



**City of Kingston  
Report to Council  
Report Number 17-318**

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<b>To:</b>	<b>Mayor and Members of Council</b>
<b>From:</b>	<b>John Bolognone, City Clerk</b>
<b>Resource:</b>	<b>Susan Nicholson, Director of Legal Services and City Solicitor</b>
<b>Date of Meeting:</b>	<b>November 21, 2017</b>
<b>Subject:</b>	<b>Transmittal of the Interim Integrity Commissioner End of Term Report</b>

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**Executive Summary:**

The Municipal Act, 2001 (the “Act”) authorizes a municipality to establish a Code of Conduct for members of Council and local boards of the municipality. The Act further authorizes a municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner, the application of the Code of Conduct.

On March 29, 2016, Council appointed an interim Integrity Commissioner, Ms. Janet Leiper, a lawyer and adjudicator to address complaints made under its Code of Conduct. The mandate expanded to include advice to members of Council, education and policy development, pending the recruitment of a standing Integrity Commissioner.

On November 1, 2017, the firm of Principles Integrity assumed the role of Integrity Commissioner for the City of Kingston. As part of this transition, and to assist Council and the public, Ms. Leiper has provided an End of Term Report, attached as Exhibit “A”, which sets out the work of the interim Integrity Commissioner on behalf of the City of Kingston during the past 18 months, and such work included complaints, investigation, resolution and advice as well as policy development and education.

**Recommendation:**

That Council receive Exhibit “A” - “Interim Integrity Commissioner End Of Term Report For The City Of Kingston” dated October 28, 2017 from Janet Leiper, C.S.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY CITY CLERK

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**John Bolognone, City Clerk**

**Consultation with the following Members of the Corporate Management Team:**

Lanie Hurdle, Commissioner, Community Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desirée Kennedy, Chief Financial Officer & City Treasurer	Not required
Denis Leger, Commissioner, Corporate & Emergency Services	Not required

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**Options/Discussion:**

See Executive Summary

**Existing Policy/By-Law:**

Code of Conduct for Council and Committee Members

**Notice Provisions:**

Not Applicable

**Accessibility Considerations:**

Not Applicable

**Financial Considerations:**

Not applicable

**Contacts:**

John Bolognone, City Clerk, 613-546-4291, extension 1247

Susan Nicholson, Director of Legal Services and City Solicitor, 613-546-4291, extension 1293

**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

Exhibit "A" - "Interim Integrity Commissioner End Of Term Report For The City Of Kingston" dated October 28, 2017 from Janet Leiper, C.S.

**INTERIM INTEGRITY COMMISSIONER  
END OF TERM REPORT  
FOR  
THE CITY OF KINGSTON  
OCTOBER 28, 2017**

## **A. INTRODUCTION**

1. On March 29, 2016, Council appointed an interim Integrity Commissioner to address complaints made under its Code of Conduct. The mandate expanded to include advice to members of Council, education, policy development and complaints, pending a recruitment for a standing Integrity Commissioner.
2. On November 1, 2017, the firm of Principles Integrity will assume the role of Integrity Commissioner for the City of Kingston.
3. As a part of an orderly transition, and to assist Council and the public in understanding the accountability provisions and how they have been applied, this report sets out the work of the interim Integrity Commissioner on behalf of the City of Kingston during the past 18 months. The work over the past term has included policy development, education, advice and complaint investigation and resolution. Each area is described below.

## **B. POLICY DEVELOPMENT AND EDUCATION**

4. Members of Council attended an education session on Codes of Conduct and Conflict of Interest on December 20, 2016. An additional session was held on March 29, 2017, at which Council heard presentations from the Interim Integrity Commissioner and from John Mascarin, Barrister and Solicitor concerning a proposed revised Code of Conduct, By-Law and a Complaint Protocol. After a question and answer session and debate, these instruments were adopted by Council at the meeting.

## **C. ADVICE GIVEN**

5. Members of Council (Councillors and the Mayor) were provided with advice on a variety of matters about their responsibilities under the Code of Conduct. The requests for advice came from 8 different Members of Council, with some requesting advice on multiple matters.
6. A recurring theme was conflict of interest, by way of outside business interests, property ownership, multiple roles on Boards and Council, participation in other public or political activity or that of close family members.
7. It is important to underline that there is nothing inherently wrong with having a conflicting interest: this is to be expected as many civic-minded people have lives, careers, family members and other potential overlapping or conflicting duties. The question will always be how should the conflict be addressed? A conflict may be so remote, that objectively, when all the facts are known, it would not have an impact on how one's public decisions are made or seen to be made. In other instances, there may be a direct financial or personal interest in the outcome of a matter that can clearly and objectively be seen to be a conflict of interest. Often, it can be difficult to see one's own interest dispassionately or realistically. This is where advice on conflicts plays a significant role in ensuring that appropriate steps are taken to mitigate the conflict, or where it is a remote

issue, to reassure a member of Council that they have thought the matter through and need not refrain from taking action or voting, as the case may be.

8. The advice contacts to members of Council are set out below in Table 1. Where the advice given was put in writing, it is shown below as formal advice. Where the advice was provided by telephone advice it is noted as informal advice.

**TABLE 1**

**Members of Council  
Advice Sought and Provided  
2016-2017**

Informal Advice:	12
Formal Written Advice:	12
<b>Total:</b>	<b>24</b>

**D. COMPLAINT INVESTIGATION AND RESOLUTION**

9. The Complaint Protocol adopted by Council on March 29, 2017 provides for classification, reporting and procedures for dealing with formal and informal complaints. Those complaints received before the Complaint Protocol was adopted were tested for jurisdiction and substance prior to engaging in any investigation. Where the complainant consented and the Member of Council was willing to participate, complaints were settled informally. Complainants and respondents were advised as to the status of the complaints, and where a complaint was dismissed, reasons were provided in writing. Where a breach of the Code of Conduct was established after a formal complaint, a report was made to Council with recommendations as provided for by the *Municipal Act*.
10. There were three complaints requesting action under the Code of Conduct that were reported publicly to Council. All three reports recommended no additional sanctions because in each case, the Councillors involved accepted advice and took remedial steps. Two of the matters involved failure to avoid conflicts of interest, apparent and real. The third involved a failure to treat members of the public with dignity and to avoid making false statements. In each case, Council adopted the reports, and where recommended, the members of Council involved apologized publicly.<sup>1</sup>

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<sup>1</sup> Reports available at: [https://www.cityofkingston.ca/documents/10180/14807786/COU\\_A2016-16247.pdf/6f2f8722-9367-45d5-898d-5af633f390c1](https://www.cityofkingston.ca/documents/10180/14807786/COU_A2016-16247.pdf/6f2f8722-9367-45d5-898d-5af633f390c1);  
[https://www.cityofkingston.ca/documents/10180/16370398/COU\\_Agenda-2716AD.pdf/76765577-1306-4a8e-a1b6-9552f7c65d3c](https://www.cityofkingston.ca/documents/10180/16370398/COU_Agenda-2716AD.pdf/76765577-1306-4a8e-a1b6-9552f7c65d3c); [https://www.cityofkingston.ca/documents/10180/19606728/COU\\_A1717-17195.pdf/539dbfa6-123a-4cd9-ac40-325e76e7b5ed](https://www.cityofkingston.ca/documents/10180/19606728/COU_A1717-17195.pdf/539dbfa6-123a-4cd9-ac40-325e76e7b5ed)

11. Tables 4 and 5 show the number and type of complaints received and how the complaints were resolved.

**TABLE 4**

**Complaints Received:  
March 29, 2016-November 1, 2017**

Formal Complaints Received:	7
Informal Complaints Received:	2
<b>Total Complaints Received:</b>	<b>9</b>

**TABLE 5**

**Status of Formal Complaints:  
March 29, 2016-November 1, 2017**

Rejected as Beyond Jurisdiction	2
Dismissed on the Merits	0
Sustained and Reported to Council	3
Settled, Withdrawn or Abandoned	1
Rejected as Frivolous or Vexatious, Made in Bad Faith or Without Substance	1
Still Under Investigation/Deferred	0
<b>Total:</b>	<b>7</b>

Complaints may be made by members of the public, Staff or other Members of Council. During this reporting period, the majority of complaints came from members of the public, as set out in Table 6.

**TABLE 6**

**Source of Formal Complaints Received During Reporting Period  
July 1, 2012 to June 30, 2013**

Complaints by Staff:	0
Complaints by Members of the Public:	6
Complaints by Members:	1
References from Council:	0
<b>Total:</b>	<b>7</b>

**E. Conclusion**

12. The City of Kingston has had the benefit of members of Council who have grappled with creating an enforceable Code of Conduct. In particular, the public session on March 29, 2017 showed that members of Council take their ethical responsibilities seriously. The length of the debate, the range of questions and the ultimate approval all speak to the engagement by Council on its own accountability. This is not always easy, and involves a new set of responsibilities. However, the members of Council have also showed they are willing to identify issues and seek advice, which is a powerful way to proactively address conflicts and to promote public confidence in its elected officials.
13. I wish to thank the Office of the City Solicitor, the Clerk and the Chief Administrative Officer for their professionalism and assistance where required. Although an Integrity Commissioner is not part of City hierarchy, the work of the office depends on facilitation of access to information and policy in order to carry out the mandate. This was done efficiently by the staff of the City. Thank you.
14. The transition to Principles Integrity is intended to be seamless and smooth. To that end, information sharing has been assured by way of mutual undertakings of confidentiality to ensure institutional memory. This will ensure both efficiency and good process.
15. Finally, I wish to recognize the members of Council who are responsible for making decisions at the local level in the public interest. It has been a privilege to assist you in your work by providing advice about the Code of Conduct and resolving complaints. I recognize that it is not always easy or comfortable, it is challenging more often than not: however that is the nature of serving the public. The public rightly demands a higher standard from those who serve them. Thank you for striving to meet that standard.



DATED THIS 28<sup>th</sup> day of OCTOBER 2017



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Janet Leiper, C.S.