



MUNICIPAL AND VILLAGE CODES OF CONDUCT

Proposed recommendations on framework

Contents

Introduction 2

Proposed Recommendations from Code of Conduct Working Group 2

 Application 2

 Content to include 3

 Sanctions 4

 Complaint and Investigator Process 5

 Training 7

 Review 7

Appendices..... 9

 Appendix A: Proposed Model Code of Conduct 9

 Appendix B: Sanction Framework and Sanctions 14

 Appendix C: Complaint and Investigator Process 16

Introduction

The Code of Conduct Working Group (COCWG) was established in January 2022 to develop recommendations on the content to include in a code, sanctions council may impose, and around the complaint and investigator process. The COCWG consisted of the following voting members:

- Mayor Pam Mood, Town of Yarmouth, Chair
- Mayor Brenda Chisholm-Beaton, Town of Port Hawkesbury
- Rob Frost, Deputy CAO, Municipality of the County of Kings
- Lisa Macdonald, CAO, Town of New Glasgow
- John Traves, Municipal Solicitor, Halifax Regional Municipality
- Brian Banks, Village of Greenwood, ANSV Representative
- Nick Barr, Director of Governance and Advisory Services, DMAH
- Kathleen Patterson, Director of Strategic Policy and Planning, DMAH

The COCWG conducted two rounds of consultation on their initial recommendations in September 2022 and February 2023. Based on the feedback from both these consultations some revisions to the recommendations have been made. Please note, we are only seeking feedback on the recommendations that have been added or changed; we are not seeking feedback on the recommendations that received consensus during the consultations.

Proposed Recommendations from Code of Conduct Working Group

There are 23 recommendations in total which reflect the consensus opinion the COCWG heard throughout consultation with municipalities and villages. The recommendations are broken down into 5 categories:

- Application;
- Content to include;
- Complaint and investigator process;
- Training; and
- Review

Below includes the summary of the COCWG's recommendations, including a rationale, and whether or not your feedback will be required during the final survey.

Application

Recommendation	Rationale	Feedback required
There should be one code for all municipalities and villages.	Ensure a consistent level of standard is adhered to for all elected officials. The codes will reflect the appropriate terminology (e.g. CAO versus Clerk) when established in regulation.	None – consultation provided consensus for this recommendation.

The code of conduct should operate together and as supplement to other applicable laws, including the bylaws and policies with the municipality or village.	The code is not intended to replace any existing legislation it is intended to support the existing pieces in place.	None – consultation provided consensus for this recommendation.
The code of conduct should apply to elected officials at all times with respect to their behaviour regarding any action that negatively impacts the municipality or tarnishes its reputation	Members elected to local government represent their constituents and should adhere to the code at all times.	None – consultation provided consensus for this recommendation.
Nothing in the code of conduct is intended to silence elected officials from sharing or expressing dissenting opinions.	Sharing dissenting opinions is an important aspect of democracy and encouraged as long as the dissenting opinions are expressed respectfully and done without the intention of undermining council's wishes.	None – consultation provided consensus for this recommendation.
The code of conduct should apply to those who have been elected but not yet sworn in.	Returning councillors, wardens or mayors would be identified as a group of individuals that must adhere to the code of conduct, while those who did not previously hold a seat following the election would not be adhering to the code of conduct until they have been sworn in. This is intended to reduce an unintended gap created by an election.	Feedback is required. This was identified as a gap following consultations.

Content to include

Recommendation	Rationale	Feedback required
<p>The code of conduct should include 43 provisions, under various headings.</p> <p>See Appendix A for full detailed provisions.</p>	<p>The COCWG looked at a number of different codes of conduct in other jurisdictions to determine what provisions they would like to see elected officials adhere to. Based on consultation in September 2022 the following amendments were made:</p> <ol style="list-style-type: none"> 1. addition of no member tendering on sale of older/extra equipment. 	<p>Feedback is required. Based on consultation an addition and revision was needed.</p>

	<p>2. revising provision on members making negative statements about “individuals or groups of municipal employees” to “identifiable groups of individuals.</p>	
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Sanctions

Recommendation	Rationale	Feedback required
<p>Include 7 considerations for elected officials to evaluate before they can impose a sanction</p> <p>See Appendix B for the sanction considerations.</p>	<p>Important to have a framework created for elected officials to consider before imposing a sanction to ensure their rationale is justifiable and defensible.</p> <p>Ensures a greater level of accountability to elected official when imposing a sanction on a member publicly.</p>	<p>None – consultation provided consensus for this recommendation.</p>
<p>Include 13 sanctions that can be imposed on a member for breaching the code of conduct.</p> <p>See Appendix B for the sanctions.</p>	<p>Sanctions range from a letter of reprimand to imposing a monetary penalty.</p> <p>Based on consultation the following amendments were made:</p> <ol style="list-style-type: none"> 1. sanction on board and committee suspension/removal was merged together. 2. revised fine payable from collected as a tax to collected as a payable. 	<p>Feedback is required. Based on consultation revisions were made.</p>
<p>Failure to comply with a sanction imposed is considered a breach of the code itself and can go to council without investigation.</p>	<p>During consultation concerns were raised about costs around additional investigations. To help minimize costs on the municipality, when an individual fails to comply with a sanction impose no additional investigation is needed.</p>	<p>Feedback is required. Based on consultation revisions were made.</p>

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Complaint and Investigator Process

Recommendation	Rationale	Feedback required
<p>Municipalities and villages will appoint their own investigator.</p> <p>See Appendix C for the detailed complaint and investigator process.</p>	<p>No consensus could be reached on which investigator model is preferred for administering the code of conduct. The COCWG felt this model offered the most flexibility to municipalities and villages and allows some time for data to be collected before determining if the investigator services need to be centralized in the future.</p>	<p>Feedback is required as the investigator method varies from the one proposed during consultation.</p>
<p>Investigators should have experience in conducting investigations and have experience in applying the principles of natural justice.</p>	<p>With municipalities and villages appointing their own investigator, the COCWG wanted to ensure there were qualified individuals being appointed to conduct the investigations. Putting parameters around the type of experience required by the investigator ensures qualified individuals would be appointed.</p>	<p>Feedback is required as the investigator method varies from the one proposed during consultation.</p>
<p>No conflict of interest can exist between the investigator and the parties involved.</p>	<p>With municipalities and villages appointing their own investigator, the COCWG wanted to ensure that no conflict of interest would exist between the investigator and the parties involved to ensure a high level of procedural fairness.</p>	<p>Feedback is required as the investigator method varies from the one proposed during consultation.</p>
<p>The CAO/Clerk shall be notified by the investigator that a complaint has been received and Council/Commission shall be notified if a complaint makes it to the investigation stage.</p>	<p>During consultation municipalities asked for parameters around notification about a complaint. The working group determined where the CAO/Clerk is the individual responsible for administering funds of the municipality, they should be notified that a complaint has been received. Council would only need to be notified when it makes it to</p>	<p>Feedback is required as this was identified as a necessity during consultation.</p>

	investigation stage as they are the determinants of the outcome.	
A complaint can be submitted no later than 6 months from discoverability.	Important to set a timeframe for when complaints can be brought forward. If a complaint required more than 6 months to mentally process, then there would likely be other recourse mechanisms available to the complainant than just the municipal code of conduct.	Feedback is required. This was not proposed during initial consultations.
The investigators report shall be brought to council/commission no later than 6 months from the time the complaint is brought forward. Extensions may be granted by for extenuating circumstances.	Wanted to ensure that investigations were prioritized, and events were not taking years to resolve.	Feedback is required. This was not proposed during initial consultations.
Any complaints brought forward during the municipal election period of nomination day until ordinary polling day will not be investigated until the election has concluded.	Complaints are still able to be brought forward but the investigation would not be swayed by political interference.	Feedback is required. This was not proposed during initial consultations.
A member who has had a complaint lodged against them is not able to participate in the vote on whether or not there was a breach, and if applicable, determine what sanction to impose.	Aligns to the <i>Municipal Conflict of Interest Act</i> and ensures that elected officials who have had a complaint lodged against them would not be able to determine their own outcome.	Feedback is required. This was not proposed during initial consultations.
A decision or penalty of a Council on a code of conduct matter is final and binding on all parties.	This would reduce the possibility of overturning council on these matters. This will not eliminate a member's ability to seek judicial review but would only allow for the most extreme cases to be considered.	Feedback is required. This was not proposed during initial consultations.
Require that, in addition to the investigator's recommendation being made public, the section the complaint was lodged under also needs to be made public.	In the provisions yet to be proclaimed in the MGA and HRMC, only the investigators recommendation is made public. To ensure that the public was	Feedback is required. This was not proposed during initial consultations.

	also made aware of what section the complaint was lodged under to ensure a greater level of transparency and accountability to councils/commissions while protecting the privacy of the complainant.	
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Training

Recommendation	Rationale	Feedback required
Training to be developed and delivered in an online module format with quizzes and a minimum pass rate to ensure a minimum level of understanding.	Want training to be easily accessible and monitored. Ensuring a quiz with a minimum pass rate is included in the online training can support the development of a minimum level of understanding.	Feedback is required. This was not proposed during initial consultations.
Elected officials should be required to complete the training within 30 days of being sworn into office and failure to do so is considered a breach of the code itself and may go to council without an investigation.	The COCWG wanted a timeframe for when all elected officials should complete the training. If the training was offered in an online module format then this 30 days timeline would be easy to achieve. Furthermore, the COCWG wanted to have some type of penalty in place for members who did not complete their training in the timeframe allotted. This aligns to other jurisdictions.	Feedback is required. This was not proposed during initial consultations.

Review

Recommendation	Rationale	Feedback required
A review on the code of conduct shall begin 3 years post implementation to consider the effectiveness for municipal elected officials.	Ensure the proposed framework is meeting the needs of elected officials.	Feedback is required. This was not proposed during initial consultations.
Review the <i>Municipal Elections Act</i> (MEA) to see if there is potential to reduce the gap between the sanctions in the code of conduct and the <i>Municipal Elections Act</i>	The COCWG recognizes there is a higher level of standard required for sitting councillors than those running for office. A review of the MEA was beyond the scope of the COCWG but wanted to ensure some sort of	Feedback is required. This was not proposed during initial consultations.

	review on the MEA was completed.	
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Appendices

Appendix A: Proposed Model Code of Conduct

Guiding Principles:

The below guiding principles are intended to underlie the specific standards established for the conduct of members:

- a. Collegiality: members of council will work together to further the best interests of the municipality in an honest and honourable way.
- b. Respect: members of council will demonstrate respect towards one another, the democratic decision-making process, and the role of staff.
- c. Integrity: members of council are expected to be lawful and adhere to strong ethical principles by giving the municipality or village interests priority over private individual interests.
- d. Professionalism: members of council will create and maintain an environment that is respectful and free from all forms of harassment, including sexual harassment and discrimination. They must show consideration for every person's values, beliefs and contributions, while supporting and encouraging others to participate in council activities.
- e. Transparency: members of council will be truthful and open regarding their decisions and actions and make every effort to accurately communicate information openly to the public.
- f. Responsibility: members of council are responsible for the decisions that they make and must be held accountable for their outcomes. They must demonstrate awareness of their own conduct and consider how their words or actions may be perceived as offensive or demeaning.

Standards:

The below outlines the set of standards for the conduct of members, set out by general topic, that must be adhered to:

General Conduct

- Members of council must be truthful and forthright, and not deceive or knowingly mislead Council, the CAO, or the public.
- Members of Council will respect the presiding officers, colleagues, staff and members of the public that present during the council meeting or other proceedings/meetings of the municipality.

- Members of Council will adhere to procedure and direction of presiding officers in respect to rules of procedure.
- Members of Council must conduct Council business and all of the member's duties in an open and transparent manner, other than for those matters which Council is authorized by law to deal with in private.
- Members of Council must ensure that they are not impaired by alcohol or drugs while attending any meeting of the municipality.

Confidential Information

- No Member of Council will disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by policy or law or authorized by the Council to do so.
- No Member of Council will use confidential information for personal or private gain or for the gain of any other person or entity.
- Members of Council should not access or attempt to access to confidential information in the custody of the municipality unless the information is necessary for the performance of their duties and its access is not prohibited by legislation or by the by-laws or policies of the Municipality.

Gifts and Benefits

- No member of Council shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of their duties of office, except for the following:
 - i. gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
 - ii. a suitable memento of a function honouring the member of Council;
 - iii. sponsorships and donations for community events organized or run by a member of Council or by a third party on behalf of a member of Council.
 - iv. compensation authorized by the municipality.
- A fee or advance paid, or a gift or benefit provided, with the Member's knowledge, to a person closely connected to a member is deemed to be a gift to the Member of Council.

Use of Municipal Property, Equipment and Services

- No member of Council shall use, or request the use of, any municipal property, including surplus material or equipment for personal convenience or profit, unless the property is:

- i. available for such use by the public generally and the member of Council is receiving no special preference in its use; or,
 - ii. made available to the member of Council in the course of carrying out council activities and duties.
- No Member of Council shall use, or request the use of, for personal purpose any municipal property, equipment, services, supplies or other municipally-owned materials, other than for purposes connected with the discharge of municipal duties.
- No Member of Council shall obtain, or attempt to obtain, personal financial gain from the use or sale of municipally-developed intellectual property.
- No Member of Council shall use information, or attempt to use information, gained in the execution of their duties that is not available to the general public for any purposes other than carrying out their official duties.
- No Member of Council, or person closely connected to a member, shall tender on such items such as the sale of older and extra equipment.

Planning or Procurement Proposals before Council

- No Members of Council shall solicit or accept support in any form from an individual, group or corporation, with any planning or procurement proposal before Council.

Improper Use of Influence

- No Member of Council shall use the influence of their office for any purpose other than for the exercise of their official duties.

Business Relations

- No Member of Council shall allow the prospect of their future employment by a person or entity to affect the performance of their duties to the municipality.
- No Member of Council shall borrow money from any person who regularly does business with the municipality, unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.
- No Member of Council shall act as an agent of a person or entity before Council or a committee of Council or any agency, board or committee of the municipality.

Employment of Persons Closely Connected to Members of Council

- No member of Council shall attempt to influence any municipal employee to hire or promote a person closely connected to the member.
- No member of Council shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any person closely connected to.

Fairness

- No member of Council shall give special consideration, treatment or advantage to any individual or entity beyond that which is accorded to all.
- No member of Council shall give special consideration, treatment or advantage to an organization or group due to the member or person closely connected to the member being involved with or a member of the organization or group.

Adherence to Policies, Procedures, Bylaws and Other Laws

- Members of Council will adhere to the applicable national and provincial legislation.
- Members of Council will adhere to the procedures, policies and bylaws of the municipality.
- Members of Council will adhere to the expense and hospitality policy of the municipality.

Respect for Council as a decision-making body

- A member of council must abide by and act in accordance with any decision made by council, whether or not the member voted in favour of the decision.
- Members of Council must not encourage non-compliance with a bylaw, policy or procedure.

Communicating on behalf of Council

- A member, other than the Mayor/Warden, must not claim to speak on behalf of Council unless the member has been authorized to do so.
- The Mayor/Warden/designated individual may speak on behalf of council and must make every effort to convey the intent of councils' decision accurately.

Interactions of Council with Staff and Service Providers

- Members of Council must respect the role of the CAO as head of the administrative branch of government of the municipality and must not involve themselves directly in the administration of the affairs of the municipality, including, without limitation, the administration of contracts.
- No member of Council shall direct, or attempt to direct, the CAO, other than through a direction provided by the Council as a whole.
- Members of Council shall be respectful of the role of CAO and municipal employees to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council.
- Members of Council must not direct or influence, or attempt to direct or influence any municipal employees in the exercise of their duties or functions.
- Council cannot direct municipal employees except through the CAO.
- Members of Council are not to issue instructions to any of the contractors, tenderers, consultants or other service providers to the municipality.
- No member of council shall require or request that a municipal employee person undertake personal chores or tasks for the council member unrelated to municipal business.
- Members of Council must not make public statements reflecting negatively on identifiable groups of individuals.

Respectful Interactions

- A member of council must not engage in discrimination or harassment on the grounds articulated in the Human Rights Act of Nova Scotia.
- A member of council must not sexually harass any person
- A member of council must not engage in any discriminatory or harassing action or conduct, verbal or non-verbal, directed at one or more individuals or groups that creates a poisoned environment.

Reprisal

- A member must not undertake any act of reprisal or threaten reprisal against a complainant in a matter under this Code of Conduct or any person providing relevant information in relation to a matter under this Code of Conduct.

Appendix B: Sanction Framework and Sanctions

Sanction Framework:

An elected official must evaluate the 7 considerations before imposing a sanction on a member:

1. The nature of the code contravention
2. The length or persistence of the code contravention
3. If the member knowingly contravened the code of conduct
4. If the member has taken any steps to remedy the contravention
5. If the member previously contravened the code of conduct
6. Any external factors that exist to the member's contravention
7. The resources the member will need to complete their job

Sanctions:

One, or a combination, of the below 13 sanctions can be imposed on an elected official:

1. Member will receive a letter of formal reprimand or warning, as directed by council
2. Member will issue a letter to include acknowledgement of breach of code and an apology within 15 days
3. Member will attend training, appropriate to the incident, as directed by council
4. Censure the member publicly
5. Limit the member's access to certain local government facilities, equipment and/or property
6. Suspending or removing the member as deputy head of council and/or the chair of a committee, if applicable
7. Suspending or removing the member for no longer than 6 months from some or all committees and/or boards
8. Impose a limit on the member's participation on behalf of the municipality
9. Impose a limit on the member's travel and/or expense reimbursement on behalf of the municipality

10. Impose a fine on the member for up to \$1,000 per occurrence, which is to be paid no longer than 6 months from the decision of council and to be collected as a payable
11. Impose an appropriate reduction in compensation to the member for no longer than 6 months based on the circumstances of the outcomes
12. Make individual liable for direct monetary loss realized by the municipality as a result of the member's action in any amounts determined by the investigator
13. Make individual liable to repay any direct monetary gain they obtained from their actions in any amounts determined by the investigator

Appendix C: Complaint and Investigator Process

1. Municipality or village will appoint a person or entity other than a council member or an employee of the municipality to receive and investigate complaints.
 - a. The person or entity appointed must have experience in conducting investigations and in applying the principles of natural justice. No conflict of interest can exist between the investigator and the parties involved.
2. A complaint will be submitted to the investigator no later than 6 months from discoverability.
 - a. Any complaints brought forward during the municipal election period of nomination day until ordinary polling day will not be investigated until the election has concluded.
3. The CAO/Clerk will be notified by the investigator that a complaint has been received.
4. Investigator will determine if there is validity to the complaint. If no validity then complaint can be dismissed.
5. If the complaint is valid, the investigator will begin their investigation and Council/Commission will be notified about the investigation in camera.
6. The investigator shall present a report to council, no later than 6 months from the time the complaint is brought forward, on the investigation and include a recommendation regarding the validity of the complaint and, if applicable, a recommendation regarding an appropriate sanction.
 - a. If complaint is brought forward during the municipal election period of nomination day until ordinary polling day it will not be investigated until the election has concluded
 - b. Council may grant the investigator an extension on when the report can be brought to council for extenuating circumstances
 - c. Council is able to discuss the investigators report in camera.
7. Council determines if a breach occurred and determines the sanction(s) to impose. The member who had the complaint lodged against them will not participate in the vote.

8. The section under the code of conduct the complaint was lodged and the investigators recommendations are made public.
9. The decision or penalty of Council/Commission on a code of conduct matter is final and binding on all parties.