



Policy

POL.COR.07.07

Code of Conduct for Members of Council, Local Boards & Advisory Committees

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Policy Statement

Policy direction for the behaviour of Members of Council, Local Boards & Advisory Committees in the performance of their duties and responsibilities as elected and appointed community representatives.

Purpose

Subsection 223.2(1) of the *Municipal Act, 2001* authorizes a Municipality to establish codes of conduct for Members.

Subsection 223.3(1) also authorizes a Municipality to appoint an Integrity Commissioner who would be responsible for performing, in an independent manner, the functions assigned by Council with regard to the application of a Code of Conduct with respect to:

- the application of the Code of Conduct,
- the application of any procedures, rules and policies of the Municipality and Local Boards governing the ethical behaviour of Members,
- the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to Members,
- requests by Members for advice by Members about obligations under the Code of Conduct, procedures, rules, policies or the *Municipal Conflict of Interest Act*, and
- the provision of education/information to Members, the Municipality and the public about the Municipality's Codes of Conduct for Members and about the *Municipal Conflict of Interest Act*.

The Code of Conduct sets minimum standards for the behaviour of Members in carrying out their functions. It has been developed to assist Members of Council ~~Members~~, Local Boards and Advisory Committees to:

1. Understand the standards of conduct that are expected of them, and the law that applies in relation to these standards;

2. Fulfill their duty to act honestly and exercise reasonable care and diligence; and
3. Act in a way that enhances public confidence in local government.

Statement of Principle

A written Code of Conduct helps to ensure that Members of Council, Local Boards and Advisory Committees of the Municipality share a common ~~basis~~ understanding of acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate. These standards for Members exist to enhance public confidence that The Blue Mountain's elected and appointed representatives will serve the public with integrity, justice and courtesy.

The Town of The Blue Mountain's Code of Conduct is a general standard that augments Provincial laws and Municipal policies and by-laws that govern conduct. It is not intended to replace personal ethics.

This Code of Conduct is consistent with the existing statutes governing the conduct of Members. (i.e. the *Municipal Act, 2001*, the *Municipal Conflict of Interest Act* and the *Municipal Freedom of Information and Protection of Privacy Act*). The *Criminal Code of Canada* also governs the conduct of Members. Members are expected to uphold the letter and spirit of the laws of Canada, Ontario and the laws and policies adopted by Council, Local Boards and Advisory Committees.

All Members to whom this Code of Conduct apply shall serve their citizens in a conscientious and diligent manner. No Member shall use the influence of office for any purpose other than the exercise of their official duties. Members shall seek to avoid conflicts of interest, both apparent and real. Members shall perform their duties and arrange their public and private affairs in a manner that promotes public confidence and will bear public scrutiny.

Application

This policy applies to Members of Council, Local Boards and Advisory Committees of The Corporation of the Town of The Blue Mountains in the performance of their duties and responsibilities as elected/appointed community representatives. It is understood that this applies at all times and in all places while a person subject to this Code of Conduct.

This policy applies to all Members; however a Code of Conduct for Advisory Committee Members is attached as Appendix D. Provisions of the Code of Conduct for Members of Council, Local Boards and Advisory Committees which are relevant only to Members of Council have been eliminated from the specific Code of Conduct for Members of Local Boards and Advisory Committees. The definitions, principles and intent of the overarching Code of Conduct policy will apply and may be referred to for clarification and interpretative assistance in understanding the Code of Conduct for Members of Local Boards and Advisory Committees.

Definitions

Abuse: Abuse is an attempt to control the behaviour of another person through a misuse of power, trust or dependency. It can include physical, sexual, verbal, financial, isolation, emotional or psychological abuse.

Advisory Committee: means a committee established by Council, including any ad hoc, subcommittee or task force, to advise on matters which Council has deemed appropriate

Assets: means all property of the Municipality, including equipment, financial assets, land, vehicles, material, paper and electronic documents, inventories, tools, electronic equipment, computers, email, internet services and intellectual property.

Assault: is the act of inflicting physical harm or unwanted physical contact upon a person or, a threat or attempt to commit such an action. Assault is a criminal offence under section 265 of the Criminal Code of Canada. Assault occurs when a Person applies force to another Person, without permission. Assault may include physical violence, attempts or threats to use force (including gestures that imply a serious threat), stalking or conduct that causes that other Person to fear for their safety or the safety of anyone known to them. [This definition is problematic insofar as it is a Criminal Code act. As IC, I may determine that a matter subject of a Code complaint is on its face, a criminal matter. However, I do not have authority to make a determination of criminality under the Code.](#)

Bullying: Bullying is usually seen as acts or verbal or written comments that could 'emotionally' hurt or isolate a person who is the target of such comments. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behaviour, but may also occur as a single incident, that is intended to intimidate, offend, degrade or humiliate a person or group of people. It has also been described as the assertion of power through aggression. [Rather than having a definition for bullying, could you reference the definition in the Respectful Workplace Policy?](#)

Business Hospitality: means food and beverages consumed at banquets, receptions or similar events, if:

- i. attendance as a representative of the Municipality serves a legitimate business purpose;
- ii. the person extending the invitation, or a representative of the organization is in attendance; and
- iii. the value is reasonable and such invitations from the same party are infrequent;

Chief Administrative Officer (CAO): means the senior executive appointed by Council who is responsible for managing the Municipality.

Clerk: means the person appointed by Council pursuant to Section 228 of the Municipal Act, 2001.

Code of Conduct: means the "Town of The Blue Mountains Code of Conduct for Members of Council, Local Boards and Advisory Committees" and/or "The Code of Conduct for Local Boards and Advisory Committee Members".

Complainant: means a person who has filed a complaint to the Integrity Commissioner on the prescribed form.

Complaint: means an allegation of actions and/or behaviour of a Member contrary to the one or more provisions a purported contravention of the Code of Conduct, policies and procedures of the Municipality and/or The Municipal Act. his

Confidential Information means

- i. Information in the possession of, or received in confidence by the Municipality, that it is prohibited from disclosing, or has decided to refuse to disclose, under the Municipal Freedom of Information and Protection of Privacy Act;
- ii. A matter that has been debated or discussed at a meeting of Council closed to the public, unless the matter is subsequently discussed in Open Session as authorized by Council (information that was subject of a closed meeting discussion does not cease to be confidential by the mere fact that the matter was discussion in Open Session. It should be made clear that only after Council has determined that the matter be made public, is the matter public;
- iii. Information concerning litigation, negotiation, or personnel matters; and. Take the list from the Municipal Act and include all here
- iv. Reports of consultants, draft documents and internal communications, which, if disclosed may prejudice the reputation of the Municipality, its officers and employees, or its effective operation.

Nothing in this definition of Confidential Information shall be construed to limit Members use or dissemination of information that: Legal advice needed to determine who has the authority to say something is in the public domain or not. For example, I may say I heard something from a group that Council has not decided to make public. I believe that if something was covered by the reasons for Closed Session, only a decision of Council to take it to public session allows members to discuss the item further.

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- i. Was in the lawful possession of the Member at the time of disclosure without an obligation to keep it confidential;
- ii. Was in the public domain at the time of receipt or disclosure or subsequently becomes so (without breach of the obligations of confidentiality by the Member);
- iii. Was originally considered Confidential under this definition but which subsequently becomes part of the public knowledge or literature through no fault of the Member;

Commented [CS1]: This section is problematic and should not be included in the Code. It will be up to the IC to make a determination of whether information in the possession of a Member is confidential. The mere fact that a Member has been given information that was subject of solicitor client privilege, without an obligation to keep it confidential, does not remove the Member's obligation to maintain confidentiality.

Council: means the elected Council of the Town of The Blue Mountains.

Employee: means a person employed by the Municipality, including those employed on a contract and volunteers but does not include Members of Council, Local Boards or Advisory Committees.

Harassment: is as defined in the Ontario Human Rights Code subsection 10(1) as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome".

Local Board : means a Local Board established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities but (as per the *Municipal Act* Section 238 (1)) for the purposes of the Code of Conduct, a Local Board does not include The Blue Mountains Police Services Board or The Blue Mountains Public Library Board, a School Board, a Hospital Board, the Niagara Escarpment Commission, a Conservation Authority.

Immediate Relative: "Immediate Relative" shall mean a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, daughter-in-law, son-in-law, father-in-law, mother-in-law as well as step-relationships and half-sibling relationships. Spouse shall mean the person to whom a person is married or with whom the person is living in a conjugal relationship outside of marriage. This definition shall also include any other person(s) that are living with the employee on a full-time basis whom the member/employee (appropriate to the document) has demonstrated a settled intention to treat as an immediate relative.

Integrity Commissioner : The person(s) appointed by Town Council By-Law in accordance with Section 223.3 of the *Municipal Act, 2001* and who is responsible for performing in an independent manner the functions assigned by the Municipality with respect to the application of the Code of Conduct for Members of Council, Local Boards and Advisory Committees.

Intimidation: is intentional behavior that would cause a person of ordinary sensibilities to fear injury or harm. It is the threat of harm generally involving a perception of injury, physical or mental damage, act or instance of injury, or a material and detriment or loss to a person.

Members: means Members of Council, Local Boards and Advisory Committees (and any such Ad Hoc or Sub-Committee or working group members thereof) of the Town of The Blue Mountains.

Municipality: means The Corporation of the Town of The Blue Mountains.

Nomination Day: means the last day for filing or withdrawing a nomination as provided for by the *Municipal Elections Act, 1996*.

Official Hospitality: means food, lodging, transportation and entertainment provided by Provincial, Regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or at a conference, seminar or event where the Member is either speaking or attending in an official capacity at an official event (such as at meetings of AMO, FCM, or conducted by providers of continuing education).

Person: An entity recognized by the law as separate and independent, with legal rights and existence, including the ability to sue and be sued, to sign contracts, to receive gifts, to appear in court either by themselves or by lawyer, and generally, other powers incidental to the full expression of the entity in law. Person shall be deemed to include corporations and associations existing under or authorized by law.

Commented [CS2]: I believe we should avoid new terms. The MCIA clearly defines what relative's interest creates a deemed pecuniary interest (spouse, parent, child). I believe that you should include something like the following: For the purposes of complaints under section 5, 5.1 and 5.2 of the MCIA, the Integrity Commissioner will adopt the definitions contained in the *Municipal Conflict of Interest Act*, section 3 in respect of an interest of certain persons deemed that of the Member.

Commented [CS3]: "a person of ordinary sensibilities" should be replaced with "a reasonable person"

Personal Information: as defined in the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990 c. M56 (MFIPPA), means recorded information about an identifiable individual and includes:

- i. Information relating to the race, national or ethnic origin, colour, religion, age, sex, sexual orientation or marital or family status of the individual;
- ii. Information relating to the education or the medical, psychiatric, psychological, criminal or employment history of the individual or information relation to financial transactions in which the individual has been involved;
- iii. Any identifying number, symbol or other particular assigned to the individual;
- iv. The address, telephone number, fingerprints or blood type of the individual;
- v. Correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to that correspondence that would reveal the contents of the original correspondence;
- vi. The views or opinions of another individual about the individual;
- vii. The individual's name if it appears with other Personal Information related to the individual or where the disclosure of the name would reveal other Personal Information about the individual.

Social Media: means publicly available, third party hosted, interactive web technologies used to produce, post and interact through text, images, video and audio to inform, share, promote, collaborate or network.

Token of Appreciation: means such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation, or which are a suitable memento of a function honouring the Member.

1. Gifts and Benefits

Members shall not accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of their duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to, or a gift or benefit provided with the Member's knowledge to an Immediate Relative, friends, or associates, business or otherwise or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

The following are recognized as exceptions:

- a) compensation authorized by by-law;
- b) tokens of appreciation, such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c) a political contribution otherwise reported by law, in the case of Members running for office; (i.e.

- disclosure related to election campaign contributions that are required to be otherwise reported.)
- d) services provided without compensation by persons volunteering their time;
 - e) a suitable memento of a function honouring the Member;
 - f) official hospitality, including food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event where the Member is either speaking or attending in an official capacity;
 - g) business hospitality, food and beverages consumed at banquets, receptions or similar events, if:
 - i. attendance is resultant to protocol or social obligations that accompany the responsibility of office; and,
 - ii. the person extending the invitation, or a representative of the organization is in attendance; and
 - iii. the value is reasonable, and the invitations are infrequent.
 - h) communication to the offices of a Member, including subscriptions to newspapers and periodicals.

In the case of categories (b), (e), (f), (g) and (h), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source over a twelve (12) month period exceeds \$300, the Member shall within thirty (30) days of receipt of the gift or of reaching the annual limit, file a disclosure statement (attached as Appendix B - Disclosure Statement) with the Clerk.

The disclosure statement must indicate:

1. the nature of the gift or benefit;
2. its source and date of receipt;
3. the circumstances under which it was given or received;
4. its estimated value;
5. what the recipient intends to do with the gift; and
6. whether any gift will at any point become the property of the Town.

All disclosure statements will be a matter of public record.

On receiving a disclosure statement, the Clerk shall make the disclosure statement public. If a member of the public believes the Member has not conformed to the requirements of the Code of Conduct with respect to accepting gifts and benefits, they may request the Integrity Commissioner examine the statement to ascertain whether the receipt of gift or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. If the Integrity Commissioner makes that preliminary determination, they shall call upon the Member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, they may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift, or remit the value of any gift or benefit already consumed to the Town.

Except in the case of (a), (c) and (f), a Member may not accept a gift or benefit worth in excess of \$500 from one source during a calendar year, unless it falls within an exemption.

To clarify, if a Member accepts a gift over \$300, a disclosure statement must be completed. A member is not permitted to accept a gift over \$500 unless they fall under (a), (c) and (f).

2. Honesty

Members are responsible for making honest statements. No Member shall make a statement when they know that statement is false. No Member shall make a statement with the intent to mislead Council Members and the public.

3. Confidentiality

All information, documentation or deliberation received, reviewed or taken in Closed Session of Council, Local Boards of Advisory Committees is confidential.

Members shall not disclose or release, by any means, to any member of the public, either in verbal or written form, any confidential information acquired by virtue of their office, except when required by law to do so. Where a matter has been discussed at a closed session meeting and the information remains confidential, no Member shall disclose the content of the matter or the substance of deliberations of the closed session meeting, unless a decision of Council, Local Board or Advisory Committee has made a decision to place the information before the public in an open meeting.

Members shall not permit any persons other than those who are entitled thereto to have access to information that is confidential.

Particular care should be exercised in ensuring confidentiality of the following types of information: I think this list should go with the definition section.

- Labour relations and personnel matters;
- Information about suppliers provided for evaluation which might be useful to other suppliers;
- Matters relating to the legal affairs of the Town of The Blue Mountains;
- Information that infringes on the rights of others (i.e. sources of Complaints where the identity of the Complainant was given in confidence);
- Items under litigation or negotiation;
- Price schedules in contract tender or Request for Proposal submissions if so specified;
- Information deemed to be "Personal Information" under the *Municipal Freedom of Information and Protection of Privacy Act*; and
- Statistical data required by law not to be released (e.g. certain census or assessment data).

This list is provided as an example and is not exclusive. It is recommended that requests for information be referred to the Office of the Clerk to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal Freedom of Information and Protection of Privacy Act*.

4. Use of Town Property

Subject to Section 5, no Member shall use for personal purposes any Town property, equipment, services, supplies or services of consequence other than for purposes connected with the discharge of Town duties or associated community activities approved by Town Council.

No Member shall obtain financial gain from the use of Town developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the Town of The Blue Mountains.

No Member shall use information gained in the execution of their duties that is not available to the general public for any purposes other than their official duties.

5. Use of Town Technology Resources

The Town of The Blue Mountains licenses the use of computer software from a variety of vendors. The Town does not own the software or its documentation. Software is normally copyrighted, and no individual may copy or distribute the software unless expressly permitted to do so under the applicable license.

6. Work of a Political/Personal Nature

Members shall comply with Town Policy POL.COR.18.01, Use of Corporate Resources for Election purposes and no Member shall use Town facilities, services or property for their re- election campaign. Further, no Member shall use the services of Town Employees for their re- election campaign, during hours in which the Employees are in the paid employment of the Town.

No Member shall use Town Assets for their personal business gain. No Member shall use the services of Town Employees for their personal business during the hours in which the Employees are in the paid employment of the Town.

7. Conduct at Meetings

Members shall conduct themselves with decorum at meetings in accordance with the provisions

of the Town's Procedural By-law(s).

Respect for deputations and for fellow Members and staff requires that all Members show courtesy and not distract from the business of Council during presentations and when other Members have the floor.

8. Discreditable Conduct

All Members have a duty to treat Members of the public, one another and staff appropriately and without abuse, bullying or intimidation. All Members shall ensure that their work environment is utterly free and completely devoid of discrimination, and personal and sexual harassment.

The Ontario *Human Rights Code* applies and recognizes the right of every employee to work in an environment that is free from discrimination and harassment, by the employer, agent of the employer, another employee, or any other person with whom s/he comes into contact in the normal performance of his/her duties.

Members shall abide by the provisions of the *Human Rights Code*, and, in doing so, shall treat every person, including other Members, employees, and individuals providing services on a contract for service, students on placements, and the public, with dignity, understanding and respect.

In accordance with the *Human Rights Code*, Members shall not discriminate against anyone because of their race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status, disability, gender identity or gender expression.

In accordance with the *Human Rights Code*, Harassment means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.

Without limiting the generality of the foregoing, Members shall not:

- a) make inappropriate comments or gestures to or about an individual where such conduct is known or ought reasonably to be known to be offensive to the person(s) to whom they are directed or are about;
- b) display materials or transmit communications that are inappropriate, offensive, insulting or derogatory, including on business and personal Social Media platforms;
- c) make threats or engage in any abusive activity or course of conduct towards others;
- d) vandalize the personal property of others;
- e) commit assault of any kind, including making or requesting unwanted physical contact, including hugging, touching, patting, or pinching; or
- f) refuse to converse or interact with anyone based on any ground listed in the *Human Rights Code*.

9. Improper Use of Influence

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

Examples of prohibited conduct are the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself or and immediate relative, staff members, friends, or associates, business or otherwise. This includes attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Prohibited conduct also includes the holding out of the prospect or promise of future advantage through a member's supposed influence within Council or the Local Board in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter that:

- a) is of general application;
- b) affects a Member, their immediate relative, staff Members, friends, or associates, business or otherwise as one of a broad class of persons; or
- c) concerns the remuneration or benefits of a Member in their role with the Town.

10. Communications and Media Relations

Members will attempt to accurately and adequately communicate the attitudes and decisions of Council, Local Boards or Advisory Committees even if they disagree with a majority decision so that:

- a) there is respect for the decision-making processes;
- b) official information related to decisions and resolutions made will normally be communicated in the first instance to the community and the media in an official capacity by the Mayor/Chair or designate;
- c) information concerning adopted policies, procedures and decisions is conveyed openly and accurately; and
- d) Confidential Information will be communicated only when and after determined by Council, Local Board or Advisory Committees.

11. Representing the Town

Members shall make every effort to participate diligently in the activities of the Committees, Agencies, Local Boards and Advisory Committees to which they are appointed.

[To participate diligently means that a Member shall not be absent from Council, agencies, boards and commissions meetings without reasonable justification \(e.g. illness of Member or special family circumstance\) for more than three consecutive scheduled meetings or on a regular basis.](#)

12. Professional Development

Members have an obligation to complete all mandatory training and orientation assigned by the Town. Members are encouraged to promote, support, pursue and partake in opportunities for professional development. Members are encouraged to stay updated on issues and trends so that they can be as efficient and effective as possible in the carriage of their duties and responsibilities. Local Board and

Advisory Committee Members are encouraged to attend, review or watch online Committee of the Whole and Council proceedings to ensure they are aware of and familiar with the issues before Council that may affect Advisory Committee work.

13. Respect for the Role of Staff

Members shall be respectful of the fact that staff work for the Town as a body corporate and are charged with making recommendations that reflect their professional expertise and corporate perspective. Members must not falsely or maliciously injure the professional reputation of staff. Members shall be respectful of the fact that staff carry out the directions of Council and administer the policies of the Municipality and are required to do so without any undue influence from any individual Member or group of Members.

Where a Member has a concern about personnel matters, he or she should speak with the Mayor and/or Chief Administrative Officer about the concern or alternatively raise the issue with Council during an *in camera* session.

Members must not invite or pressure any Member of staff to engage in partisan political activity nor subject staff to discrimination or reprisal for refusing to engage in such activities.

14. Business Relations

No Member shall borrow money from any Person who regularly does business with the Town unless such Person represents an institution or company whose shares are publicly traded and who is regularly in the business of lending money.

No Member shall act as a paid agent before Council or any Advisory Committee or Local Board of Council or any Agency at which the Town is represented.

15. Expenses

Members shall comply with the provisions of the Town's applicable policies relative to per diem payments and expenses governing reimbursement for attendance at conferences, seminars, training courses and workshops.

Members shall be reimbursed for their out-of-pocket expenses incurred in accordance with approved Town policies while attending official functions and representing the Town in their official capacity.

16. Encouragement of Respect for the Town and its By-Laws and Policies

Members shall encourage public respect for the Town and its by-laws and policies. Members shall abide by the provisions of any policies adopted by Council, Advisory Committees or Local Boards.

17. Discrimination and Harassment

Members have a duty to treat members of the public and one another with respect and without abuse, bullying or intimidation.

All persons shall be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment. Members are not to engage in any course of conduct or make comments that would constitute harassment.

Members are responsible for communications that may constitute harassment, whether in person, in writing, by public comment and on-line, including via Social Media.

18. Advice

Members seeking information about their responsibilities under this Code of Conduct are encouraged to request advice from the Integrity Commissioner appointed by Town Council.

A request by a Member for advice from the Integrity Commissioner under the Code of Conduct, any procedure, rule or policy of the Municipality or Local Board, as the case may be, or for advice respecting their obligations under the *Municipal Conflict of Interest Act* shall be made in writing (requests in writing include e-mail correspondence). If the Integrity Commissioner provides such advice, that advice shall be in writing.

Advice provided by the Integrity Commissioner to a Member may be released with the Member's written consent. If a Member releases only a part of the advice provided to the Member by the Integrity Commissioner, the Integrity Commissioner may release part, or all of the advice provided to the Member without obtaining the Member's consent.

19. Respect for Code of Conduct

Members should respect the Process for Complaints made under the Code of Conduct. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or against a person who provides information to the Integrity Commissioner during an investigation.

Upon Council's decision on the Integrity Commissioner's recommendations, the Member whose has violated the Code of Ethical Conduct shall comply with Council's decision. Failure to comply with Council's decision shall constitute a contravention of this Code

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20. Integrity Commissioner Vacancy

Should the position of the Town's Integrity Commissioner become vacant, the Code of Conduct remains in effect and all Members shall continue to abide by the provisions set out therein. When a vacancy occurs, all formal Complaints shall be held in abeyance until coverage from a neighbouring municipality can be arranged.

21. Annual Report

The Integrity Commissioner's annual report shall consist of:

- a) all informal and formal complaints dismissed by the Integrity Commissioner;
- b) all complaints received that are determined to be not within the jurisdiction of the Integrity Commissioner;
- c) all Formal Complaints that resulted in a formal investigation and conclusions; and
- d) a cost breakdown with respect to service provided within the reporting year by the Integrity Commissioner.

The annual report shall be provided not less than sixty (60) days after December 31 of the calendar year that is being reported.

Consequences for Contravention of the Code of Conduct

When Council receives a report from the Integrity Commissioner that there has been a contravention of the Code of Conduct by a Member of Council, Local Board or Advisory Committee, Council may impose either of the following penalties on the Member as permitted by the *Municipal Act, 2001*:

- (a) a reprimand;
- (b) a suspension of the remuneration paid to the Member in respect of their services as a Member of Council for a period of up to 90 days.

1. Council, may, on the basis of a recommendation from the Integrity Commissioner take [remedial action](#). Such remedial actions may include but are not limited to any or all of the following actions and require that the Member:

~~any or all of the following actions and require that the Member:~~

- (i) provide a written or verbal apology;
- (ii) return property or make reimbursement of its value of money spent;
- (iii) be removed from the Membership of a Committee; or
- (iv) be removed as Chair of a Committee.

References and Related Policies

This Code of Conduct operates along with and as a supplement to the existing statutes governing conduct. The following federal and provincial legislation governs the conduct of Members:

- *Municipal Act, 2001*,
- *Municipal Conflict of Interest Act*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Municipal Elections Act*
- *Provincial Offences Act*
- *Criminal Code*

- *Ontario Human Rights Code*
- Procedural By-law No. 2018-20
- by-laws and policies of Council as adopted and amended from time to time, including but not limited to the procedural by-law, procurement by-law, Workplace Violence and Harassment Program, Communications and Media policies.

Review Cycle

This policy will be reviewed once per term of Council in conjunction with the Integrity Commissioner, as required by legislative changes or at the request of Council.

Appendix A - Protocol Policy for Complaints Related to Members

1. PART A - INFORMAL COMPLAINT PROCEDURE

Individuals are encouraged to use the Informal Complaint Procedure first to address behaviour or activity of a Member that they believe violates the Code of Conduct. With the consent of the Complainant and the Respondent, the Integrity Commissioner may participate in this process. The parties are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a Complaint. The Informal process is confidential, and secrecy shall be maintained by all Members participating in an informal process.

An informal process will not be a formally recorded process. A Complainant is encouraged to detail their issues to the respondent prior to any informal meetings to ensure both parties are aware of the concerns and ample opportunity is provided for the respondent to reflect and research the issues raised by the complainant.

Any individual, including members of the public, who identifies, or witnesses conduct by a Member that appears to contravene the Code of Conduct may address the conduct in the following manner:

1. Advise the Member that the conduct appears to contravene the Code of Conduct. Advising the Member may be completed in person, by e-mail, formal letter or phone call. If in person or via telephone, ensure that a witness is present.
2. Ask the Member to acknowledge and agree to stop the conduct;
3. Document the incidents where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
4. Council members shall notify the Mayor. Members of Local Boards and Advisory Committee's shall notify their Committee Chair. If the Complaint involves the Mayor or the Committee Chair, Members shall contact the Integrity Commissioner directly about the concerns regarding the Member's actions;
5. Tell the Member which parts of the Code of Conduct may have been contravened;
6. Ask the Integrity Commissioner to help with an informal discussion of the Complaint with the Member to resolve the issue;
7. If applicable, confirm to the Member that their response is satisfactory, or advise the Member that their response is unsatisfactory, and
8. Consider a Formal Complaint Procedure as set out in Part B, or any other applicable legal process.

The Informal Complaint Process is not a precondition to making a formal complaint. However, it is highly encouraged in the spirit of fair treatment for everyone concerned. Early intervention is key to keeping behaviors and issues from escalating.

PART B - FORMAL COMPLAINT PROCEDURE

2. Formal Complaints: Requests for Inquiry

Any individual may request an inquiry by the Integrity Commissioner into whether a Member has contravened the Code of Conduct by filing a formal Complaint as follows:

- (a) all complaints shall be in writing on the prescribed form and shall be sworn before a Commissioner;
- (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a description of the evidence and/or documents that support the allegation;

Council, a Local Board or an Advisory Committee may request an inquiry by the Integrity Commissioner about whether a Member has contravened the Code of Conduct.

3. Filing of Complaint and Classification by Integrity Commissioner

The Complaint shall be filed with the Clerk who shall forward the matter within two business days to the Integrity Commissioner to determine if the matter is, on its face, a Complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

A Formal Complaint may be sent directly to the Integrity Commissioner.

4. Complaints Outside of the Integrity Commissioner Jurisdiction Under the Code of Conduct

If the Complaint, including the supporting material, is not, on its face, a Complaint with respect to non-compliance with the Code of Conduct or the Complaint relates to matters addressed by other legislation or Complaint procedure under another Town policy or rule, the Integrity Commissioner shall advise the Complainant in writing to follow the alternative procedure. In particular, and in the following circumstances the Integrity Commissioner is to advise as follows:

Criminal Code

- (a) if the Complaint alleges a criminal offence under the *Criminal Code*, the Complainant shall be advised to take the Complaint to the appropriate police service;

Municipal Conflict of Interest Act

- (b) Where a member of the public, elector or Person demonstrably acting in the public interest applies in writing to the Integrity Commissioner for an inquiry to be carried out concerning an alleged contravention of section 5, 5.1 or 5.2 of the Municipal Conflict of Interest Act, the Integrity Commissioner shall proceed in accordance with section 223.4.1 of the Municipal Act.

Commented [CS4]: This section sets out examples of matters outside of the jurisdiction of the IC. MCIAs are within the jurisdiction of the IC to investigate. This heading should be moved to Part B section 2 of the Complaint Protocol – Formal Complaints.

Municipal Freedom of Information and Protection of Privacy Act

- (c) if the Complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the Complainant shall be advised that the matter must be referred to the Clerk to deal with under access to information and privacy policies;

Parallel Proceedings for the Same Complaint

- (d) if the Complaint is in relation to a matter which is subject to an outstanding Complaint under another process, such as a court proceeding related to the Municipal Conflict of Interest Act, a Human Rights Complaint or similar process, or civil proceedings, the Integrity Commissioner may, in their discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and

Outside Jurisdiction: Referrals and Reasons

- (e) if the Complaint is, for any other reason, not within the jurisdiction of the Integrity Commissioner the Complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

5. Refusal to Conduct Investigation

Where the Integrity Commissioner concludes at the outset, or during an investigation that:

- (a) a Complaint is frivolous or vexatious,
- (b) a Complaint is not made in good faith, or
- (c) there are no grounds or insufficient grounds for an investigation,

the Integrity Commissioner shall not be required to investigate and in the case of an ongoing investigation, shall terminate the investigation without a report to Council.

6. Opportunities for Resolution of Formal Complaints

Where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the Complainant and the Member agree, an informal resolution of the Complaint may be attempted with the assistance of the Integrity Commissioner. [With an informal resolution pursued through mediation with the IC, there shall be no report to Council.](#)

7. Investigation

The Integrity Commissioner will proceed as follows in conducting an inquiry pursuant to section 223.4 of the *Municipal Act*, and, where applicable, the *Public Inquiries Act, 2009*:

- (a) provide the Member with an outline of the Complaint with enough detail to allow the Member to understand the Complaint against them;
- (b) request that the Member provide a written response to the allegations to the Integrity Commissioner within ten (10) business days, Members shall provide the integrity Commissioner with a sworn affidavit accompanying their response;
- (c) provide a copy of the Member's response to the Complainant with a request that any written reply be provided within ten (10) business days; and
- (d) provide the Member with advance notice of the findings and any sanctions or remedial actions to be recommended to Council.
- (e) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to any Person, access and examine any other documents or electronic materials and may enter any Municipal work location relevant to the Complaint for the purpose of investigation and potential resolution.
- (f) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the formal Complaint investigation.
- (g) It is intended that all reports will be presented before Council within ninety (90) days of the filing date. Where due to relevant circumstances the report is not presented to Council within 90 days the Integrity Commissioner shall address the reasons for the delay within the report.
- (h) The Integrity Commissioner shall retain all records related to the Complaint and investigation.

8. Reporting and Recommendations these points may be out of order

- (a) The Integrity Commissioner shall generally report to the Complainant and the Member no later than ninety (90) days after the official receipt of the Complaint. If the investigation

process takes more than ninety (90) days, the Integrity Commissioner shall advise the parties of the date, if possible, that the report will be available.

- (b) Where a Member has been found to have contravened the Code of Conduct, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended remedial action or sanction. The Integrity Commissioner will cite jurisprudence including, but not limited to, decisions related in scope by other provincial Integrity Commissioners and decisions related in scope at common law. This information will aid Council in determining the appropriate decision when evaluating recommendations from the Integrity Commissioner.
- (c) Where the Integrity Commissioner finds that there are no grounds or jurisdiction to investigate a Complaint, except in exceptional circumstances, the Integrity Commissioner shall not report to Council the result, except as part of an annual or periodic report.
- (d) The Integrity Commissioner may disclose such information as in their opinion is necessary in the written reasons given by the Integrity Commissioner in relation to an inquiry into whether a Member has contravened the Code of Conduct.
- (e) The Integrity Commissioner provides [her or his findings](#) ~~the report~~ to the complainant and the Member whose conduct has been investigated prior to providing the [final investigation](#) report to Council. The Member shall, subject to Subsection 9(5), have the right to address the report when it is considered by Council or the Local Board.
- (f) If the report of the Integrity Commissioner recommends or Council considers whether to suspend the remuneration paid to the Member, the Member may take part in the discussion of the matter, including making submissions to Council, as the case may be, and may attempt to influence the voting on any question in respect of the matter, whether before, during or after the meeting, however the Member is not permitted to vote on any question in respect of the matter.

9. Findings

If the Integrity Commissioner determines that:

- (a) there has been no contravention of the Code of Conduct, or
- (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error of judgment made in good faith,

the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*.

10. Report to Council. Repeats b above

Upon receipt of a report from the Integrity Commissioner, the Clerk shall place the report on the next regular agenda of Council or the Local Board for consideration by Council or the Local Board.

11. Duty of Council

Council shall consider the Integrity Commissioner's report at the meeting at which it is tabled.

12. Termination of Inquiry When Regular Election Begins

- (a) If an inquiry has not been completed before Nomination Day for a regular election as set out in section 31 of the Municipal Elections Act, 1996, the Commissioner shall terminate the inquiry on that day.
- (b) If an inquiry is terminated under subsection (1), the Integrity Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election, as set out in section 5 of the Municipal Elections Act, 1996, the Person or entity who made the request or the Member whose conduct is concerned makes a written request to the Commissioner that the inquiry be commenced.
- (c) The following rules apply during the period of time starting on Nomination Day for a regular election, as set out in section 31 of the Municipal Elections Act, 1996, and ending on voting day in a regular election, as set out in section 5 of that Act:
 - i. There shall be no requests for an inquiry about whether a Member has contravened the Code of Conduct.
 - ii. The Commissioner shall not report to the Municipality or Local Board about whether, in their opinion, a Member has contravened the Code of Conduct.
 - iii. The Municipality or Local Board shall not consider whether to impose the penalties referred to in the Code of Conduct.

13. Public Disclosure

The Integrity Commissioner and every Person acting under their instructions shall preserve Confidentiality with respect to all matters that come to their knowledge in the course of their duties under this Part.

The Integrity Commissioner may disclose such information as in the Integrity Commissioner's opinion is necessary and provided for in section 223.5 of the *Municipal Act*

The Integrity Commissioner shall retain all records related to the Complaint and investigation.

At the time of the Integrity Commissioner's report to Council or the Local Board, the identity of the Member who is the subject of the Complaint shall not be treated as Confidential Information.

All reports from the Integrity Commissioner to Council or the Local Board will be made available to the public by the Clerk and on the Town's website.

14. Delegation

The Integrity Commissioner may delegate in writing to any Person, other than a Member of Council or Local Board, any of the Integrity Commissioner's powers and duties.

Commented [AS5]: Can we ask the IC whether this can also apply to the Complainant, particularly when it is a member of Council.

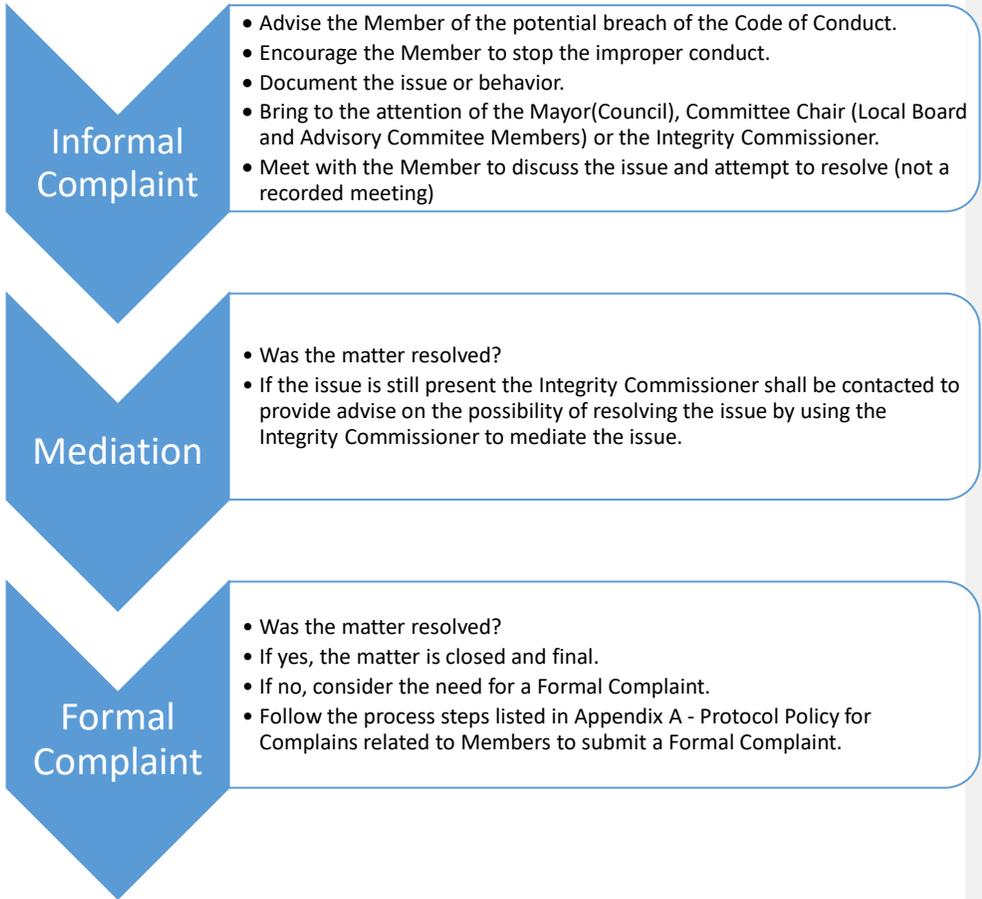
Commented [CS6R5]: The Member's identity is not personal information (i.e. under MFIPPA) because it is in her/his official or business capacity. The complainant (generally is not acting in their business capacity and therefore, their identity is deemed to be personal information and cannot be disclosed by the IC.

Commented [AS7]: I don't know if this is a good idea. Perhaps it would be with the consent of Council.

Commented [CS8R7]: Don't know that this needs to be in the Protocol. In my agreement with the Town, there is a clause that gives me authority to delegate my role as IC for the purposes of a complaint, with the consent of the municipality (not Council).

Diagram 1 – Complaints Protocol Process Flow Chart

- Please note – all processes (Informal, Mediation and Formal) are to be treated with Confidentiality.



APPENDIX 'B' - Disclosure Statement

Section 13 of the Code of Conduct regarding the acceptance of gifts and benefits, requires Members to disclose the receipt of certain gifts and benefits if the dollar value of a single gift or benefit exceeds \$300 or if the total value of gifts and benefits received from one source in a calendar year exceeds \$300. This Disclosure Statement is to be used to report on such gifts and benefits and shall be filed with the Clerk within 30 days of receipt of such gift or benefit, or upon reaching the annual limit.

Disclosure Statements are a matter of public record.

Nature of Gift or Benefit received:

Source of Gift or Benefit:

Circumstances under which Gift or Benefit received:

Intended use of the Gift or Benefit (i.e. will it be donated/provided to the Town):

Estimates Value of Gift or Benefit: \$ _____

Date Gift or Benefit was received: _____(MM/DD/YR)

Signature of Member

Date

Signature of Clerk

Date received

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APPENDIX 'C' - Formal Complaint Form / Affidavit

I, _____ (full name) of the Town of The Blue Mountains, in the Province of Ontario do solemnly swear (affirm and declare) that the following contents of this affidavit as subscribed by me are true and correct:

Permanent place of residence: _____

Mailing address (if different from above): _____

I have personal knowledge of the facts as set out in this Affidavit because:

(insert reasons e.g. I work for... I attended a meeting at which... etc.)

I have reasonable and probable grounds to believe that _____ (specify name of Member in question) has contravened section(s) _____ of the Code of Conduct of the Town of The Blue Mountains. The particulars of which are as follows:

(Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact. If you require more space please use the attached Schedule "A" form and check the applicable box below.)

Schedule A attached: Yes No

This affidavit is made for the purpose of requesting that this matter be reviewed by the Town of The Blue Mountains appointed Integrity Commissioner and for no other purpose.

Sworn (or Affirmed) before me at the Town of The Blue Mountains, in the County of Grey, in the Province of Ontario on the _____ day of _____, _____.

A Commissioner, etc.
(to be witnessed by Commissioner)

Signature of Complainant

NOTE: This is a sworn (affirmed) affidavit of the deponent only. No investigation has been conducted by this authority to confirm or verify the above sworn information. THE CRIMINAL CODE OF CANADA provides that: everyone commits perjury who, with intent to mislead, makes before a Person who is authorized by law to permit it to be made before him a false statement under oath or solemn affirmation by affidavit, solemn declaration or deposition or orally, knowing that the statement is false, is guilty of an indictable offence and liable to a term of imprisonment not exceeding fourteen years (sections 131, 132) or by summary conviction (section 134). Signing a false affidavit may expose you to prosecution under section 131 and 132 or 134 of the Criminal Code, R.S.C 1985, c. C-46 and also to civil liability for defamation.

Commented [CS9]: There needs to be a Stat Declaration portion that the complainant fills out if alleging contraventions of s. 5, 5.1 and 5.2 of the MClA. I have attached a copy of the City of Vaughan form for your reference and consideration of what you may want to include

APPENDIX D – Local Boards and Advisory Committee Members' Code of Conduct

1. The purpose of a Local Board and Advisory Committee is to provide informed advice and guidance, as well as to facilitate public input to Town Council on programs and policies. In recognition of the impartial and objective advice received from Local Boards and Advisory Committees, as well as the challenges and inherent restrictions placed upon these same individuals in assessing and recommending various options in a conscientious and ethical manner, the following Code of Conduct is provided as a general standard for all Local Boards. The main concepts of the overarching Code of Conduct remain applicable for all Local Boards and Advisory Committee Members.
2. The Local Boards and Advisory Committee Members' Code of Conduct shall be applicable to all Members of the Town of The Blue Mountains' Advisory Committee's (with the exception of the appointed Council Members), including any subcommittees or ad hoc committees established.
3. Local Board and Advisory Committee Members shall, when conducting committee business, preparing written correspondence, interacting with the media, Members of Council, staff or Members of the public, act in a manner that accomplishes the following:
 - (a) fulfils the mandate and mission statement of their Advisory Committee;
 - (b) respects due process and the authority of the Chair, Co-Chair or Presiding Officer;
 - (c) demonstrates respect for all fellow Local Board members, Advisory Committee Members, Council, staff and the public;
 - (d) respects and gives fair consideration to diverse and opposing viewpoints;
 - (e) demonstrates due diligence in preparing for meetings, special occasions, or other committee-related events;
 - (f) demonstrates professionalism, transparency, accountability and timeliness in completing any tasks or projects undertaken by the committee;
 - (g) conforms with all relevant legislation, by-laws, policies and guidelines; and,
 - (h) contributes in a meaningful manner, offering constructive comments to Council, staff and fellow Advisory Committee Members.
4. A member of a Local Board or Advisory Committee shall not:
 - (a) place themselves in a position where the Member is under obligation to any Person who might benefit from special consideration or favour on their part or who might seek in any way preferential treatment;
 - (b) accord, in the performance of their official duties, preferential treatment to relatives or to organizations in which the Member, their relatives have an interest, financial or otherwise;
 - (c) deal with an application to the Town for a grant, award, contract, permit or other benefit involving the Member or their Immediate Relative;

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- (d) place themselves in a position where the Member could derive any direct benefit or interest from any matter about which they can influence decisions; and,
 - (e) benefit from the use of information acquired during their official duties which is not generally available to the public.
5. A Local Board or Advisory Committee Member shall disclose immediately to the Advisory Committee or the Clerk or the Executive Assistant Committees of Council, who would disclose to the Advisory Committee, that the Member could be involved in either a real or conflict of interest as prohibited by the Code of Conduct; and shall abide by any decision made by Council, with respect to such conflict of interest without reprisal.
6. If a Local Board or an Advisory Committee Member is known to have a conflict of interest as prohibited by the Code and has not disclosed this to the Advisory Committee; then that matter may be brought forward for Council's consideration. When such a matter has been brought forward, Council, through a majority vote, would determine if the Member is in a conflict position in accordance with the provisions of Section 2 of this Code.
7. Where a Local Board or Advisory Committee Member believes or has been advised by Council that they have a conflict of interest in a particular matter, they shall:
- (a) prior to any consideration of the matter, disclose their interest and the general nature thereof;
 - (b) leave the room for the duration of time that the matter is being considered;
 - (c) not take part in the discussion of, or vote on any question or recommendation in respect of the matter; and,
 - (d) not attempt in any way whether before, during or after the meeting to influence the voting on any such question or recommendation.
8. Where the number of Local Board or Advisory Committee Members who, by reason of conflict, are incapable of participating in a meeting such that the remaining Members no longer constitute a quorum; then the remaining Members shall be deemed to constitute a quorum provided there are not less than two Members present.
9. Local Board or Advisory Committee Members who are seeking consideration of an application, permit or appeal are permitted to address the Advisory Committee regarding their application, permit or appeal; but are prohibited from taking part in the Advisory Committee's deliberation and / or voting regarding that matter.
10. Should a Member of a Local Board or Advisory Committee breach any of the clauses set out herein, the Town Clerk may refer the matter to Council who will consider whether to take any of the possible corrective actions, as outlined in the Code of Conduct for Members of Council, Local Boards and Advisory Committees.

Policy for Complaints Related to Local Boards and Advisory Committees

The Complaint Protocol attached to the Code of Conduct as Appendix A applies with necessary modifications to Complaints regarding Members of Local Boards and Advisory Committees. If any interpretation issues arise between the Codes and applicability the Integrity Commissioner will be consulted.

Consequences of Failure to Adhere to Code of Conduct

Members who are found by the Integrity Commissioner to have failed to comply with the Code of Conduct for Local Boards and Advisory Committees may be subject to the following sanctions by Council:

- (a) a reprimand; or
- (b) suspension of remuneration paid to the Member in respect of their services as a Member of the Local Board or Advisory Committee (if any).
- (c) Members may also be subject to such other remedial actions recommended by the Integrity Commissioner that directly flow from the action or behaviour of the Member of the Local Board or Advisory Committee.
- (d) Members are subject to removal from the Local Board or Advisory Committee, or removal as Chair of the Local Board, by Council.

Appendix E – Applicable List of Local Boards and Advisory Committees for the Code of Conduct

This list will be updated as required and is current as of XXX Date.

The Blue Mountains Property Standards Committee
The Blue Mountains Attainable Housing Corporation (only to be included if they adopt this policy)
The Blue Mountains Abandoned Orchard Advisory Committee
The Blue Mountains Committee of Adjustment
Blue Mountains Housing Committee
The Blue Mountains Agricultural Advisory Committee
The Blue Mountains Fence Viewer Committee
Economic Development Advisory Committee
The Blue Mountains Communications Advisory Committee
Council Compensation Review Committee
Sustainability Committee
Transportation Committee
Joint Municipal Physician Recruitment and Retention Committee
Grants and Donations Committee

- Please note that Ad Hoc committees and Sub-Committees of Council, Local Boards and of Advisory Committees may not be listed (due to their inherent short-term nature) however the Code of Conduct still applies.