's failure to comply;
  - (e) the complaint concerns the same subject matter as a previous complaint that has already been accepted under this section, and it is not necessary to expand that original complaint or add the new complainant;
  - (f) the complainant wishes to withdraw the complaint, and it would be appropriate to allow the complaint to be withdrawn;
  - (g) the complaint was submitted by a Council Member, and the Council Member ought to have first attempted to resolve the complaint informally under section 34; or
  - (h) there are no possible grounds on which to conclude that a violation of this policy has occurred.
42. In completing the preliminary assessment, the Corporate Officer may request further information from the complainant before determining whether there are sufficient grounds to believe that a breach of this policy may have occurred.
43. If a complaint is received and the preliminary assessment concludes that the complaint will not be closed, the Corporate Officer must then determine whether the complaint may be resolved informally or requires a formal investigation.
44. If the Corporate Officer receives multiple complaints concerning the same matter, the Corporate Officer must proceed with the first complaint accepted, but may expand the complaint and/or add complainants for the purpose of seeking resolution of the complaint.

## Complaint Flow Chart



## **Option 1: Informal Resolution Procedures**

45. Where the Corporate Officer has determined that the complaint may be resolved informally, the Corporate Officer may, at their discretion,
  - (a) attempt to resolve the complaint directly,
  - (b) refer the complaint to the Mayor for assistance if the complaint is made by a Council Member, unless the complaint is against the Mayor in which case the complaint will be referred to the Acting Mayor; or
  - (c) refer the complaint to the Manager of Human Resources or Chief Administrative Officer for assistance if the complaint is made by a staff member.
46. The person assisting in the informal resolution of a complaint shall assess the suitability for settlement or resolution on an ongoing basis and may decline to assist at any point.
47. The complainant or respondent Council Member may decline to participate in an informal resolution at any time.
48. If the complaint is resolved informally by someone other than the Corporate Officer, the person assisting in resolving the complaint must notify the Corporate Officer in writing of the terms of the resolution, upon receipt of which, the Corporate Officer must close the complaint.
49. If the person assisting in the informal resolution of a complaint declines to assist, the complainant or respondent Council Member declines to participate, or 30 days has passed since the determination in section 43 was made by the Corporate Officer to resolve the complaint informally, then the complaint shall be referred for a formal investigation under this policy.
50. The Corporate Officer must report to Council if the complaint is resolved informally.

## **Option 2: Formal Investigation Procedures**

50. If the Corporate Officer determines that the complaint requires a formal investigation under section 43, or in the event that informal resolution is unsuccessful, the Corporate Officer shall refer the complaint to a neutral and independent third-party Investigator of their choosing to conduct an investigation and notify the complainant and respondent Council Member of the referral.
51. A formal investigation procedure will be funded from the General Fund Financial Stabilization Reserve and will require an amendment to the financial plan bylaw for that year once the investigation is completed.
52. The Investigator shall, at all times during an investigation, have power to dismiss a complaint on a preliminary basis as set out in section 41.
53. The Investigator, once retained, may only be dismissed for cause.
54. Once retained, the Investigator shall deliver the complaint to the respondent Council member, along with a request that the respondent Council member provide a written response to the complaint, together with any submissions that the respondent Council member chooses to make, within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
55. The Investigator may, at their discretion, deliver the respondent Council member's written response and submissions to the complainant and request a reply in writing within 10 days, subject to the Investigator's discretion to reasonably extend the timeline.
56. The Investigator may:
  - (a) speak to anyone relevant to the complaint;
  - (b) request disclosure of documents relevant to the complaint; and
  - (c) request access to any record in the custody or control of the Village of Cumberland, within the meaning of FIPPA, with the exception of records subject to solicitor-client privilege.
57. The Investigator has discretion to conduct the investigation as they see fit, but must ensure that the investigation complies with the rules of procedural fairness and natural justice required in the circumstances of the complaint.

## **Final Determination by Investigator**

58. The Investigator must conclude the investigation and make a determination regarding the alleged breach within 90 days of referral under section 50, unless the Investigator determines that doing so is not practicable, in which case the Investigator must request that Council extend the time for investigation and must notify the complainant and respondent Council member of this request. Council may extend the time for investigation

and the Investigator must then provide of written notice to the complainant and respondent Council member.

59. If, after reviewing all the material information, the Investigator determines that a Council member **did not violate this Policy**, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which shall include a determination of whether the complaint was submitted frivolously, vexatiously or in bad faith;
  - (b) deliver a copy of the investigation report to the complainant; and
  - (c) deliver a copy of the investigation report to respondent Council member, and the Council.
60. If, after reviewing all the material information, the Investigator determines that a Council member **did violate this Policy**, then the Investigator shall:
- (a) prepare a written investigation report providing reasons for their determination, which must include:
    - i. a summary of the factual findings of the Investigator;
    - ii. an application of the Policy, and any other applicable law, to the facts;
    - iii. a recommendation of the appropriate sanction, subject to subsection (iv); and
    - iv. if applicable, a determination of whether the respondent Council member took all reasonable steps to avoid the breach or whether the breach was trivial, inadvertent or due to an error in judgment made in good faith, in which case the Investigator may recommend that no sanction be imposed;
  - (b) notify the complainant that the investigation is complete and inform them that the investigation report, or a summary thereof, may be released to the public by the Council;
  - (c) deliver a copy of the investigation report to the respondent Council member; and
  - (c) deliver a copy of the investigation report to the Council directly or through the Corporate Officer 48 hours after the delivery of the investigation report to the respondent Council member.

### **Final Determination by the Council**

61. Before making any decision regarding the findings and recommendations set out in the investigation report, the respondent Council member must be provided with an opportunity, in person and in writing, to comment to the Council on the Investigator's determinations and recommendations.
62. The Council must, within 30 days of the Investigator's delivery of the investigation report, decide on the appropriate measures, if any, that are warranted by a breach of this Policy.
63. Council must consider the following factors when determining whether to impose a sanction on a Council member:
- (a) the degree and nature of the conduct;

- (b) whether the contravention was a single or repeated act;
  - (c) whether the Council member knowingly contravened this policy;
  - (d) whether the Council member took steps to mitigate or remedy the contravention;
  - (e) the Council member's history of other contraventions; and
  - (f) if applicable, the Investigator's finding that the respondent Council member took all reasonable steps to avoid the breach, or that the breach was trivial or done inadvertently or because of an error in judgment.
64. Council may impose the following measures or remedies for a violation of this policy:
- (a) a letter of reprimand from the Council, addressed to the respondent Council member;
  - (b) a request from the Council that the respondent Council member issue a letter of apology;
  - (c) directions to the Chief Administrative Officer regarding the method of providing and any retention of documents that contain confidential information to the respondent Council member;
  - (d) a recommendation that the respondent Council member attend specific training, counselling or coaching related to the conduct at issue;
  - (e) limitations on access to the Village office and certain municipal facilities;
  - (f) prohibition from representing the Village at events and/or attending conferences and travel;
  - (g) suspension or removal of the respondent Council member from the acting Mayor rotation;
  - (h) suspension or removal of the respondent Council member from internal and external committee appointments;
  - (i) suspension or removal as spokesperson of the Council if the Council member is the mayor or acting mayor;
  - (i) public censure of the respondent Council member; or
  - (j) any other sanction recommended by the Investigator, so long as that sanction is within the authority of the Council.
69. When the Council imposes a remedy pursuant to section 64, it may include secondary remedies to take effect on a date set by the Council in the event that the Council member fails to comply.

**Public Release of Investigation Report and Remedies**

66. An investigation report may be considered in a closed meeting if the circumstances warrant and there is valid reason to close the meeting under section 90 of the Community Charter.
67. The Council will generally deliberate and vote on the Investigator's recommendation in an open meeting unless there is valid reason to close the meeting under section 90 of the Community Charter.

68. Council may determine whether to release the investigation report, or a summary thereof, along with a summary of the Council's decision, if applicable, to the public, subject to the obligations under *Freedom of Information and Protection of Privacy Act*.

### **PART 3: OTHER PROCEDURAL MATTERS DURING COMPLAINT AND INVESTIGATION**

#### **Reasons to suspend investigation: Criminal Conduct**

69. If, at any stage in the complaint procedure, the Corporate Officer or the third-party investigator determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code*, or learns that there is an ongoing police investigation into the conduct that gave rise to the complaint, then they must immediately refer the matter to the appropriate authorities and suspend any investigation into the complaint until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council, the complainant, and the respondent Council Member.
70. For certainty, a complaint must be suspended while the respondent is on a mandatory leave of absence under section 109.3(1) of the *Community Charter*, and may be recommenced only once the mandatory leave of absence ends.

#### **Reasons to suspend investigation: Disqualification Proceedings**

71. If, at any stage in the complaint procedure, the Corporate Officer or Investigator determines that:
- (a) the subject-matter of the complaint is being addressed in a disqualification proceeding commenced under section 111 of the *Community Charter* (Application to court for declaration or disqualification); or
  - (b) the complainant could commence a disqualification proceeding under section 111 of the *Community Charter* in relation to the matter that is the subject of the complaint, the complaint must immediately be suspended until the proceeding under subsection (a) has concluded or the time-period within which the complainant could commence a proceeding has expired.
72. If a complaint has been suspended under section 71 it may be re-commenced upon the conclusion of a disqualification proceeding, or the time-period within which a disqualification proceeding could be filed has expired, if:
- (a) the Council Member who is subject to the complaint has not been disqualified from office by the British Columbia Supreme Court; and
  - (b) it would be in the public interest to do so.

## **Confidentiality**

73. The Corporate Officer, persons assisting, and Investigator must make all reasonable efforts to process and investigate complaints in a confidential manner.
74. The Investigator and every person acting under the investigator's instructions must preserve confidentiality with respect to all matters that come into the Investigator's knowledge in the course of any investigation or complaint, except as otherwise required by law.
75. Council members must make all reasonable efforts to keep complaints under this policy confidential at any stage, except as otherwise provided in this Policy.

## **Obstruction**

76. No Council member or staff member will obstruct the investigator or Corporate Officer in relation to the administration of this policy or the investigation of a complaint. Without limitation, the following shall constitute obstruction:
  - (a) uttering of threats against any person involved in the complaint;
  - (b) breaching the confidentiality of the investigation;
  - (c) destruction of relevant records or documents; and
  - (d) refusal to cooperate with the Investigator.
77. Any individual who is found to have obstructed the Investigator, contrary to section 76, or who makes a complaint that is subsequently found to have been made in a deliberately frivolous, vexatious or malicious manner, or otherwise made in bad faith, will be subject to appropriate disciplinary action, which may include, but is not limited to:
  - (a) in the case of Council members, sanctions and remedies as described in this Policy;  
or
  - (b) in the case of Staff, disciplinary action or termination of employment for just cause, as applicable.

## **Reimbursement of Costs**

78. A Council Member may make a request to Council for reimbursement of the costs of legal advice and representation in responding to the formal complaint process outlined in this policy.
79. If appropriate, after considering all of the circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:
  - (a) the Council Member has not previously been found to have breached this policy;
  - (b) the amount claimed is reasonable; and
  - (c) the Council Member did not engage in dishonest, grossly negligent, or malicious conduct.