

COMMITTEE OF THE WHOLE AGENDA

Monday, April 24, 2023 at 6:30 pm.

Council Chambers

325 Wallace Street, Hope, British Columbia

IMPORTANT: FOR ATTENDEES – MASKS ARE OPTIONAL

For those in attendance at District of Hope Open Council Meetings, please be advised that the Hope Ratepayers Association is recording these meetings. The District, in no way, has custody or control of the recordings.

Therefore, all persons who do not want their presentation or themselves recorded, please approach the Clerk to declare same and the District will relay this to the Association so that you can freely speak.

1. CALL TO ORDER

2. APPROVAL OF AGENDA

Recommended Resolution:

THAT the April 24, 2023 Committee of the Whole Meeting Agenda be adopted as presented.

3. ADOPTION OF MINUTES

(a) Committee of the Whole Meeting (1)

Recommended Resolution:

THAT the Minutes of the Committee of the Whole Meeting held February 13, 2023, be adopted as presented.

4. OTHER PERTINENT BUSINESS

(a) Code of Conduct - Drafting (3)

Council direction is required.

5. QUESTION PERIOD

Call for questions from the public for items relevant to the agenda.

6. CLOSE

MINUTES OF A COMMITTEE OF THE WHOLE MEETING

February 13, 2023
Council Chambers, District of Hope Municipal Office
325 Wallace Street, Hope, British Columbia

Council Members Present: Mayor Victor Smith
Councillor Heather Stewin
Councillor Scott Medlock
Councillor Angela Skoglund
Councillor Pauline Newbigging

Council Members Absent: Councillor Zachary Wells
Councillor Crystal Sedore

Staff Present: John Fortoloczky, Chief Administrative Officer
Donna Bellingham, Director of Corporate Services
Mike Olson, Director of Finance
Thomas Cameron, Fire Chief
Jas Gill, Director of Community Development
Branden Morgan, Deputy Corporate Officer/EA

Others in attendance: 15 members of the public
1 member of the media

1. CALL TO ORDER

Mayor Smith called the meeting to order at 7:01 p.m.

2. APPROVAL OF AGENDA

Moved / Seconded

THAT the February 13, 2023 Committee of the Whole Meeting Agenda be adopted as presented. **CARRIED.**

3. ADOPTION OF MINUTES

(a) Moved / Seconded

THAT the Minutes of the Committee of the Whole Meeting held January 18, 2023, be adopted as presented. **CARRIED.**

4. OTHER PERTINENT BUSINESS

There was no other pertinent business.

5. QUESTION PERIOD

There were no questions.

6. CLOSE

Moved / Seconded

THAT the February 13, 2023 Committee of the Whole Meeting adjourn at 7:02 p.m. **CARRIED.**

Certified a true and correct copy of the Minutes of the Committee of the Whole meeting held on February 13, 2023 in Council Chambers of the District of Hope, British Columbia.

Mayor

Director of Corporate Services

REPORT/RECOMMENDATION TO COUNCIL

REPORT DATE: 18 April 2023

FILE: C/w meeting

SUBMITTED BY: Chief Administrative Officer

MEETING DATE: 24 April 2023

SUBJECT: Council Code of Conduct - Drafting

PURPOSE:

The purpose of this report is to provide Council with background material and examples of other municipal Council Codes of Conduct in order to assist in the drafting and adoption of a Hope-specific Council Code of Conduct.

RECOMMENDATION:

Staff seek guidance regarding the following:

1. Council preference for this Code to in the form of a bylaw or policy;
2. Citing the examples provided, are any preferred as a template for continued drafting; and
3. Citing the examples and references provided, are their any particular areas of concern that must be addressed.

ALTERNATIVES & IMPLICATIONS:

By Provincial mandate, Municipal Councils must either work to adopt Codes of Conduct this year or declare to the Province, their intent not to do so. Thereupon, the next Council must adopt a Code of Conduct.

ANALYSIS:

A. Rationale:

Staff believe that the reference material and current Code examples support the current Council working to create their own. Delaying until the next Council could be seen as not being as supportive as possible to fostering respectful, effective and transparent leadership at the Council table.

B. Attachments:

1. Forging the Path to Responsible Conduct in Your Local Government
2. Responsible Conduct of Local Government Elected Officials
3. Mission City Code of Responsible Conduct Policy
4. District of Kent Council Code of Conduct
5. District of Squamish Bylaw to Regulate the Conduct for Council and Committee Members

Policy (Existing/Relevance/None):

District Respectful Workplace Policy

Prepared by:



Chief Administrative Officer

Original Signed By John Fortoloczky

Forging the Path to **RESPONSIBLE CONDUCT** In Your Local Government



WORKING GROUP ON RESPONSIBLE CONDUCT

APRIL 2021

THANK YOU TO ALL PROJECT PARTICIPANTS

The Working Group on Responsible Conduct is a joint initiative of the B.C. Ministry of Municipal Affairs, the Local Government Management Association of British Columbia, and the Union of British Columbia Municipalities.

We sincerely appreciate the valuable contributions of all those who assisted the Working Group on Responsible Conduct in developing this guide, *Forging the Path to Responsible Conduct in Your Local Government*.

The project greatly benefited from the support and involvement of these participants, including B.C. local government elected and staff officials, and the legal experts who advise them. These individuals, through their willingness to share their experiences, were absolutely central in showing us how leading local governments can manage conduct issues within the current B.C. context. They are truly forging the path to responsible conduct in their communities. It is our hope that in passing on the wisdom built through those experiences, the guide will provide others with practical ideas to allow them to do the same.



INTRODUCTION

About this Guide

How local government elected officials conduct themselves matters. Conduct is central to governance and when conduct issues emerge, especially if allowed to fester, good governance can be impaired and public trust eroded. Yet dealing with conduct issues can sometimes be overwhelming and governing in the face of them enormously challenging.

The guide presents practical ways to help prevent conduct issues and to deal with them if they do arise. The guide does not represent legal advice, nor is it a substitute for that advice.

Guide Development

This guide was developed by the Working Group on Responsible Conduct (WGRC), a joint initiative by the Union of British Columbia Municipalities, the Local Government Management Association of British Columbia (LGMA), and the B.C. Ministry of Municipal Affairs. The staff-level Working Group undertakes collaborative research and policy work on the issue of responsible conduct of local government elected officials.

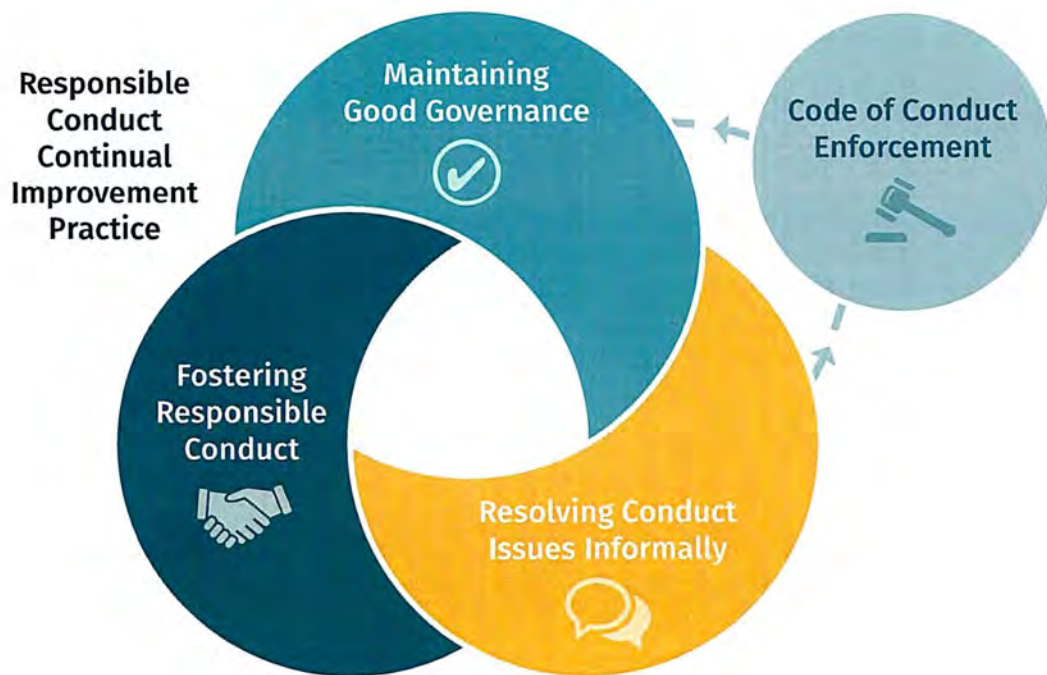
This guide builds on, and should be read in conjunction with, three previous WGRC publications: *Foundational Principles of Responsible Conduct for BC's Local Governments* along with *Getting Started on a Code of Conduct for Your Council/Board: Model Code of Conduct* and its *Companion Guide*.

The guide was informed by WGRC research, a review of a sample of B.C. local government codes of conduct that include enforcement provisions, and discussions with local government elected and staff officials and legal experts experienced in responsible conduct matters.

Our key take-away from those discussions was: **It's worth putting a lot of effort into prevention and informal resolution of conduct issues. There are enforcement processes if that doesn't work, but in practice, local governments are finding more success with informal methods.**

Watch for highlighted leading practice tips and quotes from trusted advisers that came to the WGRC during our research.

All resources noted in the chapters are linked in Chapter 6, Resources.



Guide Organization

The guide is organized around two central concepts:

- A continuous improvement practice to foster responsible conduct, maintain good governance, and resolve conduct issues informally; and
- Where it is needed, code of conduct enforcement.

The three continuous improvement topics do not represent a linear process, with a local government moving sequentially through each; instead, they are intertwined with activities in each undertaken iteratively, shaping an organizational culture of trust and respect, where participants work effectively together and councils and boards govern well.

There is a well-established body of practice in these areas, and the guide draws on this to provide examples, leading practice tips and links to further information and resources.

With these measures in place, conduct issues can be avoided, or managed early on, reducing the need for enforcement of a code of conduct. However, even within this context, there may occasionally be a need for a local government to enforce its code of conduct.

Articulating an enforcement process within a code of conduct is a relatively new practice in B.C. The guide draws on examples from leading local governments that have included enforcement in their codes to highlight both current practice and things a local government may wish to consider as it begins to design its own enforcement process.

Table of Contents

This is an interactive table of contents. Click on any titles to go directly to that section.

See Chapter 6, Resources for links to the publications and other resources referenced throughout this guide.

CHAPTER 1	6	CHAPTER 4	23
Fostering Responsible Conduct		Essentials of Code of Conduct Enforcement	
What Kind of Conduct is Problematic and Why?	6	When to Consider Enforcement	23
What is Responsible Conduct?	7	Overview of Other Enforcement Approaches	24
How Can We Build Responsible Conduct in Our Local Government?	8	Specific Statutory Processes	24
Adopt a Code of Conduct or Other Conduct Policy	8	Process to Decide on a Specific Alleged Conduct	25
Align Policies, Procedures and Practices	8	Contravention and Impose Related Sanctions	25
Elected Official Leadership, Knowledge-sharing, Skills Development and Support	9	Obtaining Legal, Law Enforcement and Other Advice About Enforcement Processes	26
Food for Thought	10	Code of Conduct Enforcement: Overarching Considerations	27
		Ensuring a Fair Process	27
		Ensuring the Investigator has Sufficient Independence, Expertise and Authority	28
		Balancing Transparency and Confidentiality	28
		Matters of Cost, Capacity, Efficiency and Effectiveness	28
		Code of Conduct Enforcement: Process Steps, Current Practice and Considerations	29
		Sanctions	38
		Current Practice for Sanctions	38
		Considerations When Imposing Sanctions	39
		How to Improve the Post-sanction Environment	40
		Food for Thought	41
CHAPTER 2	11	CHAPTER 5	42
Maintaining Good Governance		Conclusion	
Working Together Before, During, After – and Despite – Conduct issues	11	Forging the Path to Responsible Conduct	42
Whose Job is it Anyway?	11		
Enhance Collaboration: Embrace Diverse Ideas and Conflicting Views	12		
Contain Conduct Issues	14		
Council/Board Check-ins	14		
Food for Thought	16		
		CHAPTER 6	43
		Resources	
CHAPTER 3	17		
Resolving Conduct Issues Informally			
When and Why to Consider an Informal Approach	17		
How to Pursue an Informal Approach	18		
When You Demonstrated Poor Conduct	19		
When You Are on the Receiving End of Poor Conduct	20		
Involvement of Another Person in Individual Discussions	20		
Where an Individual's Conduct Impacts All Members	20		
Tips for These Discussions	21		
Where the Conduct Issues are Systemic or Widespread	21		
Professional Advice from Staff	22		
Food for Thought	22		

CHAPTER 1

Fostering Responsible Conduct

What Kind of Conduct is Problematic and Why?

Some expectations of good conduct will be clear to most, often because these are set out in law: things like a person not voting on something if they have a financial interest in it, keeping confidential information confidential, not discriminating against a person,¹ and not making slanderous statements.

Other behaviours – like respecting others at meetings or not criticizing colleagues, staff or members of the public on social media – may be less obvious to some; perhaps council or board members don't even agree on what conduct they expect of each other in these areas. For example, some may think that there is nothing wrong with dismissing or belittling another in a debate because they have different backgrounds, experiences, or cultural values than you, or because their politics or points of view on a matter are different than yours.

Some may think that shouting at the chair is an acceptable tactic to get their point across, or that intimidating staff when they won't give you what you want is a way to get things done. However, all of these kinds of conduct can be destructive.

Even subtle actions can become pervasive, escalate over time, erode relationships and impair the ability of the local government to fulfill its most basic responsibilities to make collective decisions in the interests of the community. Electors have entrusted elected officials, acting collectively as the local government's governing body, to govern in the public interest; any conduct that gets in the way of that is a problem.



¹ The B.C. Human Rights Code prohibits certain activities and conduct that discriminate against a person or group or class of persons because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or that group or class of persons. See Chapter 6, Resources for a link to the legislation.

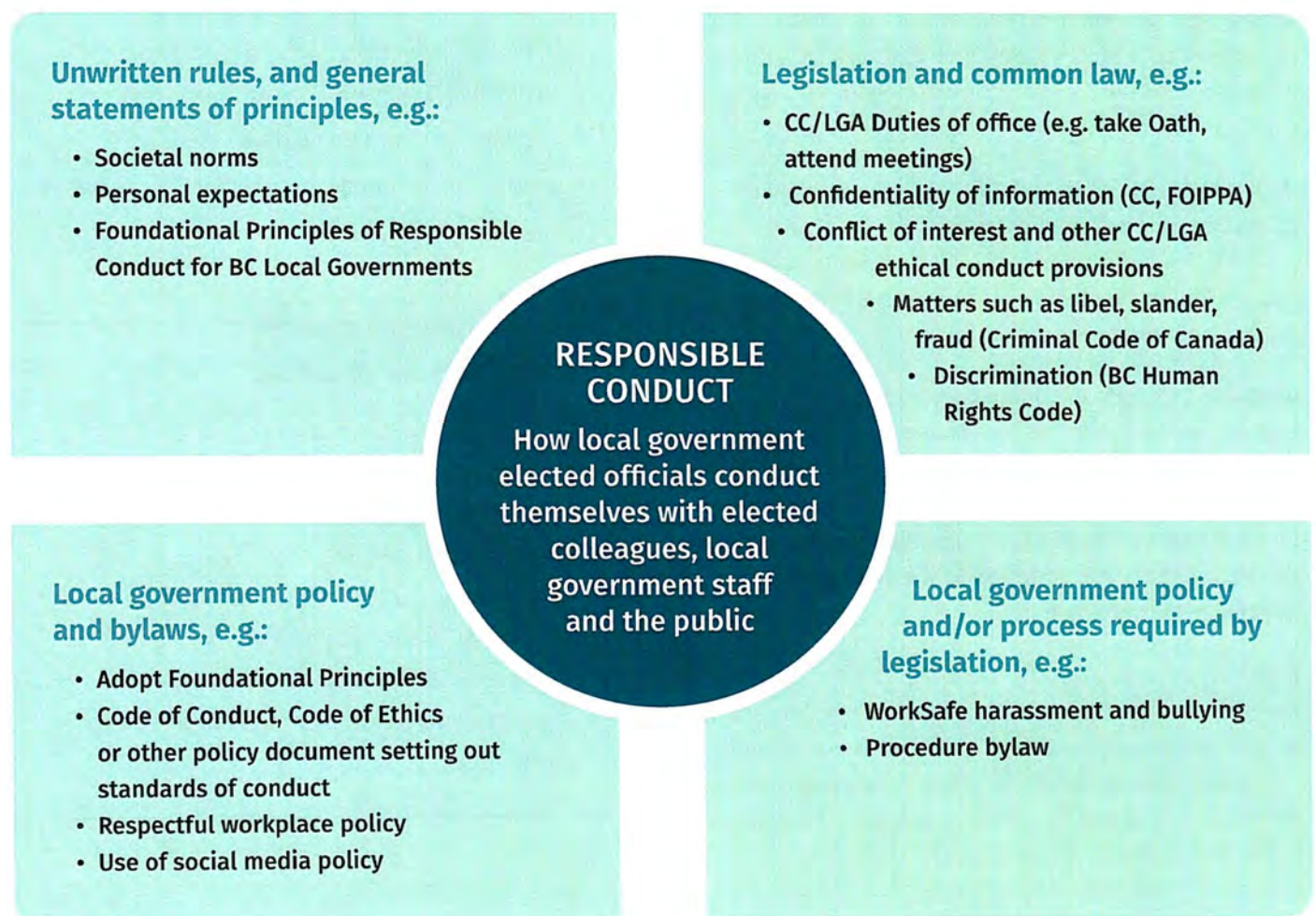
What is Responsible Conduct?

In the context of this guide, responsible conduct refers to how local government elected officials conduct themselves with their elected colleagues, with staff and with the public. It is grounded in conducting oneself according to principles such as integrity, accountability, respect, and leadership and collaboration, in a way that furthers a local government's ability to provide good governance to its community.

As illustrated in the graphic, conduct expectations can take the form of unwritten norms, written principles, or local, provincial or federal policy or law.

Much of this guide is focused on local government policy and bylaws, such as a local government code of conduct because:

- Preventing conduct issues is difficult when relying on unwritten rules or general statements of principle developed by others and not endorsed by the local government; and
- Considerable guidance is provided elsewhere for conduct that is governed by federal or provincial law; this guide touches on that aspect but directs the reader to external resources for more information.



How Can We Build Responsible Conduct in Our Local Government?

Adopt a Code of Conduct or Other Conduct Policy

Avoiding conduct issues when rules are unwritten is hard because people don't know what is acceptable. Building a shared understanding of expected conduct and setting that out in a code of conduct will make expectations clearer and is a good way to prevent issues.

Codes of conduct provide conduct standards that supplement conduct already required legislatively (e.g., conflict of interest rules, confidentiality requirements, prohibitions on discrimination) or through policy (e.g., council/board-staff relations) to ensure that the full range of expected conduct is clear. Existing legislation and/or local government policies will need to be considered as a local government develops its code to ensure the code is not inconsistent with existing conduct requirements.

Many codes also include details about how alleged contraventions will be dealt with. This can be a preventative measure because it adds clarity about how an individual elected official will be held accountable for their conduct.

Adoption of a code of conduct is strongly recommended – as is the inclusion of an enforcement process to address alleged contraventions, and a range of sanctions that may be imposed by the Council or Board if a contravention is determined. Ideally, initiate discussions towards adoption of the code before conduct issues emerge.

If you already have a code, use Chapter 4, Essentials of Code of Conduct Enforcement, to support development of an enforcement process. If you haven't yet adopted a code, start with two previous WGRC publications (*Model Code of Conduct* and its *Companion Guide*). Both are linked in Chapter 6, Resources.

Align Policies, Procedures and Practices

Procedure bylaws are an important tool in supporting conduct in meetings and Council and Board decision-making. *The Procedure Guide: For B.C.'s Local Governments* by the LGMA and B.C. Ministry of Municipal Affairs aims to help local governments proactively consider and change their procedure bylaw to help address challenging situations and to support responsible conduct.

Local governments have many other policy and procedural tools that can be used to support responsible conduct, including such things as (see links to samples in Chapter 6, Resources):

- Oath of office
- Social media policies
- Information-sharing practices
- Conduct expectations for members of the public
- Checklists and educational tools

LEADING PRACTICE TIPS

It's easiest to have discussions about creating a code of conduct before conduct issues emerge. If your Council or Board is struggling to have those discussions, try starting incrementally and adopting the WGRC's Foundational Principles of Responsible Conduct as a statement of the Council/Board's commitment to those principles.

LEADING PRACTICE TIPS

Try a visual or verbal reminder of expected conduct at meetings, like printing the WGRC's Foundational Principles of Responsible Conduct on a placemat for every Council or Board member's place at the table or stating the oath of office at the beginning of every meeting.

Elected Official Leadership, Knowledge-sharing, Skills Development and Support

Leadership development can play a significant role in maintaining responsible conduct and good governance.

For example, respectful dialogue at a Council or Board meeting is more likely when all members understand that decisions are made collectively and not by the mayor/chair, electoral area director, or any other individual elected official. Additionally, trust and respect can be improved through understanding one's role and how it fits with the roles of others, building cultural humility,² communicating in a way that respects people's inherent dignity, and developing an appreciation of the value of different perspectives.

Building a clear understanding about conduct rules and expectations early in a term – including those that are legislated (e.g., conflict of interest) and those that are established through codes of conduct – can be a key factor in elected officials meeting those expectations. In addition, compliance can be improved and conduct issues avoided if a local government provides its elected officials with trusted advice in response to their concerns about how they can comply with conduct rules.

Similarly, skill development in areas like effective communication, chairing a meeting, dispute resolution, and strategic thinking can support both good governance and responsible conduct. Leadership and skill development should be a priority for Councils and Boards as well as for both newly elected and veteran elected officials across B.C.

For participants in the decision-making process, shared power and decision-making puts a premium on leadership skills that help one's fellow leaders find common ground.

(From the Institute for Local Government webpage article Decision Making in the Collective Interest)

² "Cultural humility is a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural humility involves humbly acknowledging oneself as a learner when it comes to understanding another's experience." First Nations Health Authority. See Chapter 6, Resources for links and more information.

LEADING PRACTICE TIPS

Participate in the Local Government Leadership Academy's Annual Forum, which enables elected officials to learn formally from speakers, and informally through networking with colleagues from around the province. Relationships forged here can have ongoing benefit, as elected officials find they are not alone, and gain confidence to share ideas and seek advice from others who understand the challenges they may be facing.

Consider additional education, including:

- Scenario-based training where participants work through difficult situations or areas of conflict and practice skills to effectively deal with them;
- Training to increase understanding of the history and experiences of people who make up the community and avoid stereotypes and discrimination;
- Confidential coaching or mentoring for individual members of the Council or Board; or
- Pre-election candidate orientation, so individuals considering running for office know what they're getting into.

Consider developing a process to involve your Council or Board in determining their leadership and skills development priorities.

FOOD FOR THOUGHT

- › How well are we prepared to deal with conduct issues if they begin to emerge?
- › Do we have a code of conduct? If not, why not?
- › Does our code include a process to address alleged contraventions? If not, why not?
- › What issues are emerging that aren't dealt with under our code? Do we have policies to deal with them (e.g., social media policy)? Can we strengthen compliance by referring to these policies in our code?
- › Have we allocated funding for elected officials' leadership development, skills building and support in our budget? Do elected officials know this is available? How do we know what support and skills building are important to members individually and collectively?
- › Where can our elected officials go if they have questions about their conduct or to get advice about how they can comply with conduct rules? Does that advice include both legislated rules like conflict of interest and duty to respect confidentiality, as well as our code of conduct?

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 2

Maintaining Good Governance

Working Together Before, During, After – and Despite – Conduct issues

A Council or Board is entrusted by electors to govern in the best interests of the community and it can only do this as a collective. Individual members cannot independently govern or make decisions affecting their community, but they can participate and contribute towards collective decision-making, and collaborative good governance responsibilities.

Given this, Boards and Councils need to find ways to work together; to effectively cooperate, collaborate, and make decisions, regardless of things like conduct issues, strained relationships or conflicting views.

“We need to stop pretending that good governance is an accident; if you’re not doing this proactively, you’ll be doing it reactively.”

(A B.C. local government consultant, facilitator and lawyer)

Whose Job is it Anyway?

Everyone has a role to play in responsible conduct and good governance.

- **Every elected official** is accountable for their own conduct and must make sure they are always acting ethically and responsibly.
- **The mayor or chair** provides leadership and can lead by example, maintain order at meetings and propose policy changes, but they cannot, on their own, ensure the Council or Board operates as it should.
- **All Council or Board members** influence how the collective works, and in the interest of serving their community, all can take steps to work effectively together, including speaking up when problems arise.
- **Staff** provide professional advice to the Council or Board and carry out its decisions in an effective, efficient and non-partisan manner. The relationship between elected and staff officials is intertwined, so it is vital for both to understand and respect one another’s roles. Developing effective lines of communication, and trustful, respectful relationships between elected and staff officials supports good governance, even under challenging circumstances. The CAO is your one employee and your ally to help elected officials be successful.

“Local officials are grappling with difficult policy challenges... A goal is to create a culture of tolerance for differing points of view that credits everyone with having the best interests of the community in mind.”

(From the Institute for Local Government document Tips for Promoting Civility in Public Meetings)

Enhance Collaboration: Embrace Diverse Ideas and Conflicting Views

Councils and Boards that welcome healthy debate, diverse ideas and conflicting views make better decisions. Different lived experiences and fresh perspectives can provide valuable insights, uncover opportunities and bring out solutions that hadn't previously been considered but are better for the community.

Productive conflict³ – that is, conflict that leads to productive results, such as better decisions – can be a significant positive influence on good governance. Productive conflict is an open exchange of conflicting or differing ideas in which parties feel equally heard, respected and unafraid to voice dissenting opinions as they work toward a mutually comfortable solution.

On the other hand, unproductive conflict – characterized by frequent, unresolved arguments – can leave individuals feeling angry and frustrated, bringing about conduct issues and making good governance more difficult.

LEADING PRACTICE TIPS

Provide a way for elected officials to build informal relationships beyond the Council or Board table (it can be as easy as sharing a meal together).

The next time a contentious issue is under discussion, try a “no rebuttal round table session” where every member has an opportunity to state their position on the issue and explain its impact from their perspective, and no member can rebut someone else's statement (when it is their turn, they must speak only to their personal perspectives).

(Details of this process, including its successes, are provided in the Enhancing Collaboration in British Columbia's Regional Districts report, found in Chapter 6, Resources.)

³ From *Unproductive Conflict vs. Productive Conflict*. See Chapter 6, Resources for link and details.

Individual strategies for productive conflict include:

- Separating the person from the issue;
- Moving the discussion from positions to interests; and
- Seeking win-win scenarios, where solutions can meet key mutual interests.

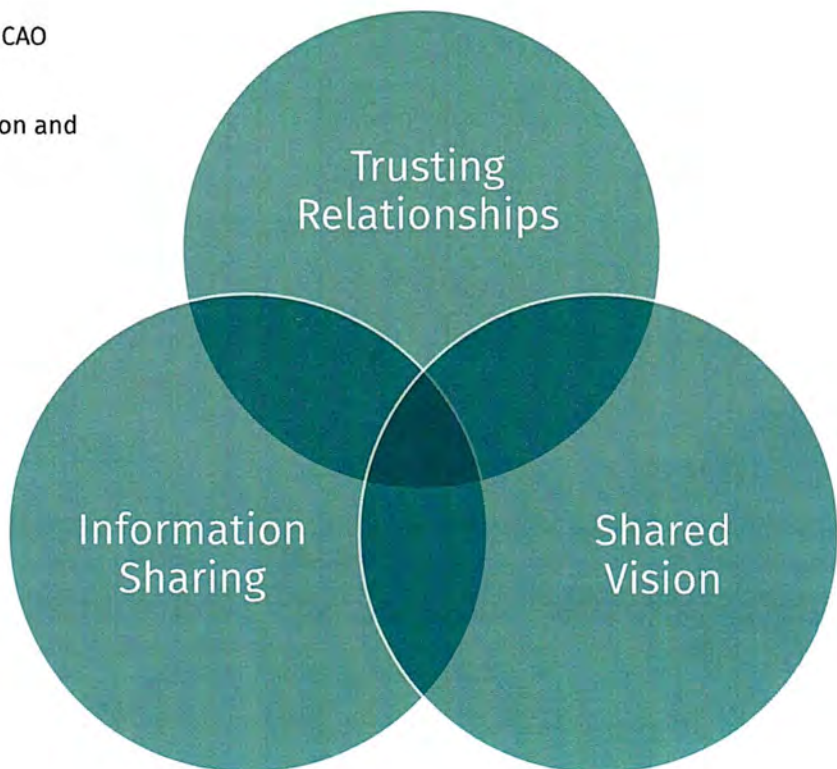
Developing these skills can be a catalyst to move from unproductive conflict, with parties entrenched in their positions, to a place where conflicting views become a pathway to better solutions.

Focusing on trusting relationships, strong information sharing practices and a shared vision can equip a local government to ensure conflict remains productive and improve collaboration. For example:⁴

- Organizing information seminars on complex issues;
- Maintaining a strong chair/mayor and CAO leadership team; and
- Preventing the spread of misinformation and establishing a common set of facts.

“Regional issues may be more obscure than in a municipality and it is important to give all directors, from municipalities and electoral areas, the support they need to appreciate their role in creating a regional vision.”

(A B.C. regional district CAO)



⁴ Examples from *Enhancing Collaboration in British Columbia's Regional Districts*. See Chapter 6, Resources for link and details.

Contain Conduct Issues: Use Policy/Procedural Tools to Manage Meetings and Conduct, and Support Good Governance

Simply having policy and procedural tools in place are not enough; they will only be effective in managing conduct if they are used.

If the procedure bylaw supports responsible conduct or a code of conduct is in place, the mayor or chair can remind an elected official of their obligation to comply in real time when a conduct incident occurs at a meeting. Alternately, Councillors or Directors can raise a point of order in relation to the conduct.

If policy levers are not sufficient to support responsible conduct and good governance, any Council or Board member can propose an agenda item for a future meeting to discuss adoption or amendment of the needed policy.

Some examples that illustrate the range of policy levers that could be engaged are shown in the 'Align Policies, Procedures and Practices' section in the previous chapter.

"You might not be able to change behaviour, but you can change the local government's practices and system framework around it."

(A B.C. local government legal advisor)

LEADING PRACTICE TIPS

Using a procedure bylaw that specifically addresses conduct expectations, in combination with handbooks like *Robert's Rules of Order*, and *Local Government Act* and *Community Charter* provisions like the ability to expel someone acting improperly from a meeting, can be powerful tools to help contain conduct issues that arise during a meeting.

Developing a checklist for the Council or Board to evaluate its own effectiveness can be a good starting point for a check-in discussion. See Chapter 6, Resources for some sample checklists that can be customized.

Council/Board Check-ins: Find Ways to Work More Effectively Together

A Council or Board discussion – or check-in – about how to work together more effectively can provide a useful forum to identify and address areas of concern, including conduct, conflict, or collective 'blind-spots' that get in the way of effective discussion and decision-making. This can help to build trusting relationships as well as identify policy or procedural changes to overcome systemic barriers, and/or learning topics that could support both the collective and its individual participants to become more effective.

When negative conflict or conduct issues are present, these check-ins can help to clear the air, de-escalate unproductive conflict, improve communication, and help the Council or Board refocus on improving working relationships and removing barriers to its effectiveness.

These discussions can be challenging to start if a Council or Board is facing significant stress. Consider initiating them early in the term when tensions aren't high, and continue them on a regular basis after that.

Alternatively, some of the discussion can be woven into other processes, such as those in the graphic. Successes from these early discussions will reinforce the benefit of open dialogue aimed at improving relationships, and may help to create a willingness to participate in future dedicated check-ins.

Success of a dedicated check-in may depend on ensuring elected officials feel comfortable exploring their perspectives on barriers to their collective success without fear of reprisal, so that they can consider new approaches when current patterns of engaging with each other are not working.

In addition to considering external professional facilitation, Councils and Boards may wish to consider undertaking these sessions in the absence of the public, which can help to facilitate the open, honest discussion that will be needed to explore these issues.⁵



⁵ If you are discussing these matters in the absence of the public, make sure you don't also move towards making decisions, which you would need to do in an open meeting. See Chapter 6, Resources for useful resources from the Ministry of Municipal Affairs and the B.C. Ombudsperson.

LEADING PRACTICE TIPS

If you're getting stuck finding ways to work better together, especially if interpersonal dynamics are regularly getting in the way of making decisions, an external professional might be able to help. The combination of professional expertise and independence from the organization provides an opportunity for these professionals to bring new perspectives to the table and suggest approaches that may not have been considered before.

FOOD FOR THOUGHT

- › Is our Council or Board governing well? If we were to get a grade on that, what would it be? What's getting in the way? Do we regularly have discussions about this? Have we made provision for regular check-ins and getting some outside help if we need it?
- › What enhancements could be made to our policies or procedures to avoid conduct issues? Do we have specific issues that seem to be evolving that should be a priority (e.g., release of confidential information)? What can we put in place that would resolve these issues (e.g., does everyone understand their legal obligations, are there changes to our information-sharing practices that could help, and is this something the Council/Board should discuss in a check-in)?
- › What kinds of things are causing tension at the Council/Board table (e.g., whether something discussed in a closed meeting should have been in an open meeting; whether or not a member is in a conflict of interest in a particular matter; lack of respect because of such things as different political views, backgrounds, experience, age, gender identity or sexual orientation)? Would training and leadership development help? Is additional information needed, either generally or on a case-by-case basis? Are there tips or tools that could be developed to support members? Is this something the Council/Board should discuss in a check-in?
- › As an individual, self-awareness is key. Ask yourself: Am I part of the problem? Am I contributing to dysfunction or to good governance? Do I make assumptions about other Council or Board members without trying to understand their experiences or perspectives? What steps can I take to help the Board or Council work better together? What support do I need to do that? How can I help to ensure our conflict is productive?

"If local governments did less in closed meetings, there would be fewer conduct issues."

(A B.C. local government legal advisor)

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 3

Resolving Conduct Issues Informally

When and Why to Consider an Informal Approach

Conduct issues can often be managed through prevention and good governance measures. Unfortunately, there are times where the issues are particularly significant or entrenched, and instead escalate or become more pervasive. In these cases, local governments may wish to consider taking additional steps to address the conduct issue.

Two approaches are available, and they are not mutually exclusive. Informal approaches are aimed at resolving conduct issues, through productive discussion toward mutually satisfactory solutions. Enforcement processes are aimed at determining whether there was a conduct contravention, and deciding on sanctions if a contravention is found.

Informal resolution can lead to better outcomes than enforcement processes because informal resolution tends to be:

- More effective in finding solutions that are satisfactory to all parties;
- Quicker, leaving less time for the problematic conduct to remain unchecked and less time for relationships to erode further;
- Less divisive since parties are brought together to work towards solutions that work for all, helping to rebuild trust and repair relationships (whereas in enforcement processes, parties oppose each other to prove or disprove a contravention); and
- Less legalistic, cumbersome and complex, which can also mean they are considerably less costly.

"I have yet to see an enforcement process where the elected official accepted the findings, so we need to make every effort to manage things before it gets to that."

(A B.C. CAO, mid-sized municipality)

Given these advantages, many local governments are finding that in most circumstances it is well worth pursuing informal approaches to the fullest extent possible to see if they can resolve the conduct issues. In general, they are only considering enforcement processes if those informal resolution efforts are not successful.

However, despite its potential for positive outcomes, informal resolution is not appropriate for all circumstances.

Local governments will want to consider specific circumstances carefully before deciding on a course of action (and seek appropriate legal advice before proceeding). Consider the following examples.

When conduct issues impact employees:

Local governments are responsible for the safety of their employees at work. If a complaint relates to matters covered by legislated provisions to address workplace bullying and harassment, the complaint must be dealt with in accordance with the *Workers Compensation Act* and Occupational Health and Safety policies established by WorkSafeBC.

There may also be other laws, local government policies, or employment arrangements that will govern how to respond when an employee indicates they have been subjected to unsafe working conditions or inappropriate behaviour.

When conduct represents actual or threatened significant or imminent harm to persons, property or the local government:

In these situations, local governments will need to consider how best to preserve safety and security within their community. In addition to legal advice, local governments may need to consult with law enforcement.

“It’s important to remember that trust is built around understanding and respect, not necessarily agreement.”

(From the Institute for Local Government document Attributes of Exceptional Councils)

How to Pursue an Informal Approach

Informal resolution focuses on involved parties working out their differences to come to a mutually acceptable resolution that restores responsible conduct. Fairness is key, and local governments will want to consider fairness elements appropriate to the circumstances, which may be different than what is appropriate for enforcement (e.g., there may not be a need to provide parties an opportunity to be represented in informal discussions). Fairness supports informal discussions since people will be more willing to work towards solutions if they are being treated fairly. In addition, it is important to ensure that informal resolution does not jeopardize subsequent enforcement processes should they be needed. Providing an appropriate standard of fairness in informal discussions will help to meet that objective.

LEADING PRACTICE TIPS

Consider fairness training or coaching for all Council or Board members to raise awareness of the need for fair process in everything they do. This can lead to fewer conduct issues in the first place, and support informal resolution discussions if issues do arise, potentially avoiding the need for all parties to default to legal positions in the early stages of those discussions.

Who is involved in these conversations, and how the process unfolds, will depend on the situation and in part, who is willing and able to work through the issues.

The following are some common approaches; local governments should consider their own unique circumstances in deciding what methods to try.

When You Demonstrated Poor Conduct

All elected officials are accountable for their conduct and the vast majority are responsible, but lapses do occur: someone snipes in the heat of the moment that their colleague is too young, or too old, or too new to this country to have views on a topic; someone hits send on a social media post when they're still angry; someone picks on a staff member because they don't like a report's recommendations; someone takes a colleague's comment out of context in a way it was never intended. Sometimes, that someone is you.

Many elected officials find themselves in these situations; what distinguishes them is how they deal with them. Owning your part in a misunderstanding or admitting you've made a mistake or acted inappropriately is not a sign of weakness; it is a sign of strength and it is a quality common to exceptional leaders. It's also a way to build trust and respect and to repair relationships – valuable activities in one's quest to serve the community and get things done.

When faced with these situations, consider sitting down with the individual impacted by your conduct. It's a good opportunity to clear the air, to make an apology if that's in order, and to get to know each other's perspectives and experiences. It also allows you both to work through the issue and decide what else is needed to avoid further incidents and to move on.

Depending on how wide the impact, consider whether to have this conversation with the full Council or Board, and/or whether a public apology is appropriate.

“In more than six years as the Ombudsman for British Columbia, I have witnessed, again and again, how one action can make a difference in a small but meaningful way. I have observed that a sincerely offered apology will often satisfy a person who has a complaint... An apology can restore self-respect and dignity. An apology acknowledges that a mistake has been made and that the offending party will not repeat the action in question. It can help re-establish trust and assurance that the offending action was not the person's fault.”

(From the BC Ombudsperson special report The Power of an Apology: Removing the Legal Barriers)

LEADING PRACTICE TIPS

If you're immersed in a conduct issue, try finding a personal sounding board – a confidante with whom you can test how your behaviour stacks up and who can give ideas about how you can resolve the issue. An elected official from another local government can be particularly helpful because they can understand what you're going through and may even have faced something similar, but can offer an impartial perspective because they are not directly involved in your situation.

When You Are on the Receiving End of Poor Conduct

An elected official impacted by the conduct of a colleague might consider meeting with them if they are willing. This can help to defuse the situation, understand other points of view, discover common ground and jointly problem solve ways to work better together. It is important to avoid accusations, so it may be prudent to prepare for the conversation by considering how best to share perspectives and find mutual interests, and by thinking about what might be needed to set things right.

Involvement of Another Person in Individual Discussions

Sometimes the two elected officials aren't able to resolve the issues themselves and having a facilitator can help. Choosing the right person depends on the situation. Typical choices include:

- The mayor or chair or their deputy;
- An official who provides advice or support in relation to conduct; or
- An independent third party with experience in dispute resolution.

The choice will depend on the nature and significance of the conduct issue, who has the needed skills, and whether all parties see the facilitator as neutral.

Many local governments avoid involving the CAO or other staff in a Council or Board conflict in this way so that staff are not seen as “taking sides,” which may cause considerable damage to elected official and staff relations.

If initial facilitated discussions aren't successful, the local government may wish to consider additional efforts to reach resolution, including negotiation and/or mediation.

Where an Individual's Conduct Impacts All Members

Sometimes the conduct at issue is not directed towards an individual, but to all or part of the Council or Board. For this, the mayor or chair, or their deputy, could initiate a discussion with the elected official whose conduct is at issue. These discussions are similar to those noted above, and could be aimed at gaining a mutual understanding of the various perspectives, identifying solutions to avoid further incident, and perhaps exploring new ways to work more effectively together. Depending on the nature and significance of the conduct, consider a facilitator for these discussions (e.g., an independent third party).

TIPS FOR THESE DISCUSSIONS

Regardless of who initiates or is involved in the conversation, there are a number of elements that can help make the discussions successful, such as:

- Ensure all discussions treat people fairly; be respectful, honest and accountable; be clear about what brought you to the discussion and what you would like to achieve; and give people an opportunity to respond;
- Have the conversation in private, and keep the discussion confidential;
- Try to start from a place of neutrality, aiming to gain an understanding of individual perspectives, intentions and impacts, and reflect on and challenge your own inherent stereotypes, assumptions and perspectives;
- Try not to judge; separate the problem from the person, actively listen, ask questions, seek clarification, and build on your understanding;
- Remain open to views about what you or others could have done differently;
- Seek common ground/mutual interests and use these as a basis for joint problem-solving to find solutions that everyone can accept; and
- Recognize that resolution may take some time and potentially a series of discussions; don't try and do this all at once as people need time to think through issues and discover solutions, and they may need time to work through complex emotions that the discussions reveal.

"Individuals sometimes ignore rules, and toxic personalities sometimes create challenges... difficult personalities on the Council create a challenging and uncomfortable environment for the Council itself... In the end, the Council must manage its own behavior and seek compliance from its own members."

(From the Public Management article Preparing Councils for their Work by Julia Novak and John Nalbandian, August 2009, pg. 27)

Where the Conduct Issues are Systemic or Widespread

Some types of conduct lend themselves to discussions with the full Council or Board and informal resolution would begin there (e.g., certain elected officials are repeatedly interrupted, bullied or belittled by others; conduct is markedly different in closed meetings than in open ones; grandstanding becomes an issue when the public is particularly engaged and vocal at the Council or Board meeting).

In other cases, informal resolution that begins with individual discussions noted above reveals underlying causes that need to be discussed by the full Council or Board, and informal resolution would then move to these more broadly-based discussions.

This presents an opportunity for the Council or Board to engage in continuous improvement with broader discussions about how to work more effectively together.

This could involve processes discussed in Chapter 1, Fostering Responsible Conduct and Chapter 2, Maintaining Good Governance, and it is well-suited to discussion as part of a Council or Board's next check-in.

Full Council/Board discussion is appropriate whenever the conduct or its root causes indicate underlying systemic challenges, because those challenges need to be addressed in order to satisfactorily resolve the conduct issue and to avoid future incidents. Councils and Boards that find a way to identify systemic issues (e.g., preconceptions about things like gender identity, economic status, ability, race or age; lack of a common set of facts on matters discussed; gaps in a shared understanding of conduct expectations), speak about them openly and safely, and jointly develop solutions (e.g., leadership development, enhanced policy alignment) may find that conduct issues can be resolved, unproductive conflict and friction reduced, and more effective trusting working relationships established.

Professional Advice from Staff

While ultimately it is up to elected officials to restore responsible conduct of their members, senior staff can provide key support to that process. For example, they are well-positioned to:

- Provide advice about approaches to resolve conduct issues, including resolution at an individual level and potential structural, system or policy realignment;
- Provide process and technical support to individual elected officials on informal resolution and/or enforcement processes;
- Provide advice on how to ensure informal resolution processes are fair to all participants and where expert fairness advice may be needed; and
- Provide advice about when to involve a facilitator in discussions and the skills that will be important to the success of that role, and/or what other external support or advice could be considered (e.g., legal advice; involvement of law enforcement).

FOOD FOR THOUGHT

- Is there anything in this situation that should prevent it from being considered for an informal resolution process?
- Who is best positioned to initiate a conversation or to facilitate one if needed?
- What support could the local government offer to elected officials who have conduct questions or concerns, or who want to better understand the process to try and deal with issues informally?
- What is being done to support relationship-building? What can be done to ensure all voices are heard? If these were enhanced, might it be easier for elected officials to sort out conduct issues informally? Are there lessons to be learned from this process that could apply more generally to elected officials' relationships, and/or to changes needed in the local government's policies and procedures?
- At an individual level: What triggers a change in my conduct? How can I manage that? What subconscious assumptions might be influencing my conduct? What support do I need to make a change or to sort out a conduct issue with my colleagues?

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 4

Essentials of Code of Conduct Enforcement

When to Consider Enforcement

In most cases local governments find it is worth exerting considerable effort towards informal resolution, and considering enforcement only if those efforts prove unsuccessful. Conduct is often about relationships, and with the collective governance model of local governments, good working relations are critical to good governance. Informal resolution can help to maintain relationships. Enforcement processes – being lengthy, protracted affairs that sometimes pit colleagues against each other – can serve to erode relationships as well as public trust in the process and the local government.

For this reason, local governments generally find informal resolution more effective, and are more satisfied with its outcomes (see Chapter 3, 'Resolving Conduct Issues Informally' for details). If informal resolution is not attainable, local governments may wish to consider enforcement.

A local government can hold its elected officials accountable for their conduct through an enforcement process articulated within its code of conduct, so long as that process is fair. This chapter focuses on characteristics of these code of conduct enforcement processes, and what to consider in their development, but first, it points to enforcement approaches outside of a code of conduct that may be applicable.



Overview of Other Enforcement Approaches

Specific Statutory Processes

Various federal or provincial laws provide specific accountability or enforcement processes for certain conduct matters, for example:

- **Incidents and complaints regarding bullying and harassment of an employee and/or other conduct that affects employees:** Local governments are responsible for the safety of their employees at work. If a complaint relates to matters covered by legislated provisions to address workplace bullying and harassment, the complaint **must** be dealt with in accordance with the *Workers Compensation Act* and Occupational Health and Safety policies established by WorkSafeBC. There may also be other laws, local government policies or employment arrangements that will govern how to respond when an employee indicates they have been subjected to unsafe working conditions or inappropriate behaviour.
- **Application to court for a declaration of disqualification and forfeiture of financial gain for contraventions of conflict of interest and other ethical conduct requirements:** The *Community Charter*, *Local Government Act* and related legislation provide rules for conflicts of interest, inside influence, outside influence, gifts, contracts and insider information. Contraventions result in disqualifications and may result in forfeiture of any financial gain that resulted. Electors or the local government may apply to the Supreme Court for a declaration of disqualification and for an order to forfeit financial gain.

- **Prosecution of an offence:** Some contraventions of legal requirements are offences which may, at the discretion of the provincial Crown Counsel, be prosecuted in court, and convictions may result in fines and/or imprisonment (e.g., unauthorized disclosure of personal information under the *Freedom of Information and Protection of Privacy Act*, and unauthorized disclosure of certain confidential information under the *Community Charter*, *Local Government Act* and related statutes).

LEADING PRACTICE TIPS

This list is not exhaustive. There are numerous other federal or provincial laws that provide enforcement processes (e.g., Court-based prosecutions under the Criminal Code of Canada for contravention of laws related to libel or slander; Human Rights Tribunal determination of discrimination complaints under the BC Human Rights Code). Local governments will want to familiarize themselves with all applicable legislation before initiating a local government enforcement process.

Local Government Process to Decide on a Specific Alleged Conduct Contravention and Impose Related Sanctions

The courts have found that a local government has an ability to control conduct of its members in some circumstances, and local governments have relied on this to impose sanctions for contraventions on a case-by-case basis.

These case-by-case processes are similar to enforcement processes articulated within a code of conduct: both can result in sanctions; both must be undertaken using a high standard of fairness; and both are complex from a legal perspective.

However, an important distinction between them relates to whether the process is established in advance (as it is for processes articulated within a code of conduct), or whether it is developed each time it is needed (as it is for case-by-case processes).

LEADING PRACTICE TIPS

Before getting into a situation where misconduct of a Council or Board member becomes an issue, develop a code of conduct to set standards of conduct, and include within the code the process that will be used to deal with alleged contraventions.

An enforcement process articulated within a code of conduct has several advantages over a case-by-case enforcement process, as illustrated in the graphic, and is strongly recommended.

ADVANTAGES OF CODE OF CONDUCT ENFORCEMENT

ENHANCED CERTAINTY AND TRANSPARENCY IN THE PROCESS

- Everyone understands the process by which officials will be held accountable for their conduct
- Improved public confidence

IMPROVED COMPLIANCE

- Those who are subject to a code may be more likely to comply if there are known consequences for contraventions

ADMINISTRATIVE EFFICIENCIES

- Once the process is developed, using it for a subsequent contravention allegations will eliminate the need to “reinvent the wheel” each time an allegation is made

ENHANCED FAIRNESS

- Consistent use of the same process helps to ensure everyone is treated fairly
- Can help to overcome perceptions of bias in decisions about the process itself

Obtaining Legal, Law Enforcement and Other Advice About Enforcement Processes

Conduct enforcement is a complex and evolving area of law; while this guide is intended to help support local government decision-making in relation to conduct matters, it does not provide legal advice, and it is not a substitute for that advice.

Code of conduct enforcement does not replace other enforcement approaches that may be available or required, such as those described above. As a local government begins to explore what enforcement processes are available for a particular conduct contravention, it may want to consider discussing the matter with their legal advisors and, in some circumstances, with law enforcement or other agencies (e.g., WorkSafe BC for matters in which the conduct affects an employee; Office of the Human Rights Commissioner for matters that may be discriminatory).

Code of conduct enforcement is a complex process and its outcomes can be significant, so it is important for local governments to give considerable thought to how to ensure its process is sound. Articulating an enforcement process within a code of conduct is also a relatively new practice in B.C. and largely untested in the courts, which represents some legal uncertainties. These factors give rise to a critical need to seek legal advice on details of the process as it is being designed and when it is implemented.

This guide should not be used as a template for designing a code enforcement process, because some elements (e.g., what is an appropriate standard of fairness; what would comply with open and closed meeting rules; how to ensure that informal processes do not jeopardize a subsequent enforcement process; what complaints can be dismissed; what sanctions may be imposed) can vary considerably depending on specific circumstances. The considerations and current practice set out in the guide are intended to support a local government's initial thinking about these processes and as a starting point for it to have an informed discussion with its legal advisors about how to design an enforcement process that will meet its unique circumstances and needs.

Code of Conduct Enforcement: Overarching Considerations

Ensuring a Fair Process

Code of conduct enforcement processes have two stages: determining if there has been a contravention (e.g., taking complaints; conducting investigations; making determinations), and if so, making decisions on what, if any, sanctions to impose (e.g., recommendations from investigation and/or a Council/Board decision on sanctions). Fair process in both of these stages is critical.

A local government is obligated to ensure its decision processes are fair, particularly where the decision affects the interests of a specific individual.

Given the significance of these processes to elected officials, local governments need to consider how they can meet a high standard of fairness, including finding ways to ensure throughout the process that:

- The person affected by a decision is able to participate in the process before the decision is made (e.g., is notified of allegations, findings and recommendations and provided all documents and information that will be relied on by decision-makers, is provided with an opportunity to respond and sufficient time to prepare, and is given an opportunity to be represented by legal counsel at the appropriate stage);
- The decision-makers are open-minded (i.e., they have neither a conflict of interest nor a predetermined bias); and
- The decision is based on relevant evidence and, where applicable, the justification for the decision is given to the person(s) affected by it.

LEADING PRACTICE TIPS

Build timelines into the various steps of your enforcement process. This will enhance fairness, and can avoid eroding relationships further as the process drags on.

Build an informal resolution component into your code of conduct enforcement process.

Consider carefully managing the extent to which staff are involved in enforcement processes. Given the nature of these processes, critical staff-elected official working relationships can be significantly affected.

Consider specifically referring to legislated confidentiality requirements in your code of conduct, so members know how they will be held accountable for contraventions of those provisions.

Ensuring the Investigator has Sufficient Independence, Expertise and Authority

It can be extremely challenging to ensure the person conducting an investigation is free from bias or the perception of bias when investigating a colleague (i.e., where a Council/Board or one of its committees is investigating the conduct of a Council/Board member) or when there is an employer/employee relationship (e.g., where a CAO is investigating the conduct of a Council or Board member).

In order to remove this perception of bias, improve fairness, and enhance public trust in the process, investigations are most often assigned to an independent third party.

Balancing Transparency and Confidentiality

Local government legislation provides rules around what must be dealt with in open meetings, and what may or must be dealt with in closed meetings. The *Freedom of Information and Protection of Privacy Act* provide rights of access to certain records, as well as a requirement to protect personal information. A local government will need to ensure compliance with these laws as it develops and implements its enforcement processes.

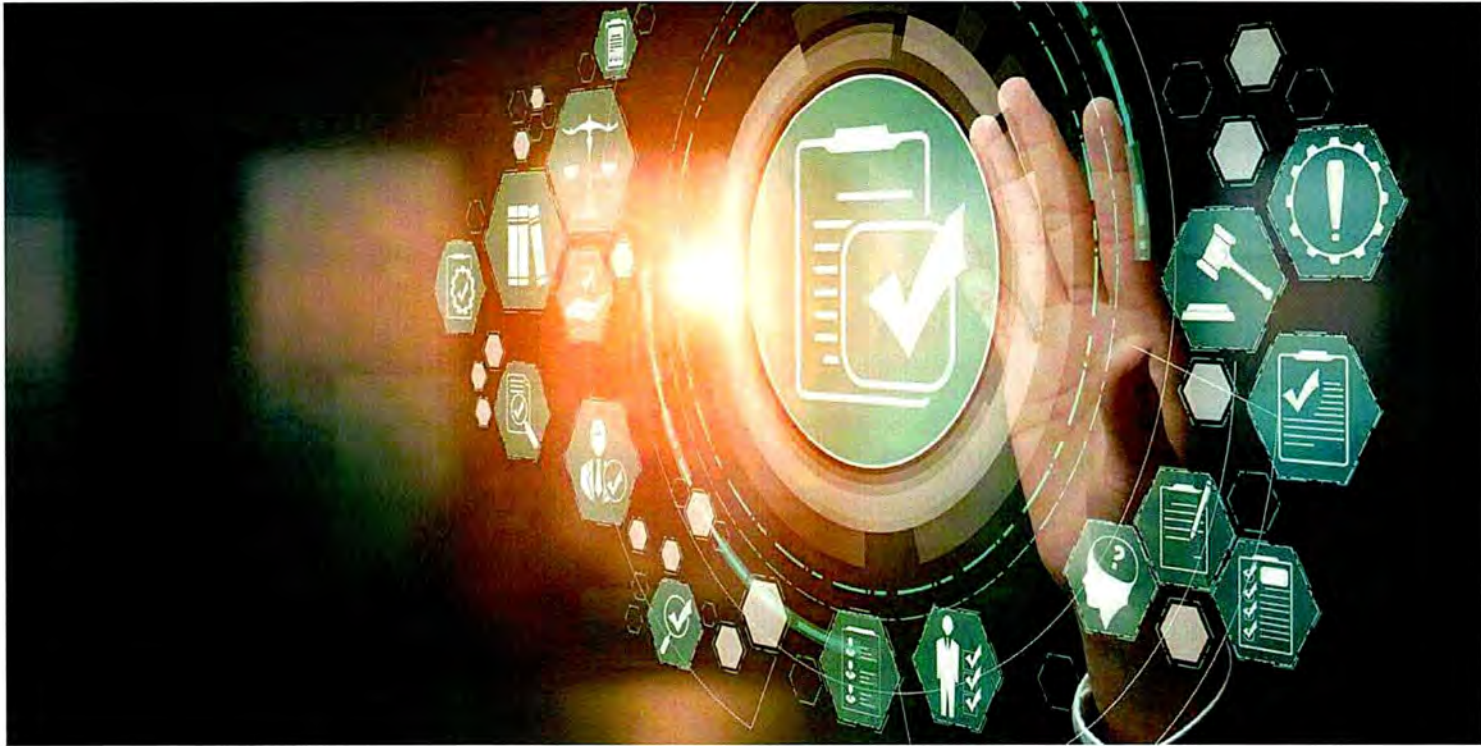
Within these legislated parameters, there may be some discretion for local governments to make choices about whether to conduct some parts of the enforcement process in open or not. Where there is sufficient discretion, local governments may wish to consider where confidentiality is needed to support a fair process, where transparency is needed to enhance public confidence in the process, and how to balance these two objectives in each step of the process and overall.

For example, to protect the privacy of the individuals involved and ensure investigations are free from bias, most local governments maintain confidentiality throughout the complaint and investigation processes (e.g., notifying only those involved and requiring them to maintain confidentiality). Once the investigation is complete, and if it finds there was a contravention, the balance can sometimes shift towards transparency by providing for consideration of, and decisions on, investigators' reports and sanctions in an open Council or Board meeting. This is typically because the legislation requires this (i.e., the subject matter does not meet the criteria for discussion in a closed meeting) and/or the local government considers the public interest is best served by making these decisions transparently.

Matters of Cost, Capacity, Efficiency and Effectiveness

Decisions around process will have an impact on financial and human resource capacity. For example, decisions about who can make a complaint (e.g., elected officials, staff or the public) can significantly affect the volume of complaints and investigations. This will affect resources that will need to be dedicated to the enforcement process, since investigations can be time consuming and require people with highly specialized skills.

These considerations can help to sharpen the focus on various design elements and implementation strategies, not just for enforcement but for all elements of building and restoring responsible conduct. In addition, they may encourage reconsideration of alternative measures (e.g., prevention activities or informal resolution of conduct issues) that may have been previously discarded because of their associated costs (yet may be much less costly – both financially and in relationship impacts – than code of conduct enforcement).



Code of Conduct Enforcement: Process Steps, Current Practice and Considerations

The inclusion of details of how alleged contraventions will be addressed is a recent trend in B.C. local government codes of conduct. Where processes are articulated, they tend to consist of a number of distinct steps, within which there are both some common elements and some variation.

The following tables are snapshots of these provisions taken from a small sample of current B.C. codes. Readers are cautioned that this does not represent the full extent of existing practice, but rather an overview intended to be generally representative of the range of enforcement approaches articulated currently in B.C. codes of conduct.

As noted earlier, including enforcement provisions in codes of conduct is an emerging area still largely untested in the courts.

The examples provided here are not provided as templates but rather as a starting point; each local government needs to consider its own circumstances and seek its own legal advice as it develops its processes and sanctions.

It is critical that local governments exercise a high standard of fairness in these processes. Some jurisdictions choose to articulate this extensively in their code in order to provide clarity and certainty, while others do not articulate this in their code, but instead provide fair process as a matter of practice, allowing some flexibility to adapt to specific circumstances. Do not assume that codes that lack explicit fair process provisions mean that the jurisdiction is not practicing fair process. The choice is not whether or not to provide a fair process, but rather how and where to define it.

INITIATION: What triggers the process?

How is the enforcement process initiated and who can make a complaint?

The process is typically initiated by a complaint, and complaints are allowed from any member of the Council or Board. In some cases, committee members and/or staff may also make a complaint, and in a few cases, complaints are accepted from “any person,” which would include all of the above as well as members of the public.

How is the complaint made, and what must it contain?

Typically, the complaint must be in writing, and most require these to be signed and dated by the complainant. There are varying degrees of specificity in the detail to be provided, with some codes saying nothing about this, and others requiring more specifics (e.g., detailed description of the conduct, witnesses and supporting documents).

To whom is the complaint made?

Most are delivered to the mayor/chair and/or a staff official (e.g. CAO), with provision that if the mayor/chair is involved, delivery is to the acting mayor/chair. In a few cases, delivery is to mayor and Council/chair and Board, and in some cases, complaints go to an investigator if one has been appointed.

Considerations:

- **Fair process/cost and capacity:** Fairness would dictate that at a minimum, anyone subject to a code of conduct should be allowed to make a complaint. From a public trust perspective, consideration could be given to allowing complaints from anyone impacted by the conduct (e.g., members of the public who are impacted by the erosion of good governance resulting from the conduct). The volume, and perhaps the complexity, of complaints tends to increase as the number of potential complainants increases, which will have cost and capacity impacts.
- **Fair process:** Consider timelines for making a complaint. Existing practice examples: some codes don’t explicitly provide a deadline, while others tie a deadline to the breach (e.g., as soon as possible after, or within six months).
- **Fair process:** Consider how much detail to require in a complaint. Part of a fair process is enabling the respondent to respond, which would be difficult without sufficient detail as to the allegation. To be clear about process, consider explicitly stating that the respondent is to be provided notice of the allegations and an opportunity to respond before a decision to proceed to an investigation is made, perhaps with some deadlines. Existing practice examples: some codes do not provide this explicitly, while others do and provide deadlines (e.g. must respond within 14 days of notification).
- **Confidentiality/transparency:** Consider measures to ensure confidentiality until an investigation of the allegations is complete.

INFORMAL RESOLUTION: What informal resolution processes are available?

When does informal resolution occur and how is it triggered?

Most codes explicitly provide for informal resolution. Some create an informal complaint process, and encourage complainants and respondents to try informal resolution before a formal complaint is made. Some other codes encourage an attempt at informal resolution after a formal complaint has been submitted and before the complaint review process; in these cases, the CAO and/or mayor/chair become involved in that informal resolution step.

What is the informal resolution process?

Some codes that provide for informal resolution are silent as to the process. However, most others call for the complainant to address the issue directly with the respondent to encourage compliance, and/or to request the assistance of the mayor/chair to attempt to resolve the issue. In one case, a senior staff official could be called on to assist the complainant in that process, and third-party mediation is an option if these steps aren't successful in reaching resolution.

What are the timelines and fair process provisions?

There is no deadline for informal resolution where it occurs prior to receiving a formal complaint, because the de facto deadline is when a formal complaint is made. Most codes that encourage informal resolution after a formal complaint is made set a 30-day deadline to attempt informal resolution prior to an investigator being appointed. Most do not have specific fair process or transparency/confidentiality provisions for this informal stage. However, in some cases, there are specific provisions for confidentiality, and where mediation is part of the process, legal or other representation for the complainant and respondent are offered for that part of the process.

Considerations:

- › **Cost/capacity/efficiency/effectiveness:** Local governments may want to consider encouraging informal resolution because that can be less costly and lead to better outcomes than investigation and sanction processes (see Chapter 3, Resolving Conduct Issues Informally).
- › **Confidentiality/transparency:** Consider measures to keep informal resolution processes confidential.

APPOINTMENT OF INVESTIGATOR: Who is appointed to investigate and how are appointments made?

Who is the investigator, who makes the appointment, and on what basis?

In the majority of cases, the investigator is an independent third party, typically appointed by either the mayor/chair, the person acting in their place, or jointly by the mayor/chair and CAO. Exceptions include when the code assigns investigator duties to a position (e.g., senior staff official), or when the investigator is defined as the Council/Board or an individual or body appointed by the Council/Board. In cases where a senior staff official is assigned in the code as investigator, the code also provides for that individual to appoint an independent third party to investigate instead of the senior staff official.

What duties does the investigator perform?

Typically, investigators undertake the complaint review process, investigation and reporting of findings. In at least one case, a senior staff official is responsible for the complaint review process, and the investigator is appointed only after the complaint review process is complete, if needed. In one case, the investigator is assigned a broader range of responsibilities.⁶

What are the timelines and fair process provisions?

Several jurisdictions require the investigator be appointed within 30 days of receipt of a formal complaint (unless the matter is resolved informally within that time frame). See “Who is the Investigator” above for fair process provisions.

Considerations:

- **Fair process/investigator independence, expertise and authority:** Choosing an investigator who is free from bias is critical. This would indicate a need to appoint an independent third party, and/or ensure other mechanisms are in place to protect investigator independence. Assigning an investigation to a senior staff position, such as a CAO, is not recommended for most investigations as it would be very difficult to achieve the needed level of independence, and because the investigation could harm the staff-Council/Board relationship, compromising both the ability of the Council/Board to provide good governance and the CAO’s ability to effectively perform their duties. Providing for input from the complainant and respondent on the choice of investigator can help ensure all parties agree the investigator is unbiased and qualified; this effect can be enhanced by provisions that refer to the need for investigators to have professional skills/expertise.
- **Confidentiality/transparency:** The choice of who appoints the investigator (e.g., Council/Board, mayor/chair and/or CAO) may impact when complaint information becomes public, since Council/Board decisions may need to be made in an open meeting.

⁶ City of Surrey Bylaw 20018 creates an Ethics Commissioner position and assigns a number of roles to the position, including providing advice and delivering training. See link in Chapter 6, Resources.

COMPLAINT-REVIEW PROCESS: How are complaints initially dealt with and by whom?

What is the complaint review process and who carries it out?

If informal resolution is not reached, complaints undergo an initial assessment and are either dismissed or proceed to investigation. Almost always, the investigator is responsible for the initial assessment, although in at least one code of conduct, this role is assigned to a senior staff official.

On what basis can a complaint be dismissed?

Reasons that a complaint may be dismissed are usually provided, but there is some variation on the grounds for dismissal. Many refer to complaints that are frivolous, vexatious and/or not made in good faith. Several also mention complaints that are unfounded, based on insufficient grounds, unlikely to succeed and/or beyond the jurisdiction of the code or other conduct policy.

What is the process if a complaint is dismissed?

Many do not provide a specific process. Where one is provided, there is a requirement to inform the complainant and, in at least one code of conduct, the Council or Board.

What are the timelines and fair process provisions?

Codes don't typically set timelines for this step. Some codes provide that the respondent must be notified and given an opportunity to provide an initial response prior to the complaint review process; of these, a few provide deadlines for the initial response (e.g., within 14 days of notification).

Considerations:

- **Cost, capacity, efficiency, effectiveness:** Local governments will want to consider some form of complaint-review process, to ensure that investigations aren't required when not warranted by the nature of the complaint.
- **Fair process:** Both fair process and public trust can be enhanced by being clear about the types of complaints that can be dismissed, while providing some discretion for investigators to make decisions based on their professional judgement and specific circumstance. Local governments may also want to consider whether to provide some deterrents for vexatious complaints (see Other Enforcement-Related Provisions table).
- **Confidentiality/transparency:** For complaints that are dismissed, local governments will want to consider how to treat the involved parties fairly when making decisions about whether or not to provide notification about the complaint and the reasons it has been dismissed, and the extent of that notification. For complaints that proceed to investigation, fair process would require notification to both the complainant and respondent, and opportunities for the respondent to respond during the investigation (see the Investigation table below).

INVESTIGATION: How are complaints investigated?

What is the purpose of the investigation and how is it conducted?	Investigations tend to be described quite generally (e.g., independent, impartial investigation of complaint; determine the facts, review relevant documents, conduct interviews), which provides considerable room for investigators to use their professional judgement to adapt the investigative process to meet the circumstances. Specific provisions relate to fair process, described below.
What are the timelines?	Some codes do not provide timelines. Where they are provided, timelines can refer to when the investigation begins (e.g., within 10 days, or as quickly as possible), when updates are provided (e.g., updates within 90 days after investigator's appointment) and/or when the investigation finishes (e.g., within 30 days, with extensions possible).
What are the fair process provisions?	Codes typically provide for confidential investigations and require participants to respect that confidentiality. All codes have investigation fair process provisions, that are either general (e.g., investigate in a manner that is fair, timely, confidential and otherwise accords with the principles of due process and natural justice), or more specific (e.g., complainant and respondent are provided notice, and relevant documents, respondents must be given opportunity to respond, and participants may be represented (including legal counsel)).

Considerations:

- **Fair process:** Whether or not specific provisions are included in the code, participants must be afforded fair process. Local governments will need to consider how they will provide key fairness elements, like:
 - How respondents will be able to effectively participate, including how and when they will be provided with relevant documents, how and when they can respond (ensuring they are given sufficient time to prepare that response); and when are respondents and potentially others given an opportunity to be represented and by whom; and
 - How to ensure the decision is based on relevant information (e.g., considerations around things like documentation of evidence, findings and decisions).

In addition, local governments will want to consider how much of this to detail within their code. More detail helps to ensure processes are consistently applied and things don't get missed, but may make the process less flexible and more difficult to adapt to emerging circumstances.

- **Confidentiality/transparency:** Considerations typically relate to how to ensure allegations and evidence remain confidential during the investigation process.

REPORTING FINDINGS: How are investigation findings and recommendations reported and to whom?

What must be in the investigator's report?

Reports must provide investigation findings. In some cases, there is a specific requirement to include findings as to whether there has been a contravention, and/or recommendations on resolution of the complaint.

Can sanctions be recommended if there has been a contravention?

There are two approaches: specific authority for the recommendations of sanctions from among a list of potential sanctions in the code; OR no specific mention of the ability to recommend sanctions, even though the code lists potential sanctions.

Can additional recommendations be made in the report?

A number of codes specifically allow any recommendation an investigator deems appropriate and also specifically provide for a recommendation that the complaint be dismissed.

To whom is the report delivered?

There are two general approaches, with some slight variation: to the Council/Board, with some also provided to a staff official; OR to the mayor/chair (with provision for the acting mayor/chair if that person is involved) with most also being provided to a staff official.

What are the timelines and fair process provisions?

There are few timelines for reporting (see Investigation table above for details). In many cases, there are explicit provisions for reports to be provided to both the complainants and respondents. A few state that the report to the mayor/chair is confidential, and in one case, there is explicit provision that if there is insufficient evidence in an investigation, the investigator reports that finding but there is to be no permanent record of the complaint.

Considerations:

- › **Fair process:** Consider how and when the complainant and respondent are informed of the findings of the investigation. Consider whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.
- › **Confidentiality/transparency:** Consider whether the investigator's report is provided confidentially or not. The choice of who receives the investigator's report may impact the extent to which the report is confidential, since if the report is delivered to the Council/Board, this may be in an open meeting. Where reports are not confidential, consider whether some information must be severed to comply with legislated privacy rules. Consider whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.

FINAL RESOLUTION: What actions can be taken once findings have been reported and by whom?

If the investigator's report goes to mayor/chair, does it also go to Council or Board?

Some codes require the mayor/chair to provide the report, or a summary of it, to the Council/Board, others allow that person to decide whether it should go to the Council/Board, and the remainder do not give direction to the mayor/chair as to whether or not the report should be provided to the Council/Board.

What happens if the investigation finds a contravention?

Some codes state that the decision about whether there was a contravention rests with the Council/Board. Others are less explicit, stating only that the investigator's report must state whether there has been a contravention.

If there was a contravention, who imposes sanctions and what are the parameters around that?

In no case can an investigator impose sanctions. That decision rests with the Council/Board. Codes describe what sanctions may be imposed, and in many cases, a Council/Board can choose from among those provided. In some cases, the only sanctions that can be imposed are some or all of those recommended by the investigator. In at least one case, the Council/Board is directed to consider specified factors (e.g., nature or impact of the conduct).

What are the timelines and fair process provisions?

Some codes do not articulate fair process. Others do, including: notification to the respondent prior to Council/Board consideration, stating that the respondent is entitled to respond and given time to prepare response (e.g., two weeks), stating that the respondent is entitled to be represented, including by legal counsel (some have indemnification; see 'Other Enforcement-related Provisions' table below). Some codes provide for Council/Board consideration in open meetings, while others provide for closed meetings for this.

Considerations:

- **Fair process:** Whether or not specific provisions are included in the code, participants must be afforded fair process. Local governments will need to consider how they will provide key fairness elements and how much to detail this within their code. **Refer to the fair process discussion in the 'Investigation' table above, which is relevant for this step also.** In addition, consider how to ensure an unbiased decision on sanctions. Some local governments find that limiting Council/Board discretion (e.g. may only impose sanctions recommended by investigator, or must consider specific factors) can help to reduce the potential for bias and/or ensure the decision is based on relevant information.
- **Confidentiality/transparency:** Consider relevant meeting rules and the nature of the matter. If these matters are dealt with in open meetings, consider whether some personal information should be severed; if dealt with in closed meetings, consider when and how the respondent is informed of decisions, and when and to what extent information is made available to the public (as a void of information can ultimately be filled by misinformation). Consider also whether different approaches are needed if no contravention has been found as opposed to if the findings indicate a contravention.

OTHER ENFORCEMENT-RELATED PROVISIONS: A sample of other key enforcement provisions that may be included in a code.

What enforcement provisions are there for different groups that are subject to a code?

Many codes apply only to members of the Council/Board; some also include committee members and/or staff. Where these other groups are included, codes tend to modify enforcement provisions (e.g., who deals with complaints and how this is done; what sanctions may be imposed) for each group.

Do codes provide for reimbursement of legal costs for a person involved in an enforcement process?

Some codes make provisions for reimbursement of a respondent's legal costs under certain circumstances, and with certain limits (e.g., if the person did not act in a dishonest, grossly negligent or malicious way; for the first occurrence, but not subsequently unless agreed in advance; upon request; only reasonable costs are reimbursed, sometimes with specified dollar limits).

What are the responsibilities of persons subject to the code?

Most codes require that members refrain from discussing allegations at open meetings until after investigations and Council/Board decisions on them.

Some codes require that members endeavour to resolve disputes in good faith, cooperate with informal resolution and/or not obstruct the Council/Board in investigations.

Some also require that members not act or threaten reprisal/retaliation against involved persons (i.e., complainant, respondent, witness, staff). In at least one case, for complaints that are vexatious, malicious or in bad faith, complainants are subject to disciplinary action, including sanctions in the code.

Considerations:

- **When code applies to committee members and/or staff:** All processes must be fair, and all will need to consider the confidentiality/transparency balance, but how these are applied is often different for each group. There may also be different legal or contractual requirements that would guide enforcement processes that must be considered (particularly with respect to staff).
- **Reimbursement:** Fairness can be enhanced by providing clear policy in the code, rather than dealing with reimbursement of legal costs on a case-by-case basis. In considering the potential to offer reimbursement of legal costs and limitations around that, local governments may wish to consider whether their indemnification policy could inadvertently act as a deterrent to trying to work things out informally.
- **Responsibilities:** Local governments may wish to consider whether the fairness and/or effectiveness of their enforcement processes could be enhanced by provisions such as these.

Sanctions

As described in the 'Final Resolution' table above, if the findings of an investigation indicate that there has been a conduct contravention, a Council or Board may consider what, if any, sanctions to impose.

As with other elements of a code of conduct enforcement process, legal advice is recommended as sanctions are being designed and when they are imposed.

Current Practice for Sanctions

Codes of conduct that provide details of an enforcement process also typically set out a range of sanctions that the Council or Board could impose for contraventions.

Sanctions are stated specifically, generally, or as a combination of these. For example, some codes say that the Council/Board "may impose sanctions" and follow this with a few examples, while others provide a specific list of sanctions, sometimes followed with a general provision for "any other sanction considered appropriate" by the investigator in some cases and the Council/Board in others.

Some codes also provide overarching statements that sanctions may only be imposed if they do not prevent the member from fulfilling their legislated duties of elected office.

Specific sanctions included in a sampling of B.C. codes of conduct are:

- Request letter of apology
- Mandatory education, training, coaching or counselling
- Suspension/removal from some or all committees or other bodies
- Public censure
- Letter of reprimand or formal warning
- Publication of reprimand or request for apology and member's response
- Suspension or removal as deputy/acting mayor/chair
- Restrictions on representing the local government or attending events or conferences
- Limits on travel/expenses beyond those in corporate policies
- Limiting access to certain local government facilities
- Requirement to return local government property provided for convenience
- Restrictions on how documents are provided to the member
- Reduction in compensation (in accordance with remuneration bylaw)⁷
- Written pledge promising to comply

Readers are cautioned that this listing merely presents a compilation of sanctions currently included within B.C. local government codes of conduct. They should be considered in the context of evolving law and the legal uncertainty that is discussed above. Given this, legal advice is advised on sanctions as well as other elements of a code of conduct enforcement process.

⁷ This sanction is provided for in the District of North Cowichan's code of conduct, and it is specifically linked to its Council remuneration bylaw. See Chapter 6, Resources for link.

Considerations When Imposing Sanctions

- **Fair process:** Fairness can be enhanced and the potential for bias reduced by providing direction to the Council or Board about what it must consider in making sanction decisions, or limiting Council/Board discretion to only imposing some or all of the sanctions recommended by the third-party investigator.
- **Effectiveness:** While sanctions can be imposed as a way of distancing the Council or Board from the member's conduct (e.g., public rebuke) or to penalize the member for the contravention (e.g., reduction in remuneration, imposing limits on travel or suspension of committee appointments), local governments may also wish to consider how sanctions may be used to support a return to responsible conduct and to prevent conduct issues in the future. For example, providing coaching, skills building or training can help to avoid conduct issues that stem from a misunderstanding about roles and responsibilities, from cultural assumptions or from frustration with not being able to get one's point across at a meeting. Additionally, restricting how documents are provided to the member can help to prevent a recurrence of a contravention of a duty of confidentiality.
- **Legal risk:** Sanctions are not specifically mentioned in B.C. local government legislation but local governments have been found by the courts to have the ability to manage conduct; this may include the ability to sanction in cases of the misconduct of a Council or Board member. The edges of that authority – in terms of what specific sanctions may be imposed – aren't yet clear, but some key questions to think about in imposing sanctions are set out in this graphic. Ensuring that each question can be answered with a "yes" may mean that the legal risk related to the proposed sanction is lower.

Could the sanction fall within the local government's legislated powers?

(e.g. CC/LGA fundamental and included powers; power to rescind appointments.)

If the sanction were imposed, would the elected official still be capable of fulfilling their duties of office?

(e.g., a suspension or disqualification from office would mean the elected official could not fulfill their duties of office; removal from rotation as acting mayor/chair or from a committee would not have that effect.)

Is the sanction consistent with other policies and procedures of the local government?

(e.g., do policies related to compensation allow for reduced remuneration if an elected official is found to have contravened the code of conduct?)

Were processes to determine the contravention and impose sanctions procedurally fair, with due regard to natural justice?

(e.g. notice, opportunity to be heard, open-minded decision-making, and consideration of relevant facts?)

How to Improve the Post-sanction Environment

Disqualification is not a sanction that can be imposed by a local government. Consequently, an elected official found to be in contravention of a code of conduct will continue to be a Council or Board member. By the time formal complaints are made, relationships among Council or Board members may be very strained, and the investigation and sanction process will likely further damage these relationships.

Finding effective ways to work together will become even more important, and local governments may wish to consider what specific support could be provided to the elected official found to be in contravention, and to the collective to facilitate them working effectively together again. In addition, consideration may be given to whether policy or procedure changes could support a return to responsible conduct. Local governments may also wish to consider whether to give the investigator an ability to make these types of restorative and support recommendations, which could help to move away from a singular focus on sanctions.



FOOD FOR THOUGHT

- › Is informal resolution something that would be suitable for the conduct issue at hand? If so, have we attempted that? If not, why not?
- › What enforcement processes and sanctions does our code of conduct include? Are they sufficient?
- › Do we have a process in place to review our code of conduct and what it covers? What can we learn from what we have just gone through for any future situations?
- › Does our code refer to legislated conduct rules? If so, is it clear about which enforcement processes refer to what code provisions? (e.g., court-based processes for conflict of interest, WorkSafe BC processes for bullying and harassment involving an employee, code of conduct enforcement for all others).
- › Have we done everything we can to make sure investigations and decisions are free from bias and administratively fair, and that the entire enforcement process reduces the potential for the process to be used for purely political purposes?
- › Are we providing the same standard of fairness to everyone?

“Justice Crawford sounded one important note of caution on the right of an elected council to take action regarding a council member’s misconduct. The power to decide whether a council member’s conduct falls below the expected standard of conduct must be exercised with great care and discretion:

‘Far too easily, this could turn into an abuse of process for cheap political gain, and any council that sets out in this direction must be careful in what it is doing.’”

(From the Young Anderson paper Controlling Councillor Conduct)

CLICK HERE for links to resources referenced in this chapter.

CHAPTER 5

Conclusion

Forging the Path to Responsible Conduct

Local governments are finding that putting sustained effort towards fostering responsible conduct and resolving conduct issues informally is an effective way to avoid lengthy, divisive enforcement processes, and is also necessary to sustain and maintain good governance.

Key success factors include:

- Initiating discussions towards adoption of a code of conduct before conduct issues emerge;
- Adopting a code of conduct, including details of the enforcement process to be used to address alleged contraventions of the code and the range of sanctions that may be imposed by the Council or Board if a contravention is determined;
- Building supporting structures, including policy alignment, and supporting elected official leadership and skills development;
- Finding ways to work effectively together and to build trustful, respectful working relationships, through such means as regular Council or Board check-ins; and
- Not allowing conduct issues to fester, but rather taking steps to resolve them informally early on and identify and address their underlying causes (e.g., preconceptions, mistrust, misinformation) in order to avoid future conduct issues.

“The time to adopt a code of conduct is not when you’re in the middle of a crisis – it’s when things are going well, and when it can be aspirational.”

(A B.C. regional district CAO)

When enforcement processes are needed, local governments are well served by having articulated their process within their code of conduct in advance. Key factors to consider include ensuring a high standard of fairness throughout the process (e.g., the person affected by the decision is able to participate in the process before the decision is made, the decision-maker is open-minded, and the decision is based on relevant information).

Subsequent to enforcement processes, local government have found a need to take a renewed interest in improving working relationships among the Council or Board that tend to have further eroded during the enforcement process. Efforts towards continuous improvement in fostering responsible conduct and maintaining good governance are helpful – in particular, rebuilding respectful and trustful relationships.

CHAPTER 6

Resources

Click the name of the resource in dark blue to link to the website.

Please note: the following links were up-to-date at time of publication. If the links do not work, most of these resources can be found by conducting a web search using the name and organization listed below.

Chapter 1: Fostering Responsible Conduct

Featured Resources

- Working Group on Responsible Conduct materials:
 - *Foundational Principles of Responsible Conduct for BC Local Governments* describes key principles to guide elected officials' conduct.
 - *Getting Started on a Model Code of Conduct for Your Council/Board: Model Code of Conduct* and its *Companion Guide* provide a model code that local governments can modify to meet their needs, and describes things to think about when developing a code; the Companion Guide provides links to numerous resources, including several B.C. local government codes of conduct.
 - The Ministry of Municipal Affairs and Local Government Management Association publication *Procedure Bylaw Guide: For B.C.'s Local Governments* explains legislative requirements, provides best practices, and sets out questions to consider in developing procedure bylaw amendments.
- Other local government resources:
 - Oath of office: [City of Kelowna](#)
 - Social media policies: [District of Saanich Code of Conduct, s.6](#)
 - Information-sharing practices: District of North Vancouver policy [Staff Handling of Individual Council Member Requests for Information](#) (see Corporate Administration tab)
 - Conduct expectations for the public: [District of North Cowichan Public Input and Meeting Conduct Policy and Respectful Places Bylaw](#)
 - Checklists and educational tools: [District of Sparwood Code of Conduct Quick Reference Guide to Accepting and Disclosing Gifts](#)

Click the name of the resource in dark blue to link to the website.

Other Resources

- [B.C. Human Rights Code](#)
- [Local Government Leadership Academy website](#)
- [Local Government Management Association resources webpage](#)
- Institute for Local Government (California) publications:
 - [Developing a Local Agency Ethics Code: A Process-oriented Guide](#)
 - [Ethics Code Menu/Worksheet](#)
- Province of B.C. video [Roles and Responsibilities of a Locally Elected Official](#)
- Province of B.C. video [Characteristics of Effective Locally Elected Officials](#)

Chapter 2: Maintaining Good Governance

Featured Resources

- [Enhancing Collaboration in British Columbia's Regional Districts](#) (2014, by Jennie Aitken of the University of Victoria in collaboration with the Ministry of Community, Sport & Cultural Development, Union of B.C. Municipalities and LGMA) is a research study with findings that show what can support collaboration, and it provides a number of recommendations in relation to this; a [checklist](#) summarizes these recommendations.
- [Local Government External Resource Database](#) provides areas of speciality and contact information for professionals who work with local governments on governance and other critical issues.
- The Province of B.C.'s short videos [What Contributes to Effective Local Government Decision-making](#) and [Roles and Responsibilities of a Locally Elected Official](#) focus on key elements related to effective governance.
- [Sample customizable self-evaluation checklists for Councils and Boards](#).
- [B.C. Ombudsperson Complaint Handling Guide](#) and [First Nations Health Authority](#) provide information on treating people with dignity and respect and building cultural humility.

Other Resources

- Ministry of Municipal Affairs webpage [Local Government Open Meeting Rules](#)
- B.C. Ombudsperson special report [Open Meetings: Best Practices Guide for Local Governments](#)
- Candice Martin presentation on Prezi.com [Unproductive Conflict vs. Productive Conflict](#)
- Institute for Local Government (California) publications:
 - [Leadership & Governance: Tips for Success](#)
 - [Tips for Promoting Civility in Public Meetings](#)
 - [Understanding the Role of the Chair](#)
 - [Working Together to Achieve Ones' Goals](#)
 - [Dealing with Bumps in the Road](#)

Click the name of the resource in dark blue to link to the website.

Chapter 3: Resolving Conduct Issues Informally

Featured Resources

- B.C. Ombudsperson report *The Power of an Apology: Removing the Legal Barriers* and *Quick Tips on Apologies*
- *Public Management* article *Preparing Councils for their Work*, Julia Novak and John Nalbandian (August 2009, pg. 27)
- **Local Government External Resource Database** provides areas of speciality and contact information for professionals who work with local governments on governance and other critical issues.
- Institute for Local Government (California) publication *Dealing with Bumps in the Road* provides strategies for dealing with elected official and staff relationship challenges, which may also be useful when taking informal steps to resolve conduct issues among elected officials informally.

Resources

- *Getting to Yes: Negotiating an Agreement Without Giving In*; Roger Fisher and William Ury, with Bruce Patton, Editor
- Institute for Local Government (California) publication: *Attributes of Exceptional Councils*

Chapter 4: Essentials of Code of Conduct Enforcement

Featured Resources

- *Getting Started on a Model Code of Conduct for Your Council/Board: Model Code of Conduct* and its *Companion Guide* – of particular interest to enforcement are links to several B.C. local government codes of conduct, many of which articulate enforcement provisions, located within the *Companion Guide*.
- **City of Surrey Bylaw 20018** creates an Ethics Commissioner position and assigns a number of roles to the position, including providing advice and delivering training.
- District of North Cowichan's code of conduct provides for a sanction to reduce remuneration, noted in its **Council remuneration bylaw**.

Other Resources

- B.C. Ombudsperson resources *Fairness in Practice Guide*, along with *Fairness by Design* and *Quick Tips: Essentials of Procedural Fairness*
- Young Anderson report *Controlling Councillor Conduct* by Barry Williamson, 2013.
- B.C. Ministry of Municipal Affairs webpage **Ethical Standards for Locally Elected Officials**
- Union of British Columbia Municipalities fact sheet **Conflict of Interest**
- WorkSafe BC's **bullying and harassment resource toolkit** along with *A Handbook on Addressing Workplace Bullying and Harassment*
- **B.C.'s Office of the Human Rights Commissioner** and **B.C. Human Rights Tribunal** websites provide links to information and resources about the Human Rights Code, prohibited discrimination and how to file a complaint with the Human Rights Tribunal.

WORKING GROUP ON RESPONSIBLE CONDUCT


The Working Group on Responsible Conduct is a joint initiative between the Union of BC Municipalities, the Local Government Management Association of British Columbia, and the B.C. Ministry of Municipal Affairs. The group was formed to undertake collaborative research and policy work around issues of responsible conduct of local government elected officials.

RESPONSIBLE CONDUCT OF LOCAL GOVERNMENT ELECTED OFFICIALS

Working Group on Responsible Conduct

Policy Report

August 2017



The Working Group on Responsible Conduct is a joint initiative by the Union of B.C. Municipalities, the Local Government Management Association, and the Ministry of Municipal Affairs and Housing. The staff-level Working Group was created in Fall 2016 to undertake collaborative research and policy work on the issue of responsible conduct of local government elected officials.

TABLE OF CONTENTS

1. INTRODUCTION

<i>a) What is responsible conduct?.....</i>	<i>4</i>
<i>b) What is the issue?.....</i>	<i>5</i>
<i>c) What is the Working Group on Responsible Conduct (WGRC) and what activities has it undertaken to date?.....</i>	<i>5</i>
<i>d) What is the purpose of this report?.....</i>	<i>6</i>

2. RESPONSIBLE CONDUCT FRAMEWORK

<i>a) What are the principles on which an effective responsible conduct framework should be based?.....</i>	<i>7</i>
<i>b) What are the key components of an effective responsible conduct framework?.....</i>	<i>8</i>

3. PERSPECTIVES AND ANALYSIS

<i>a) What are the elements of B.C.'s current responsible conduct framework?.....</i>	<i>10</i>
<i>b) What tools are currently available in B.C. under the four key components of an effective responsible conduct framework and how are they similar or different to tools in other provinces?.....</i>	<i>11</i>
<i>c) What are some of the key findings and trends that have emerged from the WGRC's cross-jurisdictional research?.....</i>	<i>12</i>
<i>d) What are the themes that emerged from consultation undertaken by UBCM and LGMA with their members?.....</i>	<i>13</i>

4. RECOMMENDATIONS.....17

APPENDIX A: Comparison of Tools in B.C. and Other Canadian Jurisdictions.....20

APPENDIX B: Members of the Working Group on Responsible Conduct.....22

1. INTRODUCTION

Responsible conduct broadly refers to how local government elected officials conduct themselves with their colleagues, with staff, and with the public.

Responsible conduct is grounded in conducting oneself with honesty and integrity and in a way that furthers a local government's ability to provide good governance.

What is responsible conduct?

Local government elected officials have authority to make decisions that affect the daily lives of citizens, families, businesses and others, as well as the long-term vision of their communities. *Responsible conduct* broadly refers to how local government elected officials conduct themselves with their elected colleagues, with staff, and with the public – key groups that play a significant role in helping elected officials carry out their collective responsibilities as decision-makers of their communities.

Responsible conduct is grounded in conducting oneself with honesty and integrity and in a way that furthers a local government's ability to provide good governance to their community. Good governance includes:

- Providing for the stewardship of a community's public assets;
- Providing services, laws, and other matters for community benefit; and
- Acting in a way that is accountable, transparent, ethical, respectful of the rules of law, collaborative, effective, and efficient.

If a local government faces issues related to responsible conduct among its elected decision-makers, it can affect the local government's ability to provide good local governance. These issues can include disputes among local government elected officials on municipal councils and regional district boards, inappropriate behaviour towards staff, questionable behaviour at council/board meetings or in interactions with the public, conflict of interest violations, and alleged breaches of other procedures/rules such as open meetings and duty to respect confidentiality.



What is the issue?

Generally, B.C.'s local government elected officials effectively carry out their governance functions and responsibilities as decision-makers; they work well with each other, with local government staff and with the public. However, some concerns have been raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system. This is an important concern because local government elected officials can be more effective in providing good governance to their communities if they engage in responsible conduct.

What is the Working Group on Responsible Conduct (WGRC) and what activities has it undertaken to date?

At the 2016 Union of B.C. Municipalities Convention, a resolution related to responsible conduct (specifically about local integrity commissioners) was referred for further exploration. As a result, staff from the Union of B.C. Municipalities (UBCM), the Local Government Management Association (LGMA), and the Ministry of Municipal Affairs and Housing (the Ministry) formed a Working Group on Responsible Conduct (WGRC) that has been undertaking collaborative research and policy work to more broadly explore issues related to responsible conduct.¹

The WGRC has undertaken a variety of research and policy work that has focused on gaining a more complete understanding of the issue, and of the benefits and challenges of various approaches to enhancing responsible conduct to support the collective goal of a more effective local government system.

In March 2017, the WGRC published a [Consultation Paper](#) directed to UBCM and LGMA members. The paper was used by UBCM and LGMA as a basis for engagement with their respective members throughout Spring 2017. Presentations on the topic of responsible conduct were delivered at Area Association Conventions throughout April and May; in addition, a survey was used to seek input from UBCM members. A similar process was undertaken by LGMA with its members. Presentations were delivered to Chapter meetings and its Annual General Meeting and LGMA used a similar survey to collect feedback from its members on topics related to responsible conduct.

There have been some concerns raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system.

The Working Group on Responsible Conduct consists of staff from:

- *the Union of B.C. Municipalities;*
- *the Local Government Management Association; and*
- *the Ministry of Municipal Affairs and Housing.*

UBCM and LGMA consulted with their respective members throughout Spring 2017 on the ideas presented in the Consultation Paper.

¹For more information on each organization, please see the following links: [UBCM](#), [LGMA](#), the [Ministry of Municipal Affairs and Housing](#).

This document:

- ***builds on the ideas outlined in the Consultation Paper;***
- ***reports back on feedback received from consultation undertaken by UBCM and LGMA with their respective members throughout Spring 2017; and***
- ***makes recommendations to begin the process of strengthening B.C.'s responsible conduct framework.***

What is the purpose of this report?

This document builds on the ideas outlined in the [Consultation Paper](#) and reports back on feedback received from consultation undertaken by UBCM and LGMA with their respective members. In addition, the report makes recommendations to begin the process of strengthening B.C.'s responsible conduct framework to help ensure local governments can provide effective governance to their communities.

Specifically, this report:

- identifies principles to guide the development of approaches to strengthen B.C.'s responsible conduct framework;
- identifies and describes four components of an effective responsible conduct framework that are used to evaluate B.C.'s current responsible conduct framework (including the current tools available) and guide further policy development;
- discusses feedback from UBCM and LGMA consultation with their members, as well as perspectives on emerging trends from research of other jurisdictions conducted by the WGRC; and
- recommends actions that can be taken and approaches that can be explored to strengthen B.C.'s responsible conduct framework.

2. RESPONSIBLE CONDUCT FRAMEWORK

What are the principles on which an effective responsible conduct framework should be based?

B.C.'s current responsible conduct framework includes a variety of tools that can be used to support responsible conduct and address issues that stem from less-than-responsible conduct. However, there are opportunities to strengthen B.C.'s current framework and consider additional tools of value.

How do we determine which tools are of value? One way to evaluate the various policy options is to consider them against a backdrop of principles that set out what constitutes an effective responsible conduct framework. The WGRC has developed ten principles, which reflect feedback from the consultation process, research undertaken by the WGRC, and the experiences of each WGRC member within the local government system.

One way to evaluate the current tools and consider policy options for additional tools is to consider them against a backdrop of principles.

The ten principles are:

- 1) A robust responsible conduct framework for local government elected officials is important to ensure local governments can effectively provide for the good governance of their communities.
- 2) No one tool will "solve" all responsible conduct issues given the wide spectrum of behaviours that can become an issue; a multi-pronged approach is required.
- 3) B.C.'s responsible conduct framework should reflect and promote a set of core values to guide the conduct of local government elected officials with the collective goal of supporting an effective local government system – the core values should reflect a clear understanding of the roles and responsibilities of elected officials, staff, and the public.
- 4) B.C.'s responsible conduct framework should address issues not only about individual elected officials but also related to councils/boards as a whole (the collective), especially in regard to promotion of responsible conduct and addressing issues/repairing relationships.
- 5) B.C.'s responsible conduct framework should respect local government autonomy; it should also account for situations in which councils/boards may find it difficult to internally solve challenging issues that stem from less-than-responsible conduct.
- 6) Each local government has its own culture and characteristics – this means that the tools available in B.C.'s responsible conduct framework need to function within and account for a variety of differences.
- 7) The elements of a responsible conduct framework are interrelated – for example, to be meaningful, standards of responsible conduct must be enforceable, and fair, effective enforcement depends on having clear standards understood by all.
- 8) A "Made in B.C." approach to additional responsible conduct tools is important to ensure the responsible conduct framework aligns with B.C.'s traditions of local government autonomy and direct accountability to citizens.
- 9) Changes to the responsible conduct framework should consider existing tools and avoid duplication where possible, and also consider how each tool complements others to ensure an integrated and effective approach to supporting responsible conduct of local government elected officials.
- 10) Changes to the responsible conduct framework should consider the balance between voluntary and mandated tools and the roles and relationships of local government elected officials, local government staff, and the public in relation to those tools.

What are the key components of an effective responsible conduct framework?

In addition to identifying principles, the WGRC has identified the following four key components of an effective responsible conduct framework:

- *promoting responsible conduct* through education and clear standards of conduct;
- *repairing relationships* on a council/board due to challenges that stem from less-than-responsible conduct;
- *evaluating and making determinations* about alleged breaches of standards of conduct; and
- *imposing sanctions* if it has been determined that an individual breached standards of conduct.

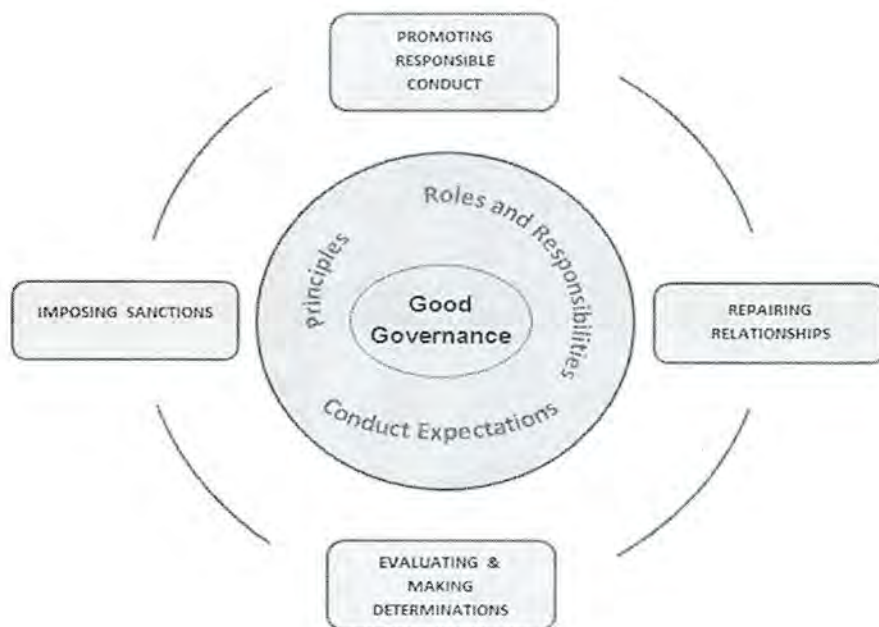
These key components help in assessing the current tools available in B.C.'s responsible conduct framework and guiding policy development of potential new tools – having effective tools available under each key component will help support local governments in encouraging responsible conduct and addressing various circumstances due to less-than-responsible conduct.

Ensuring there are tools available under the key components of an effective responsible conduct framework will help support local governments in encouraging responsible conduct and addressing circumstances due to less-than-responsible conduct.

Each of these components is distinct, but they are all interrelated. For example, tools under promoting responsible conduct that educate and establish standards may be vital to help elected officials understand roles and responsibilities and conduct expectations at the start of their term, but they can also be vital in repairing relationships among all members of a council/board, or reintegrating an individual who has been found to have engaged in less-than-responsible conduct. As another example, the standards of conduct that are established, how breaches of those standards are evaluated and determined, and the sanctions that are imposed must all be interconnected if they are to support an effective responsible conduct framework.

These four key components are also related to the primary purpose of an effective responsible conduct framework – helping to ensure that local governments can provide good governance to their communities. As Figure 1 illustrates below, good governance depends on elected officials having a clear understanding of their roles and responsibilities (in addition to those of staff and the public) in the local government system, setting clear conduct expectations for elected officials, and ensuring local governments have access to tools based on clearly understood principles. A description of each key component follows Figure 1.

Figure 1: The key components of an effective responsible conduct framework



The four key components of an effective responsible conduct framework:

Promoting responsible conduct:

- The focus of this component is to ensure that elected officials have a clear understanding of their roles and responsibilities and the conduct standards they need to meet. Tools that promote responsible conduct include education initiatives/resources and advice that elected officials can draw from to increase their knowledge about the roles of key groups in the local government system. Expectations of conduct may also be set out in tools such as a code of conduct, oath of office, or orientation and training programs for elected officials. Having clear standards of conduct is strongly linked to tools in the other components.

Repairing relationships:

- This component addresses situations in which individual elected officials or a council/board as a collective are facing challenges that stem from less-than-responsible conduct – situations such as interpersonal conflicts between individuals or a breakdown of relationships on a council/board where members are beginning to experience challenges carrying out their collective decision-making responsibilities. Tools centered on repairing relationships between elected officials can include peer-to-peer programs for individuals and connecting local governments with resources, such as individuals who can support council/board members in building more effective working relationships that allow them to carry out their duties. Repairing relationships of the collective depends on reinforcing the standards of conduct expected from individual council/board members.

Evaluating and making determinations:

- This component focuses on tools for evaluating complaints about individuals who are thought to have breached standards of conduct (e.g. considering whether or not the complaint is valid) and for investigating an alleged breach if the complaint is found to be valid. Investigation processes need to ensure procedural fairness and may be undertaken internally by the local government body or by an external body. Depending on the outcome of an investigation, sanctions could be recommended. The ability to evaluate and determine if there has been a breach depends on having clear standards against which conduct can be judged.

Imposing sanctions:

- This component focuses on both the particular sanctions that could be applied for breaching standards and the process for applying those sanctions. These processes may also be undertaken internally by the local government body or by an external body. Examples of sanctions include a reprimand, suspension of pay for a certain period of time, or disqualification. Sanctions can also be remedial, such as requiring an individual to undertake ethics training to encourage responsible conduct moving forward. Imposing sanctions is directly connected to enforcing standards of conduct (i.e. the sanction should reflect the severity of the breach).

3. PERSPECTIVES AND ANALYSIS

What are the elements of B.C.'s current responsible conduct framework?

B.C.'s local government framework consists of various elements that provide a foundation for responsible conduct, including access to advice, education and training for local government elected officials and staff; the legislative framework to which local governments and elected officials must adhere; and statutory Offices. The courts also play an important decision-making role within the system. Together, these elements are meant to provide support and guidance for local government elected officials so that they can govern effectively and according to good governance principles.

- *Access to education, advice and training:* B.C. has a tradition of close collaboration among "partner" organizations that support the local government system (e.g. UBCM; LGMA; Local Government Leadership Academy (LGLA); the Ministry) to provide advice, education and training for elected officials and staff, including topics related to responsible conduct. Education opportunities range from written guides to interactive workshops, such as LGLA forums and LGMA programs.
- *Legislation:* The *Community Charter* and the *Local Government Act* set out the purposes of municipalities and regional districts, the roles and responsibilities of elected officials, and specific obligations of the local government itself. Other legislation, such as the *Workers Compensation Act* and *B.C. Human Rights Code* require local governments to meet their obligations as employers to ensure the health and safety of their employees and to address and prevent inappropriate behaviour.
- *Statutory Offices:* Legislated Offices have targeted oversight functions related to local governments; however, issues related to responsible conduct typically fall outside the mandates of these Offices.
 - The *Inspector of Municipalities* primarily focuses on financial performance and statutory requirements (bylaw approval), as well as advice and education; although the Inspector has some enquiry powers into the conduct of local government business, such extraordinary powers have rarely been used as the matter would need to affect the fundamental viability of a local government or have serious consequences for the local government system.
 - The *Auditor General for Local Government* conducts independent performance audits of the operations of local governments and provides information/advice to assist in the stewardship of public assets; however, its mandate does not include reviewing policy decisions or considering complaints about individual elected officials.
 - The *Information and Privacy Commissioner* provides independent oversight of B.C.'s information access and privacy laws to which local governments are subject under the *Freedom of Information and Protection of Privacy Act*.
 - The *Ombudsperson* deals with public complaints regarding unfair treatment by a range of public authorities, including local governments (e.g. unreasonable delay, unfair policies); however, its mandate is limited to complaints about the corporate body (e.g. the municipality) rather than individual elected officials.

Elements of B.C.'s local government framework include:

- *access to advice, education and training for elected officials and staff; and*
- *rules and requirements set out in the legislative framework.*

The courts also play an important decision-making role.

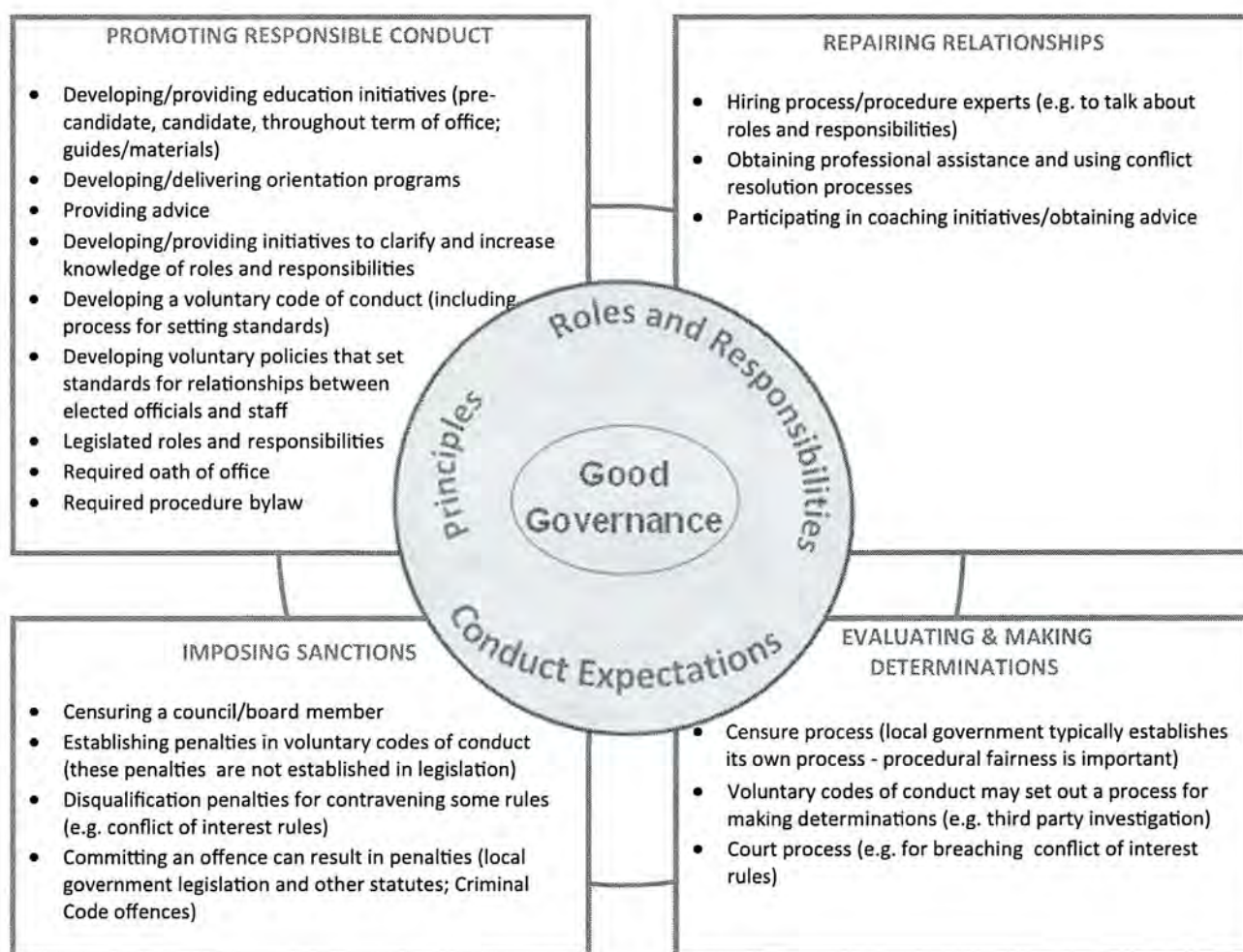
The courts also play a significant role in the existing framework as judges are responsible for making final decisions about legal matters that relate to responsible conduct issues (e.g. a dispute between two elected officials resulting in a defamation lawsuit; a prosecution against an elected official for divulging personal information contrary to the *Freedom of Information and Protection of Privacy Act*; a judicial review of a local government's failure to comply with closed meeting rules).

What tools are currently available in B.C. under the four key components of an effective responsible conduct framework and how are they similar or different to tools in other provinces?

B.C.'s responsible conduct framework includes a range of tools that can be used to prevent or address issues that stem from less-than-responsible conduct. The tools in B.C. range from voluntary tools to more directive tools (e.g. from voluntarily establishing a code of conduct to penalties for contravening legislated ethical standards rules) and may be aimed at individual elected officials or the collective decision-making body (e.g. council/board). They also tend to align with B.C.'s tradition of local government autonomy and focus on local government elected officials being directly accountable to their citizens, rather than being directly accountable to or supervised by the provincial government.

Figure 2 identifies the tools that are available in B.C. under each component of an effective responsible conduct framework. This information, in addition to the research trends and consultation feedback, can help to determine next steps for strengthening B.C.'s responsible conduct framework.

Figure 2: Responsible conduct tools in B.C.



Other Canadian jurisdictions also have tools that fall under each of the components of an effective responsible conduct framework. Like B.C., the tools available in other jurisdictions reflect the particular context and traditions of each province (for example, Quebec's framework emphasizes more direct provincial involvement than would be traditional in B.C.). See Appendix A for a table that provides an overview of tools in other jurisdictions in comparison to tools available in B.C.

What are some of the key findings and trends that have emerged from the WGRC's cross-jurisdictional research?

Although some of the tools in other jurisdictions may be similar, there are often variations in how the tools are designed. For example, several jurisdictions require local governments to develop and adopt a code of conduct for elected officials. However, the extent to which the content and enforcement processes are established in legislation vary. Consider the following examples:

Ontario	Local governments are required to establish a code of conduct and have flexibility to determine the content of the code (although the provincial government has authority to prescribe subject matter by regulation). Alleged breaches of the code of conduct are evaluated and investigated by a locally appointed integrity commissioner, who recommends sanctions (the council decides). ²
Saskatchewan	Local governments are required to establish a code of ethics, which must include the model code of ethics established in legislation. Local governments can customize other elements of the code of ethics and are required to establish their own processes for evaluating and investigating alleged breaches of the code. ³
Québec	Local governments are required to establish a code of conduct and have some flexibility to set out ethical values and conduct standards in the code. Complaints about alleged contraventions of the code are evaluated and investigated by a provincial body (the Commission municipale du Québec), which also imposes sanctions on individuals. ⁴

These approaches can also be compared to approaches taken in international jurisdictions, such as Australia. For example, in the state of Victoria, independent bodies, or "panels", are established to investigate alleged breaches of conduct rules.

The cross-jurisdictional research indicated a tendency towards more mandatory tools and specific requirements than under the current B.C. framework. As discussed in the *Consultation Paper*, the following trends also emerged from the research:

- **Multi-pronged approach:** Implementing a multi-pronged approach that includes a mix of voluntary and mandatory tools can be an important part of an effective responsible conduct framework.
- **Emphasis on education:** Education is generally seen as an important part of encouraging responsible conduct – developing educational resources (such as programs, handbooks, and webinars) is common in jurisdictions across Canada to provide guidance and support to both local government elected officials and staff.
- **Sharing expertise:** Peer-based programs are a trend, with some jurisdictions expressing this as formal peer mediation programs (such as the formal peer-to-peer mentorship program in Alberta). In that way, local government elected officials can obtain advice and guidance on a variety of topics.
- **Setting and enforcing conduct standards:** Setting standards for conduct is a trend towards explicitly encouraging or requiring certain standards of conduct, rather than leaving assumptions about what is/is not acceptable behaviour to unwritten rules. An important consideration for setting standards is developing processes for enforcement of those standards.
- **Spectrum of penalties:** A spectrum of penalties that can be applied to local government elected officials who breach rules related to responsible conduct has also been explored. This approach allows for flexibility when considering the consequences for the variety of behaviours that may be seen as a problem.

²See *Municipal Act*, https://www.ontario.ca/laws/statute/01m25?_ga=2.49707750.1936512436.1498774563-375804517.1498774563

³See *The Municipalities Act*, <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/M36-1.pdf>

⁴See *Municipal Ethics and Good Conduct Act*, <https://www.canlii.org/en/qc/laws/stat/cqlr-c-e-15.1.0.1/latest/cqlr-c-e-15.1.0.1.html>

The variety of tools implemented by other jurisdictions, and trends that emerged from the cross-jurisdictional research, highlight a range of policy options and considerations for tools that could be added under each of the four components of an effective responsible conduct framework to strengthen B.C.'s current system.

What are the themes that emerged from consultation undertaken by UBCM and LGMA with their members?

UBCM and LGMA consulted their respective members in Spring 2017 on the ideas and issues raised in the WGRC's [Consultation Paper](#). Specifically, consultation allowed UBCM and LGMA to test whether the WGRC's summary of the issue resonated with UBCM and LGMA members and to seek members' perspectives on the effectiveness of B.C.'s current responsible conduct framework to determine potential gaps in that framework. UBCM and LGMA members were also asked about whether the trends that emerged from the cross-jurisdictional research conducted by the WGRC could be of value to explore within the context of B.C.'s framework.

UBCM and LGMA obtained feedback from their respective members in part through the use of a survey, the quantitative results of which can be found on the following [website](#). Most questions were asked of both LGMA and UBCM members, and there was a strong correlation in survey responses between the two groups. The following section discusses the key themes from the survey responses.

What was the feedback on the Consultation Paper's issue summary?

In the [Consultation Paper](#), the WGRC identified that concerns have been raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system. It then proposed factors that provide a foundation for responsible conduct, including written and unwritten rules, or norms (e.g. the conduct of elected officials should be grounded in respect and honesty; public interest should be more important than personal interest; and democratic processes – such as council discourse and public discussions – should be carried out civilly and respectfully). The paper also identified a variety of pressures that may be impacting these unwritten rules (e.g. pervasiveness of technology and social media, challenges of providing good governance in a 'post-truth'⁵ era, loss of knowledge and continuity due to continuous turn-over on local government bodies and staff, and a lack of shared understanding of the norms).

The survey results generally supported the WGRC's summary and assessment of the issue. In addition, both LGMA and UBCM respondents indicated a high degree of agreement with the unwritten rules, or norms, that the WGRC described as underpinning responsible conduct. Further, they agreed that the identified pressures on these unwritten rules represented significant influences on responsible conduct, with senior staff turnover and elected official turnover being ranked as significant influences by both groups. Both UBCM and LGMA respondents also identified that pressures associated with social media represented an important influence on responsible conduct; however, there was a significantly higher percentage of LGMA respondents who identified social media as being a particularly important influence. In addition, while both groups indicated that there was not always a shared understanding on a board or council of what constitutes "responsible conduct", this view was most prevalent in the LGMA results.

The survey results generally supported the WGRC's summary and assessment of the issue.

Survey respondents identified senior staff turnover and elected official turnover as significant influences on the "unwritten rules" that provide a foundation for responsible conduct.

Although both UBCM and LGMA respondents identified social media as impacting responsible conduct, a higher percentage of LGMA respondents identified social media as being an important influence.

⁵Oxford Dictionaries defines "post-truth" as "[r]elating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief" ("Post-truth", [Oxford Living Dictionaries](#)).

Survey results also pointed to factors that were seen to have a positive or negative influence on the conduct of elected officials, which are outlined in the table below.

Factors influencing elected officials' conduct:	
Positive influences: <ul style="list-style-type: none"> • Respect amongst colleagues; • Ability for all elected officials to participate and express views in council/board discussions; • Commitment for the collective to work together for a better community; • Education, workshops, and open discussions; and • Strong, effective leadership of a mayor or board chair. 	Negative influences: <ul style="list-style-type: none"> • Lack of understanding about roles and responsibilities; • Lack of trust between elected officials and staff, or distrust of the local government by the public; • Lack of consequences or repercussions for questionable behaviour; and • Personal or partisan political agendas.

In addition to the influences outlined above, UBCM respondents also spoke to the negative influences of both racism and sexism in survey results and in conversations that took place as part of the consultation process (e.g. at Area Association Conventions). Some respondents also raised significant concerns about the lack of respect and bullying in closed meetings.

What was the feedback on the use and effectiveness of current tools in B.C.'s responsible conduct framework?

Of the tools currently available in B.C., the following tools were most often cited as being used by respondents:

- post-election education and orientation initiatives; and
- education for elected officials during the term of office.

Most of the other tools were used by many respondents, with the notable exceptions of peer-to-peer mentoring, contracted mediation or dispute resolution services, and censure, which were all used significantly less than other tools.

LGMA respondents consistently rated the effectiveness of existing tools slightly lower than UBCM respondents, but the two groups had similar views on the relative effectiveness of the tools. While most of the tools were considered by the majority of respondents to be effective, the three tools considered to be most effective were:

- post-election education and orientation initiatives;
- education for elected officials during the term of office; and
- joint elected official/staff training.

Contracted mediation and dispute resolution services and censure were not seen by the majority of respondents as significantly effective tools to support responsible conduct (as noted above, these tools were also used significantly less than other tools).

Respondents identified a variety of factors that may influence conduct.

- *Positive influences included respect amongst colleagues and effective leadership of a mayor or board chair.*
- *Negative influences included lack of understanding of roles and responsibilities and lack of trust.*

Post-election education and orientation initiatives, education during the term of office, and joint elected official/staff training were identified as effective tools.

What was the feedback on the potential usefulness of tools in other jurisdictions and on the value of exploring emerging research trends for B.C.'s responsible conduct framework?

Shift in balance between voluntary and mandatory tools:

Respondents in both groups suggested that a shift in the balance between voluntary and mandatory tools may be appropriate in relation to some elements of B.C.'s responsible conduct framework. For example, the results indicated support for mandatory tools that could be used to:

- set standards of conduct for elected officials; and
- clarify roles and responsibilities between elected officials and staff.

This result is consistent with the cross-jurisdictional trend of other provinces requiring local governments to set standards of conduct.

Flexibility for mandatory tools:

Results from the two groups diverged in relation to the degree of flexibility that would be appropriate for mandatory tools. For example, UBCM respondents tended to favour a mandatory requirement with flexibility for local governments to design specific components of the tool, whereas LGMA respondents tended to favour a mandatory requirement in which the specific components of the tool were mandated as well. This difference in perspectives also reflects the variety of options available for designing tools, which is demonstrated in the different approaches taken across Canada (e.g. the various approaches taken to set standards of conduct).

Both groups also saw some advantage in mandatory education requirements and establishing a spectrum of penalties that could be imposed if conduct standards were breached, with LGMA results being significantly higher than those of UBCM for the latter tool. Again, LGMA respondents more often indicated a desire to mandate specific components of these tools than did UBCM respondents. Both groups had less confidence that the use of external parties to resolve issues should be mandated, with a significant percentage of respondents indicating that the use of these tools should be voluntary.

Relevancy of research trends:

Responses indicated support for further exploration of approaches that reflect the trends that emerged from cross-jurisdictional research. Emphasizing education and setting and enforcing conduct standards were the highest ranked trends. The lowest ranked trends were those in relation to developing formal peer-to-peer mentoring programs (e.g. sharing expertise) and the use of external parties to investigate standards of conduct and make recommendations.

A shift in the balance between voluntary and mandatory tools was viewed as appropriate for some elements of B.C.'s responsible conduct framework.

While UBCM respondents tended to favour a mandatory tool with flexibility to customize some components of the tool, LGMA respondents tended to favour a mandatory tool that would have required components.

Respondents viewed emphasizing education and setting and enforcing conduct standards as the most applicable trends worth exploring.

The qualitative survey results generally supported the quantitative results discussed above, but also highlighted the complexity of the issues and the range of considerations when exploring additional tools to strengthen B.C.'s responsible conduct framework. For example:

a) Enforcing standards of conduct:

- o The results indicated that establishing an effective approach to enforce standards of conduct was a significant concern. However, there were some differences in perspectives about the approach that should be taken. While the use of external parties to investigate standards of conduct was not amongst the highest ranking tools, many qualitative responses indicated that an enforcement approach *should* involve someone external to the local government body to investigate alleged breaches of conduct standards and recommend sanctions.
- o Within these comments, views about what approaches would be most helpful varied considerably. Suggestions included:
 - ◇ involvement of the provincial government in enforcing standards of conduct;
 - ◇ a restorative justice approach;
 - ◇ an independent commissioner with or without the power to impose sanctions;
 - ◇ an imposed dispute resolution or mediation process; and
 - ◇ approaches that allowed for some form of public input in response to less-than-responsible conduct.
- o These comments point to the potential benefit of researching and reviewing a variety of approaches that could be used to design an effective enforcement model.

b) Providing peer support:

- o While formal peer-to-peer mentorship programs were not amongst the highest ranking tools in terms of what respondents believed would be most effective for addressing less-than-responsible conduct, these tools need to be considered against the backdrop of numerous qualitative responses that suggested value in coaching, team assessment, peer mentorship, support networks, and a "hotline" to use when problems present themselves.
- o These responses suggest a desire to explore tools around providing peer support and/or developing "early detection", fact-finding, and intervention strategies for councils/boards that are beginning to face challenges that stem from less-than-responsible conduct.

c) Mandating tools:

- o The survey results generally indicated support for additional tools to support responsible conduct and address issues related to less-than-responsible conduct, and, in many cases, moving towards tools that have mandated requirements.
- o However, several cautions were raised in relation to mandatory tools, including:
 - ◇ potential challenges associated with the additional administrative burden, particularly in small communities;
 - ◇ the potential for mandatory tools (such as mandatory education and required codes of conduct) and stricter enforcement procedures to act as disincentives for individuals to run for office;
 - ◇ the need to ensure that stronger rules respecting responsible conduct do not subjugate democratic processes or limit individual voices; and
 - ◇ the importance of maintaining some ability for councils and boards to resolve issues locally.

The consultation feedback provided perspectives on current tools that are effective in supporting responsible conduct and also indicated an interest in exploring additional tools. For example, the consultation feedback suggested that education initiatives are viewed as effective tools. Responses indicated an interest in mandatory tools for certain elements of the framework, such as setting standards of conduct. Qualitative survey results also suggested the potential for exploring tools to facilitate early intervention when individuals or a council/board as a collective are beginning to face challenges due to less-than-responsible conduct. These results generally reflected the trends that are emerging across Canada as other jurisdictions also take steps to strengthen responsible conduct. Overall, both the research findings and consultation feedback reinforce that action in various forms is needed under each of the four components of an effective responsible conduct framework.

4. RECOMMENDATIONS

The following section provides context for the WGRC's recommendations to begin the process of strengthening B.C.'s responsible conduct framework. It also sets out recommendations, which are built on the principles and key components of an effective responsible conduct framework discussed in this report, in addition to consultation feedback from UBCM and LGMA members and cross-jurisdictional research.

Context:

- The WGRC has worked to understand the issue of responsible conduct, the challenges that arise from less-than-responsible conduct, and the need to build a shared understanding of what an integrated and effective responsible conduct framework could look like in B.C.
- Consultation by UBCM and LGMA with their respective members confirmed a shared view that responsible conduct is essential to good local and regional governance; that action is needed on less-than-responsible conduct; and that certain tools are essential to further responsible conduct, with some variances in emphasis between the two groups.
- Less-than-responsible conduct covers many different behaviours arising from a wide range of circumstances and with varying impacts; it will take a variety of approaches to build on the strengths of the current responsible conduct framework, to address its gaps and to ensure the most effective tools for addressing less-than-responsible conduct.
- The WGRC has worked collaboratively and respectfully at the UBCM, LGMA, and Ministry staff level to move forward the issue of responsible conduct, undertaking research and policy work and identifying potential next steps. Through the recommendations, the WGRC intends to continue working collaboratively on these important issues.

Recommendations:

Through the Working Group on Responsible Conduct,

- a) As a first priority, articulate foundational principles of responsible conduct (e.g. honesty; integrity), and embed these in relevant education materials available province-wide for general local elections starting in 2018;
- b) Enhance existing guidance materials to illustrate how foundational principles of responsible conduct can be embedded in local government bylaws and policies (e.g. procedure bylaws, oaths of office);
- c) Develop new responsible conduct guidance materials including a model code of conduct and other materials that articulate principles, expectations, and good practices of responsible conduct;
- d) Continue the policy and detailed design work needed to develop information and advice on an integrated and effective responsible conduct framework appropriate to B.C., including:
 - Assess the feasibility of including foundational principles in the "default" oath of office established by regulation (considerations include scope of authority and timing);
 - Develop and make available a list of resources for elected officials who are facing challenging situations due to less-than-responsible conduct;
 - Consider the design components of a model for providing resources that would support fact-finding and assessing challenging relationships/circumstances faced by a council/board due to less-than-responsible conduct and could provide guidance on approaches to help the council/board move forward (considerations include expertise needed, cost, and triggers for involvement);

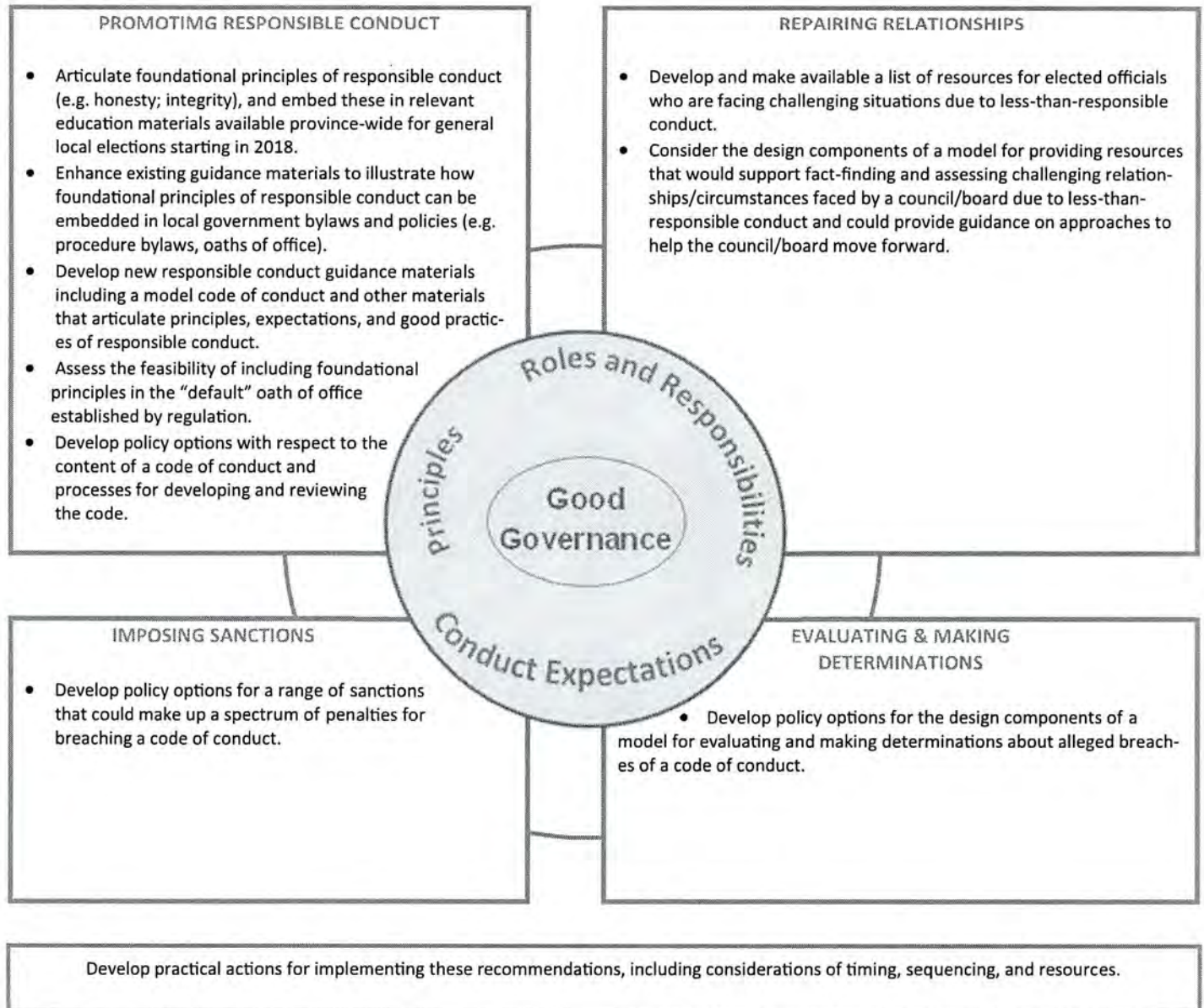
e) Develop policy options related to codes of conduct with respect to:

- o The content of the code of conduct and processes for developing and reviewing the code. Developing the design components will help determine whether a mandatory code of conduct should be considered over a voluntary approach;
- o The design components of a model for evaluating and making determinations about alleged breaches of a code of conduct. The goal is an integrated model with appropriate linkages between establishing and applying conduct standards, and evaluating, investigating and deciding on breaches of the code;
- o A range of sanctions that could make up a spectrum of penalties for breaching a code of conduct. Considerations would include linkages of penalties with establishing/applying standards of conduct and investigating/deciding on breaches; and

f) Develop practical actions for implementing these recommendations, including considerations of timing, sequencing, and resources.

See Figure 3 on the next page for a snapshot of the recommendations organized under the four key components of an effective responsible conduct framework.

Figure 3: Recommendations under each component of an effective responsible conduct framework



APPENDIX A: COMPARISON OF TOOLS IN B.C. AND OTHER CANADIAN JURISDICTIONS

The following table provides an overview of key tools used to support and further responsible conduct in other Canadian jurisdictions and notes any equivalent tools available in B.C.

Tool	Jurisdictions	Key Features	B.C. Comparison
Peer-based advice and mediation programs	Alberta New Brunswick	<ul style="list-style-type: none"> Local government elected officials and staff can seek advice and mentorship from experienced peers to help work through issues/ conflicts Low-cost, informal, typically requires involvement of partner organizations Framework not established in legislation 	<ul style="list-style-type: none"> May choose to hire consultant to help facilitate solutions to challenging situations Informal networks established among elected officials Not established in legislative framework
Mandatory education	Alberta Québec	<ul style="list-style-type: none"> Local government legislation in Québec <u>requires</u> elected officials to participate in a professional development program on municipal ethics and good conduct if they have not previously participated. Legislation in Alberta <u>requires</u> municipalities to offer orientation training for newly elected officials (as of July 2017). Programs may cover various topics (e.g. role of local governments; elected official responsibilities; municipal ethics) Legislative requirement 	<ul style="list-style-type: none"> Voluntary access to education and training resources Framework not established in legislation
Code of conduct	Alberta Saskatchewan Manitoba Ontario Québec Prince Edward Island Northwest Territories	<ul style="list-style-type: none"> Sets out shared standards and expectations to guide conduct of elected officials Suggested key components of developing a code of conduct include:⁶ <ul style="list-style-type: none"> Should be one component of a larger 'ethics' regime; Elected officials should be involved in developing the code; Effective process for dealing with complaints is important and enforcement should consider administrative fairness procedures and effective, appropriate sanctions; and Independent third party should enforce the code (e.g. Integrity Commissioner; contractor with appropriate experience; municipal solicitor). Framework established in legislation Legislative requirement in several jurisdictions (Ontario recently passed amendments to require code of conduct) 	<ul style="list-style-type: none"> Voluntary Used by a number of local governments Framework not established in legislation

⁶Clyde K. Wells, Q.C.; "Report to St. John's City Council on Recommended Adjustments to the City's Ethical Conduct Legislation", September 28, 2015.


APPENDIX A: COMPARISON OF TOOLS IN B.C. AND OTHER CANADIAN JURISDICTIONS

Tool	Jurisdictions	Key Features	B.C. Comparison
Mandatory policies that set standards for relationships between elected officials and staff	Ontario <i>Required in code of conduct:</i> Saskatchewan Manitoba Québec	<ul style="list-style-type: none"> Ontario recently passed legislative amendments to require local governments to adopt policies respecting the relationship between council members and officers and employees of the municipality Other jurisdictions explicitly require codes of conduct to include standards and/or values to which elected officials must comply in their dealings with municipal employees Legislative requirement 	<ul style="list-style-type: none"> Voluntary Framework not established in legislation
Integrity Commissioner	Ontario Québec (provincial-level) City of Calgary City of Regina City of Winnipeg	<ul style="list-style-type: none"> Main role is to administer and enforce codes of conduct May also provide advice about meeting code of conduct requirements and education on issues related to ethics, integrity, and personal conduct There are variations in the approach to Integrity Commissioners or other bodies that carry out similar functions. For example: <ul style="list-style-type: none"> ◊ <i>Ontario</i>: legislation requires municipalities to provide access to an integrity commissioner (municipalities can appoint their own integrity commissioner or share integrity commissioners). ◊ <i>Québec</i>: legislation requires Commission municipale du Québec (provincial body) to investigate alleged code of conduct breaches ◊ <i>Cities of Calgary, Regina, Winnipeg</i>: Have voluntarily appointed an Integrity Commissioner (or anticipate appointing an Integrity Commissioner) Framework for Integrity Commissioner (or body that has similar functions) may or may not be established in legislation 	<ul style="list-style-type: none"> Some local governments (e.g. Vancouver, Whistler) provide for an independent third party to consider alleged code of conduct breaches, which may include recommendations for resolving the situation Framework not established in legislation
Spectrum of penalties (other than disqualification)	Manitoba Ontario Québec Northwest Territories	<ul style="list-style-type: none"> Some jurisdictions establish penalties (other than disqualification), or are interested in establishing penalties, in their legislation for breaching a code of conduct or conflict of interest rules. Examples of penalties include: <ul style="list-style-type: none"> ◊ Reprimand ◊ Suspension of pay for up to 90 days ◊ Censure motion (for contravening code of conduct) Framework established in legislation 	<ul style="list-style-type: none"> Disqualification penalties for breaching ethical standards rules Censure motions (common law) Framework for disqualification penalties established in legislation

APPENDIX B: MEMBERS OF THE WORKING GROUP ON RESPONSIBLE CONDUCT

The Working Group on Responsible Conduct consists of the following staff/expert members from the Union of B.C. Municipalities (UBCM), the Local Government Management Association (LGMA), and the Ministry of Municipal Affairs and Housing (the Ministry).

UBCM	LGMA	Ministry
<ul style="list-style-type: none">• Gary MacIsaac• Brenda Gibson• Paul Taylor	<ul style="list-style-type: none">• Nancy Taylor• Elizabeth Brennan• Allison Habkirk	<ul style="list-style-type: none">• Gary Paget• Nicola Marotz• Michelle Dann• Lesley Scowcroft

		POLICY AND PROCEDURE MANUAL	
Category: Administrative Services	Number: ADM.24(C)	CODE OF RESPONSIBLE CONDUCT	
Type: <input checked="" type="checkbox"/> Policy <input type="checkbox"/> Procedure	Authority: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Administrative	Approved By: <input checked="" type="checkbox"/> Council <input type="checkbox"/> Chief Administrative Officer <input type="checkbox"/> Department Head	
Office of Primary Responsibility: Corporate Administration			
Date Adopted: September 8, 2020	Council Resolution No: RC20/445	Date to be Reviewed: October 1, 2021	
Manner Issued: Pipeline			

BACKGROUND:

A Code of Responsible Conduct is a written document developed for the purpose of promoting responsible and ethical conduct of local government officials and their representatives. It establishes shared standards and expectations with respect to the conduct, comportment, decorum and behavior of individual elected officials, the collective governing body and its representatives.

As local elected representatives ("Members"), we recognize that responsible conduct is essential to providing good governance for the District of Mission ("District").

In order to fulfil our obligations and discharge our duties, we are required to conduct ourselves to the highest ethical standards by being an active participant in ensuring that foundational principles and standards of conduct are followed in all our dealings with every person including those with other Members, staff and the public.

PURPOSE:

The purpose of this policy is to set shared expectations for conduct or behavior for how members of Council should conduct themselves while carrying out their responsibilities and in their work as a collective decision-making body for the community.

POLICY:

1. Definitions

"Administration" means the Corporate Services Department, which is responsible for ensuring that the policies, programs and other directions of Council are implemented.

"Council" means the duly elected officials of the District, those being the Mayor and Councillors.

“Council Policy” means Policy statements that provide strategic direction on programs and services delivered by the District which impact or affect citizens or customers, and/or Policy statements that require Council’s approval because of legislative or regulatory requirements.

“District” means the District of Mission.

“Members” means local elected representatives.

“Policy” means general statements or guidelines that are high-level in nature, as opposed to being operationally oriented, which direct a plan, course of action or decision, according to a standard or performance outcome.

2. Framework

- a) Local governments are recognized under the Local Government Act of British Columbia as an independent, responsible and accountable order of government within their jurisdiction for the purpose of:
 - providing good government for its community;
 - providing the services and other things that the Council considers are necessary or desirable for all or part of its community;
 - providing for stewardship of the public assets of its community, and
 - fostering the current and future economic, social and environmental well-being of its community.
- b) Members have the legislated authority to make decisions that affect the daily lives of citizens, families, businesses and other community stakeholders.
- c) Members also have the authority to establish, or help establish, the long-term vision for the communities they serve based upon community and citizen engagement, collaboration and informed decision making.
- d) Responsible conduct refers to how Members conduct themselves, individually and collectively, through their interactions with other Members, staff, citizens, other local government stakeholders, the media, and through social media in the exercise of their authority.
- e) Responsible conduct is founded on 4 key foundational principles described below to provide Members with a shared understanding of what responsible conduct is.
 - i) **Integrity** – means being honest and demonstrating strong ethical principles. Conduct under this principle upholds the public interest, is truthful and honourable and is demonstrated by the following conduct:
 - be truthful, honest, and open in all matters and in all dealings with their elected colleagues, staff, citizens, other local government stakeholders, the media, and through social media in their role as a representative of the District;
 - ensure that their actions are consistent with the shared principles and values collectively agreed to by the District;
 - follow through on their commitments in a timely manner;
 - correct errors in a timely, transparent and reasonable manner;
 - engage in respectful communication, dialogue and debate in all matters and in all dealings at all times;

- make informed and well-reasoned decisions by directing their minds to the merits of the matter before them for consideration, ensuring that they act on the basis of relevant information, legal implications, and in consideration of the consequences of their decisions;
 - conduct and comport themselves in a manner that promotes and inspires public confidence and trust in local government and in all of their dealings as a local government official or representative;
 - conduct and comport themselves in a manner which avoids any perception of conflict of interest, improper use of office, or other unethical or illegal conduct;
 - conduct and comport themselves in a manner which upholds the public interest by diligently serving citizens and communities within their sphere of influence in a manner which best serves the communities' interest and not their own, or the interests of a select few; and
 - conduct and comport themselves in a manner that is consistent, fair, non-prejudicial, non-discriminatory and unbiased in all their dealings as a local government official or representative.
- ii) **Respect** – means having due regard for others' perspectives, wishes and rights; it also means displaying deference to the offices of local government, and the role of local government in community decision making. Respect is demonstrated through the following conduct:
- treat every person with dignity, understanding, courtesy, politeness, civility and respect irrespective of differences of opinion, perspectives, beliefs, traditions or values;
 - respect the role of the Chair and will conduct and comport themselves accordingly during meetings, and will furthermore abide by the rules of procedure adopted by the District;
 - respect the distinct roles and responsibilities of local government staff and are committed to fostering a positive working relationship between the Council, staff, citizens, and other local government stakeholders;
 - call for, and expect that respect be shown to elected officials, staff, and members of the public by other citizens, community members and other local government stakeholders;
 - value the role of diverse perspectives and will show due consideration for every person's contributions by listening actively and respectfully to another person's perspective or point of view during discussion, debate, collaboration and decision making;
 - will demonstrate awareness of their own conduct and behavior, and manage and adjust their conduct and behavior accordingly and as circumstances warrant;
 - create an environment of trust and will consider and be sensitive to how their words, language, conduct and behavior can be perceived by others as offensive, rude, derogatory, disrespectful, discriminatory, aggressive, combative, insulting, inflammatory or otherwise hurtful or inappropriate; and
 - not engage in conduct or behaviors that are deemed to be indecent, obscene, insulting, abusive or otherwise unbecoming to a local government elected official

or representative. This conduct or behavior includes, but is not limited to, unwanted physical or sexual contact or comments, and/or any form of aggressive or threatening conduct or behavior that may cause harm to any person, or which makes a person feel threatened or intimidated.

iii) **Accountability** – means an obligation and willingness to accept responsibility or to account for one's actions. Conduct under this principle is demonstrated when Members:

- are responsible for, and will accept responsibility for decisions they make as an elected official for the District;
- are accountable for their individual actions, and for the actions of the collective governing body;
- actively listen to and consider the opinions, viewpoints and needs of the community in all decision-making, and will allow for meaningful and appropriate opportunities for citizen and community input, engagement, discourse and feedback;
- carry out their business, duties and responsibilities in an open and transparent manner ensuring that the public understands the process and rationale used to reach informed decisions and the reasons and justifications for taking certain actions; and
- ensure that information is accessible to the extent possible under law, while also protecting privacy and confidentiality where appropriate, necessary or in accordance with the Freedom of Information and Protection of Privacy Act of British Columbia, and the confidentiality provisions of the Local Government Act and Community Charter of British Columbia.

iv) **Leadership and Collaboration** – means an ability to lead, listen to, and positively influence others; it also means coming together to create or meet a common goal through collective efforts. Conduct under this principle is demonstrated when Members:

- proactively and routinely monitor and measure their performance in order to ensure that the foundational principles with respect to responsible conduct are being followed by all Members and the collective governing body;
- behave in a manner that instills and builds public trust and confidence in local government;
- recognize that vigorous discourse and debate on a matter is integral to the democratic process and will encourage healthy, respectful and constructive debate prior to taking a decision with respect to a matter;
- consider the issues before them and will make decisions as a collective governing body;
- actively participate in debate about the merits of the matter before them, and will accept, respect and uphold the decision of the majority as part of the democratic process;
- as leaders of their communities, face challenges, obstacles, controversy and adversity calmly, respectfully, diplomatically, and with due consideration while endeavoring to find effective and appropriate solutions and provide direction to

staff, and will furthermore empower each other, and staff to face challenges, obstacles, controversy and adversity in the same manner;

- recognize and value the distinct roles and responsibilities that others play in providing good governance and will commit to fostering a positive working relationship between other Members, citizens, the media and other local government stakeholders;
 - refrain from publicly criticizing a member of staff; and
 - recognize and respect the importance of the role of the chair at a meeting, and will treat that person with respect and deference at all times.
- f) Members have a duty to act in accordance with the law, including but not limited to the common law, the Local Government Act, Community Charter, Workers' Compensation Act, Freedom of Information and Protection of Privacy Act, and Human Rights Code of British Columbia, and applicable federal legislation.

3. Commitment to Responsible Conduct:

- a) Members recognize that responsible conduct is essential to providing good governance.
- b) Members acknowledge that responsible conduct is based upon the four foundational principles outlined in section 1: **Integrity, Respect, Accountability, and Leadership and Collaboration** to which the Council individually and collectively subscribes. Furthermore, it is expressly acknowledged that these foundational principles will set out expectations as to how Members both individually and collectively, will conduct themselves as representatives of the District of Mission.
- c) Members expressly acknowledge that they are individually and collectively committed to conducting themselves in a responsible and ethical manner and are furthermore committed to upholding the law.
- d) As set out in this Code of Responsible Conduct, Members expressly commit to holding themselves up to the highest ethical standards, individually and as a collective governing body, as they exercise their authority, fulfill their obligations, discharge their duties, and in all of their dealings, with every person, including their elected colleagues, staff, citizens, the media and other local government stakeholders.

4. Application and Interpretation:

- a) This Code of Responsible Conduct applies to every Member.
- b) It is the express responsibility and obligation of each Member to uphold both the letter and spirit of this Code of Responsible Conduct in their dealings with each other, staff, citizens, the media and other local government stakeholders.
- c) This Code of Responsible Conduct is intended to be interpreted and applied in a manner that is consistent with the common law, all applicable Federal and Provincial Laws, as well as the bylaws and policies of the District of Mission, along with any other legal obligations which apply to Members individually and as a collective governing body.
- d) Members expressly acknowledge that they will not engage in conduct set out in Schedule 1 hereto.
- e) If Council determines a Member has contravened this Policy, it may choose to impose any of the sanctions listed in Schedule 2 or any other sanction, providing they do not prevent the Member from fulfilling the Member's legislated duties of elected office.

- f) Should a Member, staff person or member of the public wish to lodge a complaint under this Code, they shall use the processes set out in Schedule 3. Any complainant is encouraged to use the Informal Process as a first step in resolving a complaint.

5. Acknowledgement and Sign Off:

Members will be required to demonstrate their commitment to responsible and ethical conduct by:

- a) signing an Oath of Office at the inaugural Council meeting, set out as Schedule 4, which incorporates this District of Mission Code of Responsible Conduct, and
- b) reviewing this Code of Responsible Conduct annually, except for the year in which a Member has already signed an Oath of Office, and signing the following affirmation:

Code of Responsible Conduct Annual Review

I affirm that I have read and understand and agree to abide by the District of Mission Code of Responsible Conduct.

Signature: _____

Name: _____

Date: _____

Schedules 1 – 4 on pages following

Schedule 1 IRRESPONSIBLE CONDUCT

TIER 1 CONDUCT	TIER 2 CONDUCT	TIER 3 CONDUCT
<p>Meeting Conduct, Rules of Order and Procedural Matters</p> <ul style="list-style-type: none"> • Failing to abide by the <i>District's Council Procedures Bylaw</i> • Failing to respect the role of the Chair at meetings • Failing to respect due process and procedural fairness • Unfair or disrespectful treatment of persons or delegations appearing before the Council • Disrespectful or disruptive behavior during a meeting which results in being called out of order by the Chair • Expulsion from a meeting • Behavior which undermines the free exchange of ideas and which stifles or 	<p>Integrity</p> <ul style="list-style-type: none"> • 2nd occurrence – Tier 1 Conduct • Abuse of authority or trust • Failing to act in the public interest • Showing favoritism, bias or nepotism towards any person, vendor, contractor, business, family member or to others doing business with the District • Dishonesty • Lying • Obstructing an investigation into a matter • Obstructing staff from undertaking their duties 	<p>Integrity</p> <ul style="list-style-type: none"> • 3rd occurrence – Tier 1 Conduct • 2nd occurrence – Tier 2 Conduct <p>Serious Allegations of Misconduct</p> <ul style="list-style-type: none"> • Harassment • Sexual Harassment • Discrimination • Bullying • Intimidation • Coercion • Extortion • Uttering Threats • Assault

<p>inhibits healthy debate</p> <ul style="list-style-type: none"> • Disrespecting the viewpoints of others during discussion on a matter • Failing to keep an open mind during debate on a matter <p>Communication, Interpersonal Relations, Council and Staff Relations</p> <ul style="list-style-type: none"> • Use of disrespectful, derogatory, demeaning, defamatory, discriminatory, intolerant or offensive language or body language at any time, and on any communication platform, including social media, as a representative of the District • Failing to treat any person with respect, courtesy, tolerance, acceptance, and/or dignity • Disrespecting the role of the Chief Administrative Officer, Staff, and/or District Consultants • Failing to respect the various roles that others play which are inherent to informed local government decision making 	<p>Damaging the District's Reputation</p> <ul style="list-style-type: none"> • Damaging the reputation and/or credibility of the District by words, actions and/or irresponsible conduct • Acting in an official capacity while intoxicated resulting in irresponsible conduct <p>Confidentiality and Data Security</p> <ul style="list-style-type: none"> • Intentionally accessing unauthorized information, records or data on District devices • Unauthorized disclosure of confidential or personal information to a third party • Intentionally breaching the District's network and data security systems • Intentionally leaking confidential information to the media or other local government stakeholders 	<ul style="list-style-type: none"> • Accepting a bribe • Fraud • Theft of District resources and/or assets • <i>Criminal Code</i> of Canada conviction while in office <p>Retaliation</p> <ul style="list-style-type: none"> • Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the <i>District's Code of Responsible Conduct for Elected Officials</i> • Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the <i>District's Respectful Workplace Policy</i> • Retaliation or retribution towards any person who in good faith has reported a suspected contravention of the <i>Criminal Code</i> of Canada or other federal, provincial or local government statute, regulation, or enactment.
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<ul style="list-style-type: none"> Publicly criticizing or chastising a fellow Member, District staff member, and/or District Consultant Interfering with the administrative, corporate or operational functions of the District Failing to observe established protocols with respect to tasking or otherwise directing staff Failure to acknowledge the source of information provided to the public <p>Interference with Designated Decision Makers and/or Processes</p> <ul style="list-style-type: none"> Interfering with, and/or failing to respect the role and authority of statutory and/or other designated decision makers: <ul style="list-style-type: none"> Officer Responsible for Corporate Administration Officer responsible for Financial Administration Head, Freedom of Information and Protection of Privacy Chief Election Officer Building Officials 		<p>Conflict of Interest</p> <ul style="list-style-type: none"> Failure to abide by Conflict of Interest Rules in the <i>Community Charter and Local Government Act</i>: <ul style="list-style-type: none"> failure to disclose conflict of interest participation in meetings where in conflict of interest use of office to influence a decision, recommendation or other action where an elected official has a direct or indirect pecuniary interest accepting unauthorized gifts failure to disclose authorized gifts failure to disclose and report contracts entered into by the elected official or former elected official with the District where the elected official or former elected official has a direct or indirect pecuniary interest
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<ul style="list-style-type: none"> ○ Bylaw Enforcement Officers ○ Provincial Approving Officer ○ Others in statutory and/or designated decision making roles • Failing to abide by the <i>District Purchasing and Procurement Policy</i> <p>Partisan Politics and Campaigning</p> <ul style="list-style-type: none"> • Engaging in partisan politics while undertaking District business • Use of District resources for campaign purposes • Campaigning outside of the official Campaign Period defined under the Local Government Act <p>Unauthorized Conduct – General Prohibitions</p> <ul style="list-style-type: none"> • Providing instruction to District contractors, consultants or other service providers • Speaking on behalf of the Council when not authorized to do so • Failing to uphold a decision, bylaw or policy of the Council 		
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<ul style="list-style-type: none">• Unauthorized use of District staff and/or other District resources and assets• Unauthorized expenditure of District funds		
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Code of Responsible Conduct Policy

**Schedule 2
Possible Sanctions**

1. Formal warning letter
2. Pledge to immediate and ongoing compliance with Code of Responsible Conduct
3. Letter of reprimand
4. A request that the Member issue a letter of apology
5. Requirement to attend training
6. Suspension or removal of the appointment of the Member as Acting Mayor
7. Suspension or removal from some or all internal and external committees and bodies to which Council or the Mayor has the right to appoint Members
8. Imposing limits of travel and expenses
9. Requiring the return of municipal property provided for convenience
10. Limiting access to certain municipal facilities or portions thereof
11. Restricting how and when documents are provided to the Member; and
12. Any other sanctions Council deems reasonable and appropriate.

Schedule 3 Complaint Process

1. Informal Complaint Process

- a. Any complainant who has identified or witnessed conduct by another Member that they believe to be noncompliant with this Policy may take the following steps:
 - i. Advise the Member of the alleged noncompliance and follow-up on the facts.
 1. If the noncompliance occurred, encourage the Member to come into compliance with this Policy; or
 - ii. Request the Mayor to speak to the Member to follow up on the facts and if the noncompliance occurred, encourage the Member to come into compliance with this Policy.
 1. If the subject of the complaint is the Mayor, the complaining Member may request that the Acting Mayor follow up on the facts and if the noncompliance occurred, encourage the Member to come into compliance.
- b. Members are encouraged to use the Informal Complaint Process in Part 3 of this Bylaw as a first step in resolving any complaint.
- c. A Member who is unsatisfied with the outcome of the Informal Complaint Process may escalate the complaint to the Formal Complaint Process set out in this schedule.
- d. Despite this section, a Member may refer a complaint directly to the Formal Complaint Process in Section 2.

2. Formal Complaint Process

- a. A complainant shall make a formal complaint in writing, with date and signature, and addressed to Complaints Investigator. The complaint shall name the Council Member who is the subject of the complaint, refer specifically to the section(s) of this Bylaw, and set out reasonable and probable grounds for the allegation that a Member has contravened the section(s).
- b. The Complaints Investigator shall be selected by Council to be one of:
 - i. A member of Council or a subcommittee of Council, with the exception of the complainant and the subject of the complaint, or
 - ii. A third party investigator.
- c. The Subject of the complaint shall be provided with a copy of the complaint, with written instructions informing the Subject that they have 14 days within which to respond to the Complaints Investigator.
- d. The Subject of the complaint shall provide a written, signed and dated response to the allegation(s) of the complaint, addressed to the Complaints Investigator.
- e. The Complaints Investigator shall review the complaint and the Subject's response, and determine whether to proceed further with the investigation.
 - i. Where a complaint is deemed by the Complaints Investigator to be frivolous, vexatious, not made in good faith, or based on insufficient grounds, the Complaints Investigator may decide to terminate the

investigation and the complaint process.

- ii. The Complaints Investigator will provide the recommended next steps to Council.
- f. For continuing investigations, the Complaints Investigator shall take steps deemed appropriate which may include seeking legal advice.
- g. The Complaints Investigator shall issue a final report of the results of the investigation process to Council, for Council to determine whether this Bylaw has been contravened.
- h. Following receipt of the Complaints Investigator's final report, Council, may choose to proceed with a hearing of a Motion of Censure.
- i. Should Council vote to proceed with a hearing of the motion of censure against the subject of the complaint, the Subject of the complaint shall be afforded procedural fairness including:
 - i. an opportunity to respond further in writing to the allegations and the Complaint Investigator's final report,
 - ii. a minimum of two weeks to prepare their formal response, and
 - iii. the opportunity to be represented by legal counsel or another representative at the council meeting where a decision on the motion of censure and other accompanying sanctions in Schedule 2 may be imposed.
- j. The motion of censure hearing will be scheduled for an open Council meeting within 30 days of the Council's decision to proceed, provided section 90 of the Community Charter does not require or permit the meeting to be a closed meeting.
- k. At the Council meeting where the hearing of the motion of censure takes place, the following will occur:
 - i. The Complainant may make a statement, setting out the rationale for the complaint.
 - ii. The Complaints Investigator shall provide a verbal summary of the facts and findings expressed in the final report.
 - iii. The Subject of the complaint or their legal counsel or other representative may make a statement of response, responding to the complaint allegations and the Complaint Investigator's final report.
 - iv. Council will discuss, propose debate and vote on whether to make a motion of censure, including the sanctions referenced in Schedule 2.

Schedule 4

**OATH OF
OFFICE**

I, _____ do [solemnly swear] [affirm] that:

1. I am qualified to hold the office of (Mayor)/(Councillor) for the District of Mission to which I have been elected or appointed;
2. That I have not, by myself or any other person, knowingly contravened the *Local Government Act* or the *Community Charter* of British Columbia respecting vote buying or intimidation in relation to my election to the office;
3. I will faithfully perform the duties of my office, and will not allow any private interest to influence my conduct in public matters;
4. As required by the *Local Government Act* and the *Community Charter* of British Columbia, I will disclose any direct or indirect pecuniary interest I have in a matter and will not participate in the discussion of the matter and will not vote in respect of the matter;
5. I will abide by the statutes, bylaws and policies that govern the District of Mission and will promote openness, accountability, and responsible leadership; and
6. I will abide by and uphold the *District of Mission Code of Responsible Conduct*.

RELATED POLICIES, PROCEDURES, AGREEMENTS AND/OR BYLAWS:

ADM.32(C) – Council Governance Policy

HUM.03 - Respectful Workplace Policy

HUM.04 – Computer and Technology Acceptable Use Policy

5345-2013 Council Procedure Bylaw

***** END OF POLICY *****

RECORD OF AMENDMENTS/REVIEW

<u>Policy #</u>	<u>Date Adopted</u>	<u>Date Reviewed</u>	<u>Amended (Y/N)</u>	<u>Date Reissued</u>	<u>Authority (Resolution #)</u>
ADM.24(C)	Sept. 8, 2020				RC20/445
ADM.24(C)			Y	November 2, 2020	RC20/523



DISTRICT OF KENT POLICY

NAME OF POLICY: COUNCIL CODE OF CONDUCT - 2018.03

PREPARED BY: WALLACE MAH, CHIEF ADMINISTRATIVE OFFICER

EFFECTIVE DATE: OCTOBER 22, 2018

AMENDED DATE:

AUTHORIZED:

JOHN VAN LAERHOVEN
MAYOR

WALLACE MAH
CHIEF ADMINISTRATIVE OFFICER

WHEREAS the residents of the District of Kent are entitled to have a fair, ethical and accountable municipal Council that has earned the public's full confidence for integrity. The purpose of this Code is to establish guidelines for the ethical and interpersonal conduct of members of Council ("Members").

AND WHEREAS the public expects a responsive local government with the highest standards of professional conduct from Members elected to it. Honesty, integrity, objectivity, due diligence and accountability are some of the core ethical values reflected in this Code. Members are expected to perform their functions of office faithfully and to the best of their knowledge and ability, in accordance with these core ethical values.

THEREFORE LET IT BE RESOLVED THAT this code applies to all Members of the District Council and Council shall act in the public interest by conducting its business with integrity, in a fair, honest and open manner.

Comply with the Laws:

Members shall comply with all applicable federal, provincial, and municipal laws in the performance of their public duties, including but not limited to: the *Local Government Act*, the *Community Charter*, the *Freedom of Information and Protection of Privacy Act*, the *Financial Disclosure Act*, and all the applicable District bylaws and policies.

Conduct of Members:

The conduct of members in the performance of their duties and responsibilities with the District must be fair, open and honest. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, committees, the District staff or the public.

Respect for Process:

Members shall perform their duties in accordance with the policies and procedures and the rules of order established by the District Council governing the deliberation of public policy issues, involvement of the public, and implementation of policy decisions of the Council by District staff.

Conduct of Meetings:

Members shall prepare themselves for meetings, listen courteously and attentively to all discussions before the body, and focus on the business at hand. Members shall not interrupt other speakers, make personal comments not germane to the business of the body, or otherwise interfere with the orderly conduct of a meeting.

Decisions Based on Merit:

Members shall base their decisions on the relevant merits and substance of the matter at hand, including input received from District staff and the public.

Sharing Substantive Information:

Subject to paragraph 10, members shall share with Council substantive information that is relevant to a matter under consideration by the Council, which they may have received from sources outside of the public decision-making process. If a member has a concern regarding whether the information received should be shared, the member shall first consult with the District Chief Administrative Officer (CAO) or the Director of Corporate Services.

Conflict of Interest:

Members shall familiarize themselves and act in accordance with the provisions set out in the conflict of interest sections of the *Community Charter*.

Gifts:

Members must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of their duties, except in accordance with the provisions of the *Community Charter*.

Confidential Information:

Members shall respect the confidentiality of the information concerning the property, personnel, legal affairs, or other information of the District distributed for the purposes of, or considered in, an In Camera Council meeting. Members shall neither disclose confidential information without proper authorization, nor use such information to advance their own or anyone's personal, financial or other private interests. Without limiting the generality of the foregoing, members shall not disclose Council resolutions or staff report contents from an In Camera meeting of Council unless and until a Council decision has been made for the information to become public, and shall not disclose detail on Council's In Camera meeting deliberations or how individual members voted on a question in an In Camera meeting.

Use of Public Resources:

Members shall not use the District public resources such as staff time, equipment, supplies or facilities, for private gain or personal purposes. Specifically, members shall not undertake municipal election campaign related activities at District Hall or on other premises owned by the District during regular working hours, unless such activities are organized by the District (e.g. all-candidate information sessions). Members shall not use District-owned equipment, technology or other property for municipal election campaign work (e.g. photocopiers, computers, etc.).

Advocacy:

Members shall represent the official policies or positions of the District Council to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent Council or the District, nor shall they allow the inference that they do.

Policy Role of Members:

Members shall respect and adhere to the Council-District structure of municipal government as practised in the District. In this structure, the Council determines the policies of the District with the advice, information and analysis provided by the District staff and Council committees. Members therefore shall not interfere with the day to day administrative functions of the District or with the professional duties of District staff, nor shall they impair the ability of staff to implement Council policy decisions.

Positive Work Place Environment:

Members shall treat other members, the public and District staff with respect and shall be supportive of the personal dignity, self-esteem and well being of those whom they come in contact with during the course of their professional duties. Comments about the District staff performance shall only be made to the District CAO through private correspondence or conversation.

Member Questions/Inquiries to District Staff:

Member's requests for information from staff shall be directed to the District CAO. If the response constitutes more than a technical clarification, then the response shall be provided to all Members so that all members have access to the same information.

Implementation:

As an expression of the standards of the conduct for members expected by the District, this Code is intended to be self-enforcing. This Code therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions. For this reason, this Code shall be provided as information to candidates for Council. Members elected to Council shall be requested to sign a member statement affirming they have read and understand this Code, and that they agree to conduct themselves in accordance with it.

Compliance and Enforcement:

This Code expresses standards of ethical conduct expected for Members of Council. Members themselves have the primary responsibility to assure that these ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of the governance of the District of Kent.

The District will not retaliate against Members of District staff who, in good faith, report a known or suspected violation of this Code. No reprisals or threat of reprisals shall be made against such a complainant, or against anyone for providing relevant information in connection with a suspected violation of this Code. Members shall respect the integrity of this Code and the enforcement of it.

District Council may impose sanctions on members whose conduct does not comply with this Code, including but not limited to a motion of censure.

To ensure procedural fairness, a member who is accused of violating any provision of this Code shall have a minimum of two weeks, or the time between two consecutive Council meetings, whichever is greater, to prepare his or her response to these allegations.

Specifically, before considering a sanction, Council must ensure that a member is provided with:

- 1) A copy of a written report setting out the alleged breach of this Code, and possible sanctions that may be considered against him or her; and
- 2) A minimum of two weeks, or the time between two consecutive meetings, whichever is greater, to prepare a response against any allegations and possible sanctions; and
- 3) An opportunity to make representations and be heard by Council.

A violation of this Code shall not be considered a basis for challenging the validity of a Council decision.

DISTRICT OF SQUAMISH

BYLAW NO. 2919, 2022

A BYLAW TO REGULATE THE CONDUCT FOR COUNCIL AND COMMITTEE MEMBERS

WHEREAS Council and Committee Members are keepers of the public trust and must uphold the highest standards of ethical behaviour in order to build and inspire the public's trust and confidence in local government;

AND WHEREAS Council and Committee Members are expected to:

- (a) make decisions that benefit the community;
- (b) act lawfully and within the authority granted by the *Community Charter, Local Government Act* and other applicable enactments; and
- (c) be free from undue influence and not act to gain financial or other benefits;

AND WHEREAS Council and Committee Members wish to conduct their business in a transparent, efficient, accountable and respectful fashion;

AND WHEREAS it is to the benefit of the community for Council and Committee Members to conduct their business in accordance with the guiding principles of integrity, accountability, respect, leadership and collaboration;

AND WHEREAS Council and Committee Members intend to demonstrate their leadership in ethical behaviour, while promoting the principles of transparency, accountability and civility through their decisions, actions and behaviour;

AND WHEREAS a Code of Conduct Bylaw expresses standards of conduct expected for members of District Council and Committees;

AND WHEREAS Council and Committee Members have primary responsibility for ensuring that the standards of conduct herein are understood and met, thereby fostering public confidence in the integrity of the government of the District of Squamish.

THEREFORE BE IT RESOLVED that the Council of the District of Squamish in open meeting assembled, hereby ENACTS AS FOLLOWS:

PART I – GENERAL

1.1 Title

This Bylaw may be cited as "District of Squamish Code of Conduct Bylaw No. 2919, 2022".

1.2 Definitions

In this bylaw:

"CAO"	Means the Chief Administrative Officer for the District of Squamish.
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"Committee Member"	Means a person appointed to a committee, sub-committee, task force, commission, board, or other Council established body under the <i>Community Charter</i> – Part 5, Division 4 – Committees, Commissions and Other Bodies or the <i>Local Government Act</i> .
"Complaint"	Means a formal allegation, in accordance with the complaint procedure set out in Part 4 of this Bylaw, that a Member has breached this Bylaw.
"Complainant"	Means a person who has submitted a Complaint.
"Confidential Information"	Means information or records held in confidence by the District, including information or records to which Section 117 of the <i>Community Charter</i> applies. For certainty, this includes all information and records from closed meetings of Council until publicly released.
"Conflict of Interest"	Refers to pecuniary and non-pecuniary conflicts of interest governed by the <i>Community Charter</i> and the common law.
"Council Member"	Means the Mayor and Councillors for the District of Squamish.
"Gifts and Personal Benefits"	Means an item or service of value that is received by a Member for personal use or enjoyment.
"Investigator"	Means the person appointed to fulfill the duties and responsibilities assigned in Part 5 of this Bylaw.
"Member"	Means a Council Member or a Committee Member
"Municipal Officer"	Means a member of Staff designated as an officer under Section 146 of the <i>Community Charter</i> .
"Personal Information"	Has the same meaning as in the <i>Freedom of Information & Protection of Privacy Act</i> .
"Respondent"	Means a Council or Committee Member whose conduct is the subject of a Complaint.
"Staff"	Means an employee or contractor of the District.
"Volunteer"	Means a person serving the District who is not a Council Member or Committee Member.

1.3 Purpose and Interpretation:

1.3.1 This Bylaw sets out the rules Members must follow in fulfilling their duties and responsibilities as elected or appointed officials, and the powers and procedures of the Investigator in exercising oversight over Council Members.

1.3.2 The provisions of this Bylaw are to be interpreted broadly and in a manner that is consistent with the *Community Charter* S.B.C. 2003, c. 36.

1.4 Application:

- (a) This Bylaw applies to Council Members and Committee Members.
- (b) For clarity, the provisions of this bylaw that reference Committee Members only are intended to apply also to Council Members acting in their capacity as Committee Members.
- (c) Unless otherwise provided, this Bylaw does not apply to a Member's conduct in their personal life, except to the extent that such conduct reasonably undermines public confidence in District governance.
- (d) This Bylaw does not apply to Staff.
- (e) In the event of a conflict between this Bylaw and another District bylaw or Council policy governing Member conduct, this Bylaw prevails.
- (f) In this Bylaw, a reference to a person who holds an office includes a reference to the persons appointed to act for that person from time to time.
- (g) Nothing in this bylaw is intended to preclude 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 Bylaw.

1.5 Severability:

If any definition, section, subsection, paragraph, subparagraph, clause or phrase in this Bylaw is held invalid by a Court of competent jurisdiction, the invalid definition, section, subsection, paragraph, subparagraph, clause or phrase must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed definition, section, subsection, paragraph, subparagraph, clause or phrase.

PART 2 – STANDARDS AND VALUES

2.1 Foundational Principles

The key statements of principle that underline this Code of Conduct are as follows:

- (a) Members shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- (b) Members shall be committed to performing their duties and functions with integrity and avoiding improper use or influence of their office, and conflicts of interest;
- (c) Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- (d) Members shall seek to serve the public interest by upholding both the letter and spirit of the laws of the Federal Parliament and British Columbia Legislature, and the laws and policies adopted by the District Council.

2.1.1 Interpretation

The foundational principles above are to inform the interpretation of the substantive provisions of this Bylaw and are not stand-alone bases for Complaints.

2.2 Roles and Responsibilities

- (a) Council is the governing body of the District. It has the responsibility to govern the District in accordance with Part 5 of the *Community Charter* and other applicable legislation.
- (b) The Mayor is the head and chief executive officer of the District and has a statutory responsibility to provide leadership to the Council and to provide general direction to Municipal Officers respecting District policies, programs and other directions of the Council as set out in Part 5 of the *Community Charter*.
- (c) Staff provide professional advice to the Council and carry out decisions in an effective, efficient and non-partisan manner.

PART 3 – CONDUCT OF ELECTED OFFICIALS

3.1 General Conduct

3.1.1 A Member shall not:

- (a) contravene this Bylaw, as amended or replaced from time to time;
- (b) contravene any other District bylaw or policy, as amended or replaced;
- (c) contravene a law of British Columbia or Canada, including the *British Columbia Human Rights Code* or the *Freedom of Information and Protection of Privacy Act*; or
- (d) defame a Member, Staff, or Volunteer.

3.1.2 A Member shall treat other Council Members, Committee Members, Staff, and Volunteers with respect and dignity.

3.1.2 A Council Member shall not:

- (a) breach their oath sworn upon taking office as a Council Member; or
- (b) abuse their office.

3.2 Interactions with Staff, Volunteers and Committee Members

3.2.1 A Member must direct inquiries regarding departmental issues or questions to the CAO, General Manager, or department Director of the appropriate department and refrain from contacting Staff directly unless the communication is minor and for the purpose of seeking administrative clarity.

3.2.2 A Member must not interfere with, hinder or obstruct Staff, Volunteers or other Committee Members in the exercise of performance of their roles, responsibilities, powers, duties or functions, nor shall they impair the ability of Municipal Officers and Staff to implement Council policy decisions in accordance with Section 153 of the *Community Charter*.

- 3.2.3 A Member must not request or require Staff to undertake personal or private work on behalf of a Member.
- 3.2.4 A Member must not compel Staff to engage in partisan political activities or subject them to reprisal of any kind for refusing to engage in such activities.
- 3.2.5 A Member must not publish, on social media or otherwise, statements attacking Members, Staff, or Volunteers.
- 3.2.6 A Member must not directly or indirectly request, induce, encourage, aid, or permit Staff to do something which, if done by the Member, would be a breach of this Code of Conduct.

3.3 Interactions with the Public and Media

- 3.3.1 A Member must not communicate on behalf of the District unless authorized to do so:
 - (a) pursuant to the Communication and Media Policy;
 - (b) by Council resolution;
 - (c) or by virtue of a position or role the Member has been authorized to undertake by Council.
- 3.3.2 Without limiting the ability of the Council Member to hold a position on an issue and respectfully express an opinion, a Council Member must ensure that:
 - (a) their communications relating to Council business are accurate and not issue any communication that the Member knows, or ought to have known, to be false; and
 - (b) all communications by, and on behalf of a Member, including communications made via social media, are respectful and do not discriminate against, harass, or defame any Member, Staff, or Volunteer.
- 3.3.3 A Member shall not issue instructions to any of the District's contractors, tenderers, consultants or other service providers unless expressly authorized to do so.
- 3.3.4 Outside of a Council or committee meeting, a Member shall not communicate with a tenderer or proponent regarding the subject matter of the procurement.

3.4 Public Meetings

- 3.4.1 A Member must act with decorum at Council and Committee meetings and in accordance with District of Squamish Procedure Bylaw No. 2099, 2009, as amended or replaced from time to time.

3.5 Collection and Handling of Information

- 3.5.1 A Member must:
 - (a) comply with the provisions of the *Freedom of Information and Protection of Privacy Act* and the policies and guidelines as established by the District;

- (b) comply with section 117 of the *Community Charter*, including by protecting, and not disclosing publicly, Confidential Information;
- (c) only access information held by the District for District business, and not for personal purposes; and
- (d) not alter District records unless expressly authorized to do so.

3.6 Use of Social Media

- 3.6.1 The provisions of this Bylaw apply, without limitation, to the use of a Member's personal and official social media accounts.
- 3.6.2 Members must regularly monitor their social media accounts and immediately take measures to deal with the publication of messages or postings by others that violate the provisions of this Bylaw.
- 3.6.3 For clarity, section 3.6 applies only to social media accounts in respect of which a Member has primary moderation control.

3.7 Conflict of Interest

- 3.7.1 A Member shall not participate in a discussion of a matter, or vote on a question in respect of that matter, in respect of which the Member has a Conflict of Interest.
- 3.7.2 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 the CAO approves the cost, with respect to any situation which may result in a Conflict of Interest.
- 3.7.3 If a Member believes they have a Conflict of Interest in respect of a matter in a Council or Committee meeting, the Member shall:
 - (a) notify the Mayor or the Chair of the meeting that the Member has a Conflict of Interest prior to the matter being considered, and the Member shall restate the Conflict of Interest each time the matter arises before Council;
 - (b) refrain from discussing the matter with any other Member publicly or privately; and
 - (c) leave any meeting if the matter is discussed and not return until the discussion has ended or voting on the matter has been concluded.

3.8 Use of Influence

- 3.8.1 A Member must not attempt to influence a decision of the Council, a Committee, a Municipal Officer, or Staff if the Member has a pecuniary Conflict of Interest in relation to that decision.
- 3.8.2 A Member must not use their office to provide preferential treatment to any person or organization except as warranted by the ordinary and lawful discharge of their duties.
- 3.8.3 A Member must not intimidate, improperly influence, threaten, or coerce Staff.

3.9 Gifts and Personal Benefits

- 3.9.1 A Council Member must not accept a Gift or Personal Benefit, unless accepted in accordance with section 105 of the *Community Charter*.
- 3.9.2 A Council Member must disclose a Gift or Personal Benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*.
- 3.9.3 Committee Members must comply with 3.9.1 and 3.9.2 as though they were Council Members.

3.10 Campaign Activities

- 3.10.1 A Council Member shall not use District facilities, equipment, supplies, services, or other resources of the District for any election-related activities.
- 3.10.2 A Member must not use the services of Staff for election-related purposes during the hours in which those Staff Members are in the paid employment of the District or paid by the use of District resources.
- 3.10.2 A Council Member shall comply with all applicable election legislation including, but without limitation, the *Local Government Act* and *Local Elections Campaign Financing Act*.

3.11 Business Relations

- 3.11.1 A Council Member who engages in another profession, business, or occupation concurrently while holding elected office shall not allow such activity to materially affect the Council Member's integrity, independence or competence.

PART 4 – COMPLAINT AND RESOLUTION PROCEDURES

4.1 Council Members

4.1.1 Confidential Requests

- (a) If a Council Member, Committee Member, or Staff believes that they have been subject to conduct by a Council Member in breach of this Bylaw, that person may approach the CAO on a confidential basis, without the need to file a Complaint, to request that the CAO inform the Council Member of the alleged breach. Upon receipt of the confidential request, the CAO may attempt to address the conduct with the Council Member.
- (b) The CAO must protect the confidentiality of a person making a request under 4.1.1(a) unless the person making the request consents in writing to disclosure.

4.1.2 Complaint Procedure

- (a) A Member, Staff, or Volunteer may submit a Complaint to the CAO or, if the Complainant is the CAO or the Complaint involves or is about the CAO, then to the Corporate Officer.
- (b) Upon receipt of a Complaint, the CAO (or Corporate Officer if the Complainant is the CAO or the Complaint involves or is about the CAO) shall retain an Investigator.
- (c) A Complaint must be in writing and describe with sufficient detail:
 - i. the name of the Complainant;
 - ii. the name of the Respondent;
 - iii. the conduct that the Complainant alleges to have been breached;
 - iv. the date of the alleged conduct;
 - v. the parts of this Bylaw that the Complainant alleges have been breached; and
 - vi. the basis for the Complainant's knowledge about the conduct.
- (d) A Complainant may specify in the Complaint if they are willing to participate in an informal resolution of the Complaint.
- (e) The CAO (or Corporate Officer, if the CAO is the Complainant or the Complaint involves or is about the CAO) may accept a Complaint notwithstanding that the form of the Complaint does not comply with all of the requirements set out in Section 4.1.2 (c) if the circumstances warrant.
- (f) The Investigator must not accept multiple Complaints concerning the same matter. In the event that the Investigator receives multiple Complaints concerning the same matter, the Investigator must proceed with the first Complaint accepted, but may expand the Complaint and/or add Complainants for the purpose of conducting the investigation and preparing the investigation report.
- (g) The Investigator must reject a Complaint received more than 90 days after the Complainant knew, or reasonably ought to have known, of the alleged breach of this Bylaw. The Investigator is authorized to extend this 90 day deadline up to an additional 90 days if circumstances warrant an extension.
- (h) The Investigator must reject a Complaint received regarding a Council Member seeking re-election in the period from the first day of the nomination period to the general voting day.
- (i) In the 90 days prior to general voting day, the Investigator may suspend any investigation that is underway.

4.1.3 Dismissal or Suspension of Complaint

- (a) If a Complaint is submitted that, on its face, is not made with respect to a breach of this Bylaw, or if a Complaint would be more appropriately addressed through another process, including if the Complaint is:

- i. with respect to non-compliance with the *Freedom of Information and Protection of Privacy Act*;
- ii. with respect to non-compliance with a more specific Council policy or bylaw with a separate Complaint procedure; or
- iii. with respect to a matter that is subject to another outstanding process, such as a court proceeding or human rights complaint,

the Investigator may reject the Complaint, or part of the Complaint, and must notify the Complainant in writing that the Complaint is not within the jurisdiction of this Bylaw, or that the Complaint would be more appropriately addressed through another process, as the case may be, and set out any additional reasons and referrals the Investigator thinks appropriate.

- (b) If the Investigator, at any stage in the Complaint procedure, determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code* then the Investigator must immediately refer the matter to the appropriate authorities and suspend the investigation until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council.
- (c) Where a Complaint is made against a Council Member who, during the course of the Complaint procedure, ceases to hold office, the Investigator may close the Complaint and notify the Complainant and Respondent of this decision.

4.1.4 Preliminary Assessment

- (a) On receipt of a Complaint, the Investigator must conduct a preliminary assessment and if at that time, or any time thereafter, the Investigator is of the opinion that:
 - i. the Complaint is not with respect to a breach of this Bylaw;
 - ii. the Complaint is frivolous, vexatious, or not made in good faith;
 - iii. the investigation is or might be hampered, or the Council Member might be prejudiced, by the Complainant's failure to comply with Section 4.1.2(c), or otherwise cooperate with the investigation;
 - iv. the Complainant wishes to withdraw the Complaint, and it would be appropriate in the circumstances to allow the withdrawal; or
 - v. there are no grounds or insufficient grounds to conclude that a violation of this Bylaw has occurred,

the Investigator must notify the Complainant and the Respondent in writing that the Investigator is closing the Complaint, set out the reasons therefore, and close the Complaint.

- (b) Notwithstanding Section 4.1.4 (a), the Investigator may request further information from the Complainant before determining whether or not there are sufficient grounds for believing that a breach of this Bylaw may have occurred.

4.1.5 Informal Resolution:

- (a) When the Investigator has decided to proceed with a Complaint, the Investigator must determine whether the Complaint requires a formal investigation, or whether the Complaint may be resolved informally. In the latter case, the Investigator may either attempt to resolve the Complaint directly or refer the Complaint to the CAO.
- (b) In making a determination under subsection (a), the Investigator shall give a strong preference to the informal resolution process wherever possible.
- (c) When determining whether the Complaint may be resolved informally, the Investigator may consider culturally appropriate, transformative or restorative justice approaches, and may engage a third party to assist the Investigator for this purpose.
- (d) Where the Investigator refers the Complaint in accordance with Section 4.1.5(a) the CAO may agree to assist in resolving the Complaint directly, or may appoint at their discretion a third party to assist in resolving the Complaint.
- (e) The third party assisting in the informal resolution of a Complaint will assess the suitability of the Complaint for settlement or resolution on an on-going basis and may decline to assist at any point.
- (f) The Complainant, or the Respondent, can decline to participate in an informal resolution at any time.
- (g) If a Complaint is resolved informally, the third party assisting in resolving the Complaint must notify the Investigator in writing of the terms of the resolution, upon receipt of which, the Investigator must close the Complaint.
- (h) If a Complaint cannot be resolved informally, the third party assisting in resolving the Complaint must refer the Complaint back to the Investigator for a formal investigation.

4.1.6 Formal Resolution:

- (a) If a Complaint is not rejected, closed, or resolved informally, the Investigator must proceed with a formal investigation.
- (b) The Investigator must deliver the Complaint to the Respondent with a request that the Respondent provide a written response to the Complaint together with any submissions the Respondent chooses to make within 10 days, subject to the Investigator's discretion to extend the timeline.
- (c) The Investigator may deliver the Complainant with the Respondent's written response together with any submissions, on a strictly confidential basis, and request a reply in writing within 10 days, subject to the Investigator's discretion to extend the timeline.
- (d) The Investigator may:

- i. speak to anyone relevant to the Complaint;
 - ii. request disclosure of documents relevant to the Complaint; or
 - iii. access any record in the possession or control of the District, except a record that is subject to solicitor-client privilege.
- (e) The Investigator must ensure that the formal investigation complies with the rules of procedural fairness and natural justice required in the circumstances.
- (f) Notwithstanding subsection (a) above, nothing prohibits the Investigator from summarily dismissing a Complaint where it becomes apparent, after some investigation, that the Complaint has no chance of success.
- (g) If the Investigator summarily dismisses a Complaint in the Formal Resolution stage, the Investigator shall report to the Complainant and Respondent in the manner similar to that as set out in 4.1.4(a).

4.1.7 Adjudication and Reporting:

- (a) The Investigator must make a decision within 90 days of making the determination to proceed with a formal investigation, unless the Investigator determines that doing so is not practicable, in which case the Investigator must notify the Complainant and Respondent of the delay and provide a revised decision date. The revised decision date may be extended by periods of up to 30 days on provision of written notice to the Complainant and the Respondent.
- (b) A notification issued pursuant to sections 4.1.3(a), 4.1.3(b), 4.1.4(a), or subsection (a) is confidential and must not be disclosed except in the following circumstances:
 - i. to Council for the purpose of considering a resolution for reimbursement of legal fees pursuant to section 4.4.2; and
 - ii. the Respondent may disclose the fact that the Complaint has been closed, or that a finding has been made that the Respondent did not breach this Bylaw.
- (c) If after reviewing all material information, the Investigator determines that the Respondent did not violate this Bylaw, then:
 - i. the Investigator must prepare a written investigation report providing reasons for their determination that the Council Member did not breach the Bylaw;
 - ii. the Investigator must deliver a copy of the investigation report to the Complainant, Respondent and Council; and
 - iii. the Investigator must make the investigation report or a summary publicly available on the next available Council agenda after delivery of the investigation report to the Complainant, Respondent and Council.
- (d) If after reviewing all the material information, the Investigator determines that a Council Member did violate this Bylaw, then:

- i. the Investigator must prepare a written investigation report providing reasons for their determination that the Council Member breached this Bylaw;
 - ii. the investigation report must make recommendations as to the appropriate sanction for the breach;
 - iii. if the Investigator determines the Council Member took all reasonable steps to prevent the breach, or that the breach was trivial or done inadvertently or because of an error in judgment made in good faith, the Investigator will so state in the investigation report and may recommend that no sanction be imposed;
 - iv. the Investigator must deliver, on a strictly confidential basis, a copy of the investigation report to the Respondent; and
 - v. the Investigator must deliver a copy of the investigation report to the Complainant and Council forty eight (48) hours after delivery of the investigation report to the Respondent.
- (e) In all circumstances, the Investigator may choose to distribute the investigation report to Council through the Corporate Officer.

4.1.8 Final Determination by Council

- (a) Council must, within 30 days of delivery of the investigation report pursuant to Section 4.1.7(d)(v), or a longer period if approved by a 2/3 vote of Council, decide on the appropriate measures, if any, that are warranted by the breach of this Bylaw, and will take such actions as Council considers appropriate in the circumstances.
- (b) Prior to Council making any decision regarding the findings and recommendations set out in the investigation report, the Respondent must be provided with an opportunity, either in person or in writing, to comment on the decision and any recommended censure, sanctions or corrective actions.
- (c) While an investigation report provided to Council may be considered in a closed meeting for the purpose of receiving legal advice, or for another valid reason, when Council deliberates and votes on the investigation report, it will do so in a public meeting and the investigation report, or a summary, must be made available to the public in a form that complies with section 4.1.10(b).
- (d) Notwithstanding subsection (c), Council may deliberate on and vote on a report in a closed meeting where there is a valid reason to close the meeting under section 90 of the *Community Charter*. For certainty, this means the investigative report or summary may not be publicly released.

4.1.9 Remedies

- (a) Sanctions that may be imposed for a violation of this Bylaw include the following:
 - i. a letter of reprimand from Council addressed to the Council Member;

- ii. a request from Council that the Council Member issue a letter of apology;
 - iii. the publication of the letters contemplated in subsections (i) and (ii), along with the Council Member's written response, if any;
 - iv. directions to the CAO regarding the provision of documents, including documents containing Confidential Information, to the Council Member;
 - v. a recommendation that the Council Member attend specific training or counselling;
 - vi. limitations on access to certain District facilities;
 - vii. suspension or removal of the Council Member from some or all Council committees and bodies to which the Council Member was appointed;
 - viii. prohibition from representing the District at events and/or attending conferences and seminars;
 - ix. suspension or removal of the appointment of a Council Member as the Acting Mayor;
 - x. public censure of a Council Member;
 - xi. any other sanction recommended by the Investigator, so long as that sanction is within the authority of Council.
- (b) The Investigator may recommend that Council consider commencing an application for disqualification under section 111 of the *Community Charter* or for damages under section 117 of the *Community Charter*, as applicable.

4.1.10 Report to be Public

- (a) Unless deliberations have, pursuant to section 4.1.8(d), taken place in a closed Council meeting, the District must, after delivering a copy of the investigation report to the Complainant and Council, make the investigation report, or a summary of the report, available to the public.
- (b) In all circumstances, the District will ensure that the investigation report or a summary complies with the District's obligations regarding disclosure of personal information set out in the *Freedom of Information and Protection of Privacy Act*, and ensure that appropriate redactions are applied prior to any release to the public.

4.1.11 Remuneration

- (a) Where the Investigator finds that a Council Member:
- i. breached this Bylaw; or
 - ii. submitted a complaint that was frivolous, vexatious, or made in bad faith

the remuneration to which that Council Member would otherwise be entitled shall be reduced in accordance with the Remuneration and Expenses Bylaw No. 1503, 1997, as amended or replaced from time to time.

(b) Notwithstanding subsection (a)(i), the remuneration of a Council Member shall not be reduced if the Investigator makes a finding under section 4.1.7(d)(iii) that:

- i. the Council Member took all reasonable steps to prevent the breach;
- ii. the breach was trivial or inadvertent; or
- iii. the breach was because of an error in judgment made in good faith.

4.1.12 Confidentiality of the Investigation

- (a) The Investigator must make all reasonable efforts to investigate Complaints in confidence.
- (b) The Investigator and every person acting under the Investigators' 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 required by law.
- (c) An investigation report must only disclose such matters as, in the Investigator's opinion, are necessary for the purpose of the investigation report.

4.1.13 Interpretation

For clarity, and despite section 4.2, the procedure in section 4.1 is to apply to all allegations against Council Members including in their capacity as Committee Members.

4.2 Committee Members

- 4.2.1 A Complaint of an alleged breach of this Bylaw by a Committee Member shall be submitted simultaneously in writing addressed to both the Mayor and CAO and within 90 days of the last alleged breach.
- 4.2.2 A Complaint must comply with the standards set out at section 4.1.2.
- 4.2.3 The Mayor shall consider the Complaint and direct that any enquiries considered appropriate or desirable be undertaken, including a referral to the CAO or the Investigator. For certainty, if the Complaint is referred to the CAO or the Investigator, then the processes and procedures in section 4.1 of this Bylaw may be utilized to the extent deemed necessary and appropriate.
- 4.2.4 Nothing in this Code is intended to abrogate the power of the Mayor or Council, as applicable, to remove, at their pleasure and at any time, any Committee Member from any committee to which they have been appointed.

4.3 Reprisals and Obstruction

- 4.3.1 No Council Member, Committee Member, or Staff will threaten, interfere with, or otherwise obstruct the Investigator in relation to the Investigator carrying out the duties and responsibilities under this Bylaw.
- 4.3.2 No Council Member, Committee Member, or Staff will threaten or undertake any reprisal against a Complainant or against a person who provides information to the Investigator in the context of an investigation.
- 4.3.3 No Council Member, Committee Member, or Staff will tamper with or destroy documents or electronic records related to any matter under investigation under this Bylaw or refuse to respond to the Investigator when questioned regarding an investigation.
- 4.3.4 Any individual covered by this Bylaw who is found to have engaged in any reprisal or retaliation in violation of this Bylaw will be subject to appropriate disciplinary action, which action may include, and is not limited to, the sanctions and remedies described above or the termination of employment for just cause, as applicable.

4.4 Reimbursement of Costs

- 4.4.1 A Council Member may make a request to Council for reimbursement for the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate after considering all circumstances, Council may resolve to reimburse legal fees reasonably incurred by a Council Member, provided that all of the following are met:
 - (a) it is the Council Member's first formal complaint process; and
 - (b) the amount does not exceed \$10,000.
- 4.4.2 For clarity, the provisions of the Indemnification Bylaw No. 2373, 2015, as replaced or amended from time to time, do not apply to requests for reimbursement under this Bylaw.

4.5 Vexatious Allegations and Complaints

- 4.5.1 Any individual covered by this Bylaw who makes an allegation or Complaint under this Bylaw that is subsequently found to have been made in a deliberately vexatious or malicious manner, or otherwise to have been made in bad faith, will be subject to appropriate disciplinary action, which action may include, but is not limited to:
 - (a) in the case of Council Members, sanctions and remedies described in Section 4.1.9;
 - (b) in the case of Committee Members, termination of the Committee Member's appointment;
 - (c) in the case of Staff, disciplinary action or the termination of employment for just cause, as applicable.

PART 5 – APPOINTMENT OF INVESTIGATOR

5.1 Appointment of Investigator

5.1.1 The CAO shall, upon receipt of a Complaint, appoint an Investigator to fulfill the duties and responsibilities described in section 5.2.

5.2 Duties and Responsibilities

5.2.1 The duties and responsibilities of the Investigator are as follows:

- (a) to assist with informal resolution of a confidential request or Complaint;
- (b) to receive and assess a Complaint to determine if the Complaint must be rejected, closed, resolved or investigated;
- (c) to investigate and conduct inquiries as to alleged violations of this Bylaw;
- (d) to report to Council as to whether a Member has breached this Bylaw;
and
- (e) to make recommendations on an appropriate remedy, if the Investigator determines that a Member has breached this Bylaw.

5.2.2 The Investigator must perform the duties and responsibilities under this Bylaw in an independent manner.

5.2.3 An Investigator may only be dismissed for cause.

PART 6 – ENACTMENT

6.1 Effective Date

This bylaw comes into force and effect on adoption.

READ A FIRST, SECOND and THIRD time this 12 day of July, 2022.

ADOPTED this 19 day of July, 2022.

Karen Elliott, Mayor

Robin Arthurs, Corporate Officer