

The City of Yellowknife

COUNCIL CODE OF CONDUCT

Research Findings and Recommendations

April 14th, 2018

Table of Contents

PREFACE	2
EXECUTIVE SUMMARY	3
RECOMMENDATIONS	4
RESEARCH FINDINGS	6
Best Practices Document Review Research	6
Chart One – Principles.....	6
Chart Two – Responsibilities and Rules	7
Chart Three – Applicability	8
Chart Four - Gifts.....	9
Chart Five – Reporting Breaches of Conduct	10
Chart Six – Investigations	11
Chart Seven – Corrective Actions	12
Chart Eight – Councillor Acknowledgement of Code.....	12
Yellowknife Councillors and Staff Interview Research	14
What Is Important to Include in the New Code?	14
Complaint Process.....	15
What is Working Well?	16
Comparator Benchmarking Interview Research (External Parties)	17
APPENDIX ONE: DETAILED RESEARCH FINDINGS TABLE OF COMPARATOR BENCHMARK CODES	18
APPENDIX TWO: COMPARATOR INTERVIEW TABLE	22
INTEGRITY COMMISSIONER COSTS	25
RECOMMENDATIONS	26
BIBLIOGRAPHY	27
ABOUT GOVERNANCE SOLUTIONS	28

PREFACE

The City of Yellowknife retained Governance Solutions Inc. (GSI) to undertake a Council Code of Conduct review and to draft a new Code of Conduct Bylaw. The code itself is provided as a separate document.

As part of this engagement GSI has reviewed municipal council code of conduct documents from these benchmarking comparator towns and cities, as agreed with the City of Yellowknife:

1. Regina, SK
2. Calgary, AB
3. Mississauga, ON
4. Saanich, BC
5. Winnipeg, MB
6. Nanaimo, BC

To complement our research, interviews were conducted with several of these comparators. The purpose of the interviews was to gain insight into what works well and what they might do differently if they were to write them again today. This research was supplemented with costing information regarding the office of an Integrity Commissioner.

GSI also conducted interviews with senior staff and council of the City of Yellowknife. The purpose of the interviews was to validate the external research, but more importantly to find out what aspects, processes and areas of consideration are most important in the development of a new Council Code of Conduct bylaw. In all, fourteen individuals participated in the interview process.

As part of the research, GSI reviewed internal and external documents for guidance that would affect the content of a new Code of Conduct bylaw. Those documents included (see Bibliography):

1. *Consolidated Council Procedures By-Law No.4250*
2. Governance Review, City of Yellowknife
3. Acceptance of Gifts procedure
4. Rules of conduct
5. Whistleblower Procedure
6. Respectful Workplace and Anti-harassment procedure
7. *The Cities, Towns and Villages Act*
8. *The Conflict of Interest Act*

This report includes:

- An **Executive Summary** highlighting the key findings of our research on behalf of the City of Yellowknife, and our **Recommendations** ... these are based on:
- **Research Findings:** from the interviews and best practices municipal codes' benchmarking review
- **Recommendations:** these are repeated at the end of the main report at the request of the City for ease of reference of the reader
- **Appendices:** tables with more detailed findings of research undertaken for the City

EXECUTIVE SUMMARY

The key findings of our research conducted for the City of Yellowknife concerning drafting a new Municipal Council Code of Conduct Bylaw, which are reflected in our recommendations below as well as the draft Code itself, include:

- ✓ Best practice calls for the Code to include both **Principles** and **Rules**. Governance principles clarify the “why” for users of the Code and help both Councillors and others to see why “the red line” is drawn between acceptable and unacceptable conduct. A common set of principles, aligned with the shared values of the community, bring respect, standing and buy-in to the Code. These then frame and drive the Rules, the “what” is expected in terms of Conduct.
 - **Transparency** means that those looking in from the outside can expect to see clearly the conduct and process of Council and Councillors, well enough to be able to make informed decisions about engaging with the City. Transparency does not mean that 100 per cent of information is immediately made public, there are some legitimate exceptions: **confidentiality** may legitimately be occasioned by privacy (protect individuals’ information) or fiduciary (protect the City’s interests) considerations only. The Code needs to be clear about how to balance these two legitimate governance principles.
 - **Diligence** means that both conduct and process need to be reasonable, and follow clear standards. We say what we will do (clear written policies, process, expectations), and then we do it (conduct) ... and we are seen to have done it.
 - **Respect** is the core value behind cohesion and effectiveness. When we respect – and are seen – to respect one another, staff and the public, this builds trust – an expectation that each individual is acting in the best interests of the City. Trust then allows the work of governance to be done. Even a small number of instances of disrespect erode trust, and begin to fracture cohesion, unity and effectiveness. Respect also must address asymmetries in power, for example positional power (Council), gender, ethnicity/culture, age, etc., to stop and prevent breaches such as abuse and harassment, to protect individuals with less power and influence, and to protect the City’s reputation and standing.
- ✓ The Rules of conduct themselves in best practice need to include considerations of:
 - **Proper decision-making:** best practice addresses the collective nature of decision-making, power and authority rather than individual authority, and solidarity of Council after a decision has been made. Democracy is a governance process to facilitate decisions reflecting the will of the majority, while giving voice to dissenting minorities. Dissent can persuade the majority to change their view and decision, so this voice is more than just lip-service, it is an integral part of making a better, wiser, informed decision at Council.
 - Drawing the line between a Councillor’s **public and private life** is perhaps the most difficult part of drafting a Code. Some aspects are clear: **conflicts of interest** – both real and perceived – **abuse of influence**, accepting material **gifts**, these are clear red lines that a best practice code must reflect. But to what extent must a Councillor amend or constrain their private conduct while serving as an elected official? This is a “hot potato” that many municipalities have chosen to stay silent on, but increasingly, municipalities and other organizations have been called to task for permitting or condoning (turning a blind eye to) private conduct that violates the principles or values of the community.

We are recommending an overarching statement of principle in this area without trying to micro-manage or interfere in the free lives of elected Councillors.

✓ **Complaints and investigations:**

- While some municipalities restrict who is permitted to file a complaint under Council Codes of Conduct, our research shows that a permissive approach, welcoming **complaints from anyone**, is a better, inclusive, more open approach.
- Hand-in-hand with this, there needs to be a mechanism to quickly deal with both **frivolous and minor complaints**. By far the *most important learning* from our research is that an **independent third party such as an integrity commissioner** should receive and investigate all complaints. To ask staff to do this puts them in an untenable position. To ask Councillors to do this places them immediately in a difficult place, of investigating their peers elected to serve with them. By using the office of an Integrity Commissioner they will quickly, professionally and independently conduct first an informal inquiry, then, if called for, a formal investigation. Both parties are given the opportunity to weigh in, both are respected. In order to facilitate the City of Yellowknife considering adopting this position, we conducted and include a review of engagement and compensation arrangements, so that this can be affordable and scaled to the City's needs.
- The final **ruling and remedy** must still lie in the hands of Council as a whole. This is the legitimate governance body, and it then acts on the integrity commissioner's investigation and recommendation.
- To be effective, any Code needs "teeth". Both the Alberta guidance and other municipal codes include a range of potential **remedies in case of a breach** of the code: for example, a public apology, removal from a committee or office (e.g. board), censure, etc.: anything short of removal from office which is beyond a Council's authority and properly so. But the NWT governing statute clearly limits the remedies open to Councils in case of a breach. While we'd like to see a broader range of remedies in the Code, our sense is that the Act would not permit these at this time.

In the draft Code of Conduct Bylaw, we followed the City of Mississauga's code as the first source for content, presenting this in the format prescribed by the Province of Alberta. To these two excellent sources, we added our own draft wording from best practices and other codes we have researched.

RECOMMENDATIONS

Governance Solutions makes the following recommendations to the City of Yellowknife on its new Code of Conduct Bylaw, based on our experience with governance best practices and our research findings from internal interviews, document reviews and external research on comparators and best practices:

1. The Code of Conduct Bylaw must be written so that it is clear and unambiguous. This means that it will be easily understood by Councillors and anyone trying to determine if a breach of conduct has in fact occurred.

2. Councillors still need to have the ability to interact with the City and others as private citizens, the bylaw should not force them to lose their voice on private matters.
3. The Code must be clear on the appropriate interaction between Councillors and staff.
4. The Code should (at a minimum) address the following conduct areas:
 - a. Respect
 - b. Confidentiality of Information
 - c. Transparency
 - d. Diligence
 - e. Decision Making
 - f. Conflict of Interest
 - g. Bullying
 - h. Intimidation
 - i. Use of Influence
 - j. Election Activities
5. The process should:
 - a. Include an informal process that would avoid investigations
 - b. Be administered by an independent third party (Integrity Commissioner)
 - c. Protect the confidentiality of complaints and investigations
 - d. Defer complaints before and during elections
 - e. Impose reasonable timeframes for investigation activities
 - f. Include quick disposition of frivolous complaints
 - g. Allow anyone to report a violation of the code
 - h. Ensure final rulings are decided by Council only
 - i. Include wording on reprisals and obstruction
 - j. Detail the potential ramifications of a breach of the Code (authority of Council under Act)

RESEARCH FINDINGS

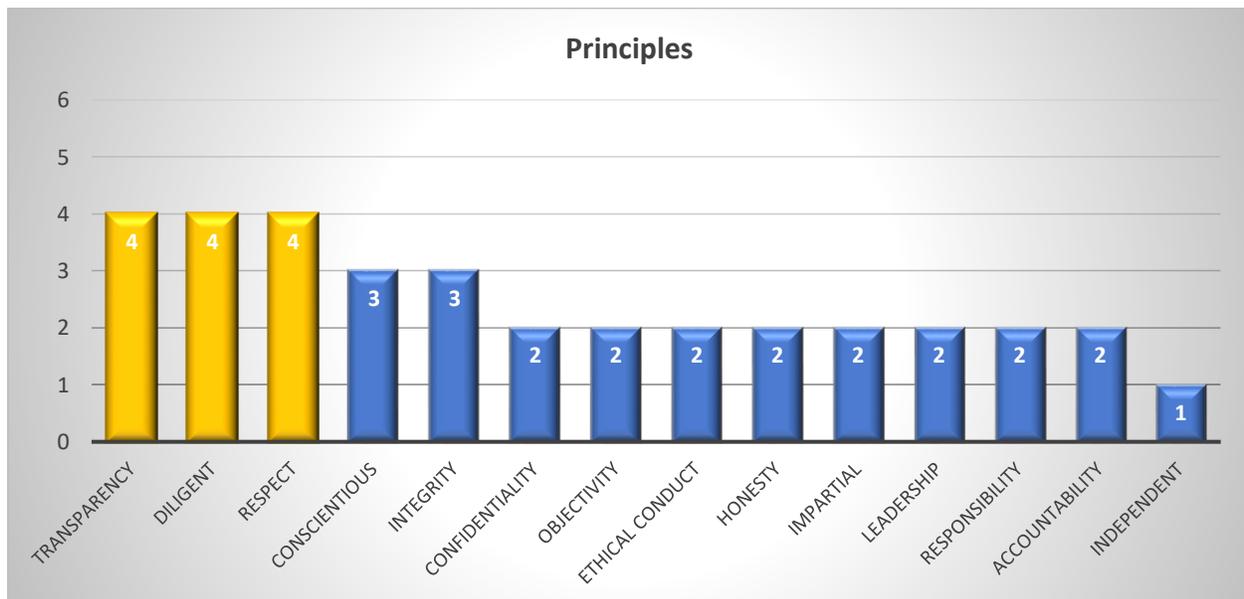
BEST PRACTICES DOCUMENT REVIEW RESEARCH

GSI conducted a comprehensive review of 6 comparator Councils' Codes of Conduct, comparing and benchmarking them to one another and to governance best practices. The results of this benchmarking research are reported below:

1. The principles used or referenced in the comparator codes
2. The rules or responsibilities addressed in the comparator codes
3. The application of the code (does it cover private life, and does it include interaction with staff, the public, media, etc.?)
4. Are gifts addressed, if so to what extent?
5. What process is used for complaints—who can complain?
6. How will complaints be investigated?
7. What are the possible repercussions of breaking the code?
8. Do Councillors sign off on the document to acknowledge that they are aware of it?

Each of these sections includes a chart of results for ease of reading, along with narrative comments interpreting the results.

Chart One – Principles



Most of the codes reviewed included a statement of principles as a foreword to the policy or by-law.

In all there were 14 different principles explicitly stated: the three most commonly stated principles were Transparency, Diligence and Respect—these were found in the majority of the documents.

Transparency has long been established as a best practice in governance. This has been enshrined to some extent in the *Cities Towns and Villages Act* by mandating public meetings of Council, and by prescribing and limiting the topics of discussion for private meetings. Inclusion of transparency in the Code by-law, balanced against the need for confidentiality depending on the circumstances will help clarify for Councillors the conduct required under different circumstances.

The primary responsibility for ensuring a message has been received lies with the sender, not the recipient! Operating at a high communications level means that Councillors' interactions with administration, citizens, and stakeholders alike:

- ✓ Are open and transparent, with full disclosure,
- ✓ Safeguard against confidentiality breaches, and
- ✓ Ensure conflicts of interest are declared.

And, it means that everyone on council has complete access to the same information.

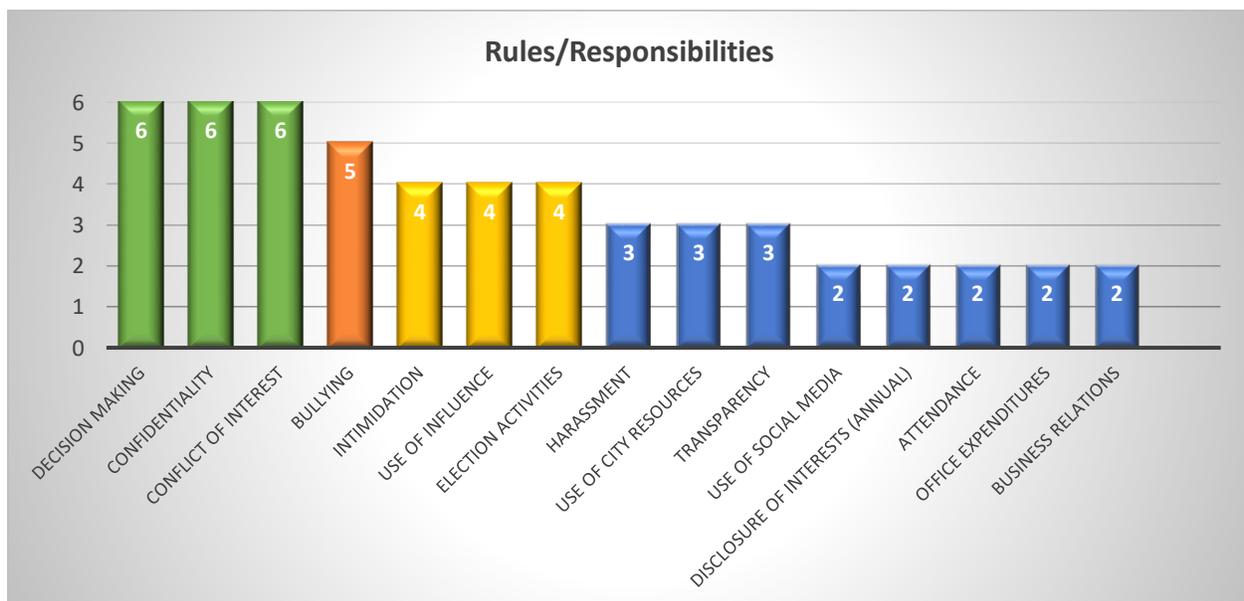
Diligence is part of the fiduciary duty of care for all Councillors. Attending meetings, being prepared, and involving themselves in the dialogue around important issues are all measures of diligence. Being diligent allows Council members to participate fully in the work of council.

Respect is at the core of personal conduct issues. Having the best Council Code of Conduct By-law and procedures for Council meetings will only go as far as respect for the institutions, people, and policies will allow. Respect for other Councillors, even when they have an opposing viewpoint, contributes to effective Council meetings. Respect for policy and procedure ensures orderly debate.

Respect for staff and the limitations of an individual councillor's authority will allow the City Administrator to effectively manage city operations, and free Council up to provide high level, strategic direction to the municipality.

Respect will also be an important principle of the complaint process.

Chart Two – Responsibilities and Rules



All six of the comparator documents had specific rules or responsibilities regarding Decision-Making, Confidentiality, and Conflict of Interest. Five of the six addressed bullying. Four of the six addressed Intimidation, Use of Influence, and Prohibited Election Activities.

Decision-making is addressed by all the comparator municipalities and is done so in the context of Council’s authority to make decisions, and Councillors’ requirement to accurately communicate the decisions of Council. Decision-making provisions are really related to two governance best practices. First, this entrenches the importance of the **collective** power of Council and reminds Councillors of their limited individual authority over management.

Second, this establishes the concept of **solidarity** after decisions are made. Solidarity can be one of the most difficult principles to adhere to when we are the dissenting vote on a matter that is important to us. But once a decision is taken, actively working to undermine Council does not engender public confidence in government. Respect for the decision-making process is key; without this Council will get mired in recurrent debate without being able to move agenda items forward.

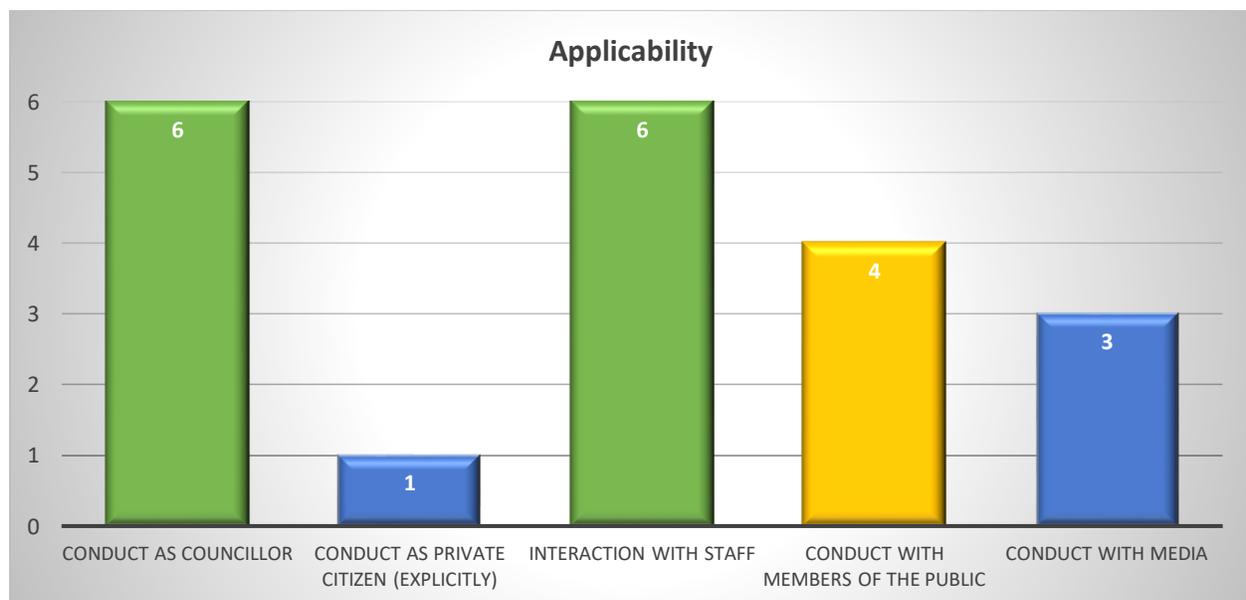
Confidentiality has been previously addressed.

Conflict of Interest is included by all of the comparator municipalities, even though conflict of interest provisions already exist in all the overriding provincial legislation for each of these municipalities. The inclusion of specific conflict guidelines in these codes has been done to further clarify and define conflicts that may arise. Inclusion of these clarifying provisions should prove helpful in guiding Councillors with more certainty as they navigate their way through competing personal and municipal interests.

Bullying, intimidation, and harassment are related areas of conduct that undermine good governance and meeting effectiveness. The comparator codes that included reference to these three conduct issues encompassed all interactions, including with staff, other Councillors, and the public.

Use of influence for purposes other than performing one’s duty as a Councillor also undermines public confidence, implies conflict of interest, and sets the stage for a two-tiered delivery of services. To avoid a perception of privilege, Councillors must be expected to avoid using their influence for personal gain.

Chart Three – Applicability



All six comparator codes specifically address conduct as it pertains to **conduct as a Councillor**; only one of the codes explicitly included acting **as a private citizen**.

All six codes detailed acceptable **interaction with staff**.

Four of the six explicitly included **interaction with the public**.

The linkage between the public's confidence in local government and the private lives of city Councillors was certainly evident during recent scandals, including, for example, the alleged drug use by Mayor Ford in Toronto. There have also been many high-profile cases where the public actions of off duty employees of private corporations have led to dismissal – to protect the reputation of the organization. Councillors are not employees. They must face the public every four years and be judged, both on their record and their character, with the very real possibility that they will not be re-elected if either is suspect.

The new Code by-law would be best accepted if private lives were not explicitly included in the draft, with the exception of influence-peddling or conflict of interests, where the private lives and public lives of councillors can intersect.

The draft by-law will certainly address conduct with staff, both explicitly and in referencing the City's *Respectful Workplace and Anti-harassment procedure*. Also included will be wording on respectful interactions with the public and Councillors as previously stated.

Conduct with media may be helpful guidance for Councillors, but there is mixed adoption by comparators for specific inclusion of these policy positions. Well-crafted policy on transparency, confidentiality and solidarity in decision making will provide clarity in this area without overburdening the by-law.

Chart Four - Gifts

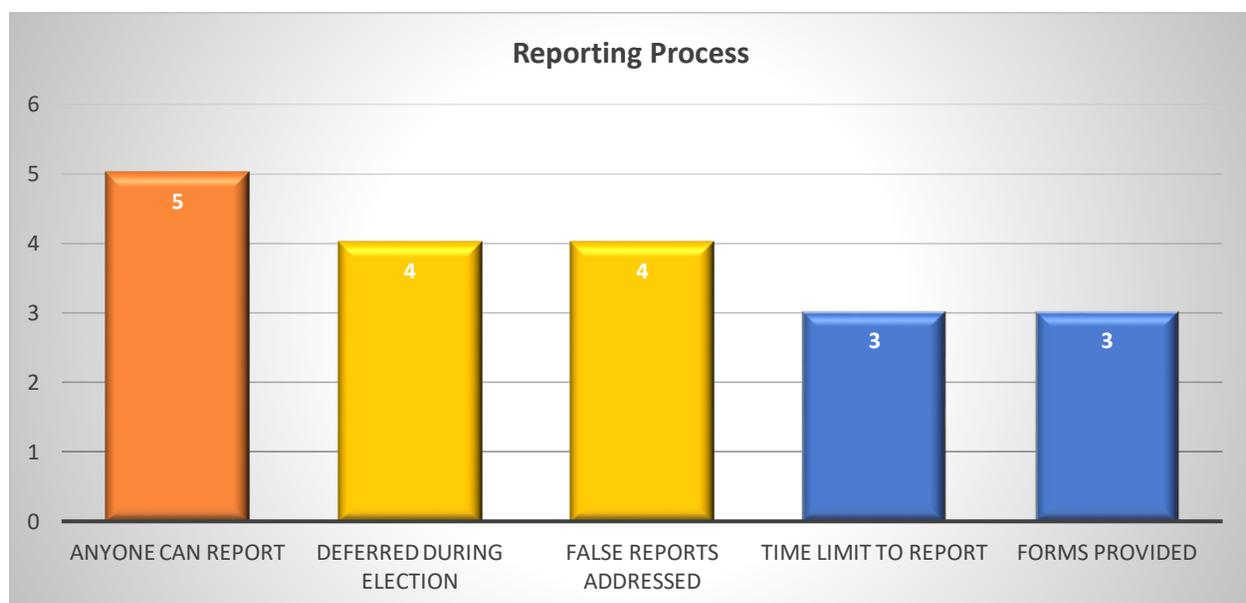


Four of the six codes specifically address the acceptance of gifts and set a materiality threshold and reporting standards for gifts that were received.

Gifts and benefits come in all shapes and sizes, so specific wording on the **materiality** of gifts, and the circumstances in which they can be appropriately given will help guide Councillors. It is quite common to receive a token gift when attending events or speaking engagements, so guidance is necessary.

Also, solid policy in this area helps to enforce the municipality's reputation for fair dealings. Conduct free of the undue influence that can be created (or perceived) by accepting gifts or benefits that could appear to be given as a payment, inducement, or in anticipation of a favorable outcome in a decision before Council.

Chart Five – Reporting Breaches of Conduct



Five of the six comparator Codes permit **anyone to lodge** a complaint (the sixth was silent on process).

Of those five, four deferred complaints lodged **near an election** and detailed the process for dealing with **false reports**.

The City of Yellowknife's current process requires two Councillors to agree to bring forward a complaint. This will most certainly limit the number of complaints registered, and it also puts Councillors in an awkward situation of having to judge the merits of a complaint against a colleague.

Allowing anyone to complain would clearly empower staff, the public and other Councillors to air issues that may otherwise be ignored. This can be a double-edged sword, in that this is clearly the most equitable and effective means of ensuring that all conduct issues that could negatively impact on the City or its staff are heard and dealt with, but the number of complaints could rise significantly.

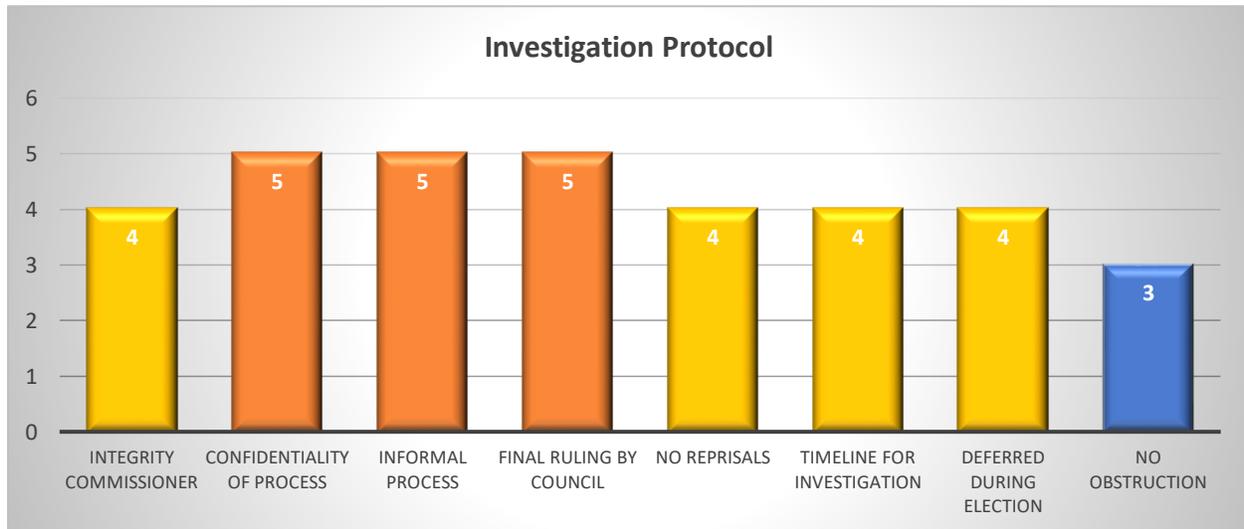
It is *not* best practice to minimize complaints by overburdening the complaint process. It would be far better to allow anyone to lodge a complaint, then validate and quickly deal with these through effective

and skilled third-party oversight, quick dispensation of frivolous complaints and clear policy on the process of lodging a complaint.

Ideally, all stakeholders should feel free to lodge a complaint, but only for material issues.

To avoid politically motivated complaints a moratorium on processing complaints should be imposed during election campaigns.

Chart Six – Investigations



Five of the six codes allow for:

1. an **informal process** that would pre-empt a formal complaint
2. a **confidential process**
3. all **final determinations** made by council.

The sixth comparator was silent on process.

To be effective and efficient the process should have the flexibility to quickly dispose of **frivolous complaints**.

It should also provide an opportunity, prior to a lengthy and costly investigation, to settle complaints in an informal manner, especially if they are of a minor infraction.

Only Council can determine the ramifications of a breach of the Code.

Four of the six:

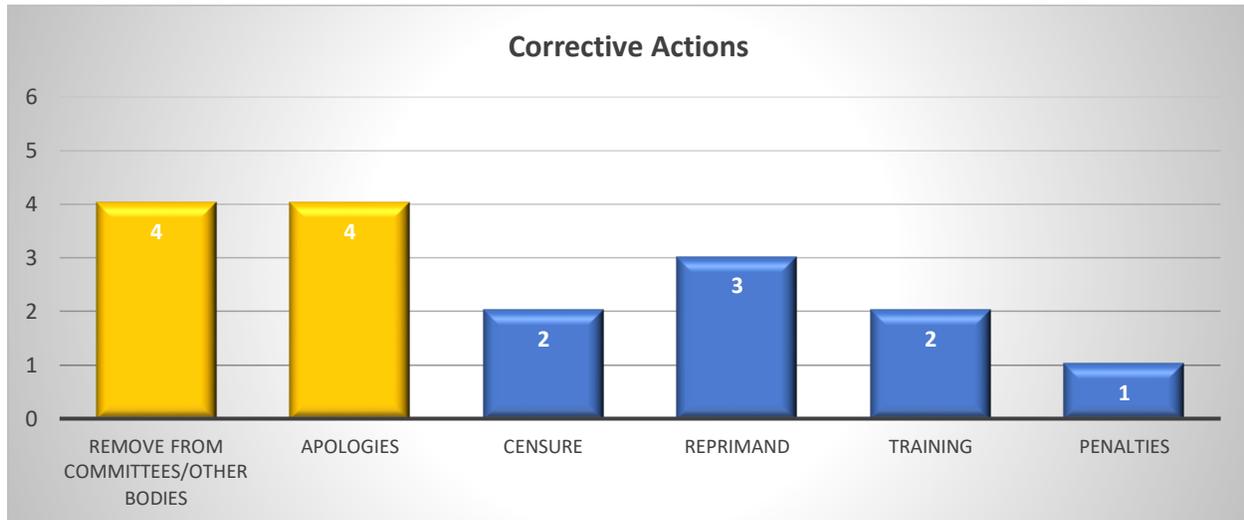
1. used an **Integrity Commissioner** as an unbiased third-party investigator
2. deferred investigation **during elections**
3. set **timelines** for the process
4. prohibited **reprisals** against complainants

The majority of comparators that detail a process used all these protocols (chart above.)

Using an independent, third party evaluator (Integrity Commissioner) was determined by those interviewed to be best practice for oversight of the complaints and evaluation process. Internal

interviewees report a strong preference for an independent evaluator. External benchmarking interviewees indicated that municipalities using an integrity commissioner were more satisfied with their code of conduct results. Benchmarking research showed that 4 of 6 use an integrity commissioner as 3rd party oversight.

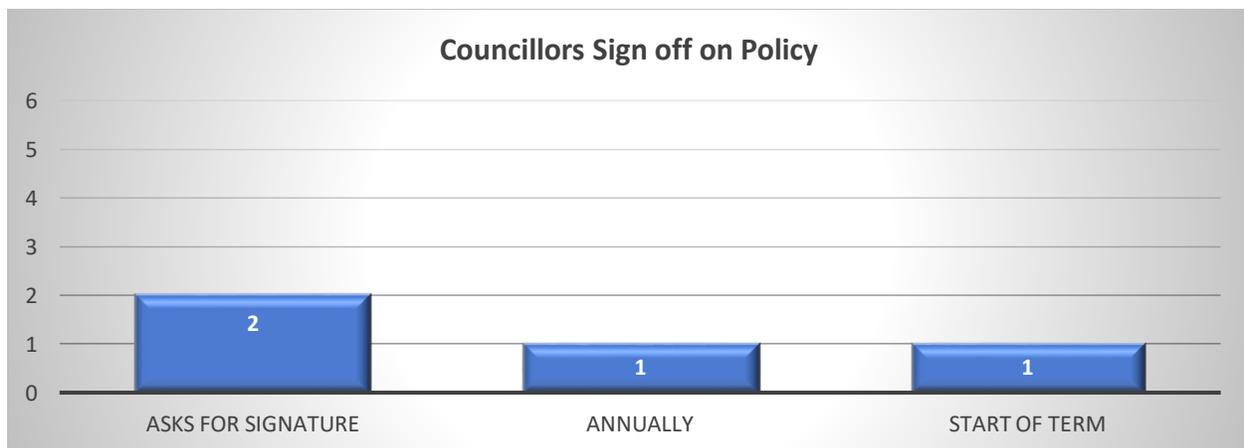
Chart Seven – Corrective Actions



Four of the comparator Codes include **public apologies** and **removal from committees** as potential repercussions of a breach of the code.

The *Cities Towns and Villages Act* specifies that “a code of ethics may provide that council, by a 2/3 majority, may publicly censure or remove from a meeting any council member who it determines has breached the code of ethics.” Without changes to the Act, the City of Yellowknife By-Law will have limited ability to adopt the use of any of the other forms of corrective actions listed.

Chart Eight – Councillor Acknowledgement of Code



Though it would be considered best practice, very few of the codes required any form of signature by individual Councillors acknowledging they have read and understood the code. This may be partially mitigated by the fact that 4 of the 6 codes used an Integrity Commissioner who was tasked with

Councillor training and advice on the code. Two of the comparators ask for a signature – one asks annually, the other at the start of a Councillors term.

As the City of Yellowknife is entrenching the Council Code of Conduct in a By-law it would be incumbent on Councillors to read, understand and comply. No annual acknowledgement is therefore required for enforcement purposes.

YELLOWKNIFE COUNCILLORS AND STAFF INTERVIEW RESEARCH

As part of its research, GSI also conducted confidential interviews with senior staff, the Mayor and Councillors of the City of Yellowknife to understand what is working well, what could be improved and what would be important inclusions or aspects of a new code of conduct by-law.

These interview results are aggregated and presented here in narrative and table format:

What Is Important to Include in the New Code?

Interviewees were asked “what are the most important things to include in the Code of Conduct?” The most commonly cited aspects were being clear and unambiguous on:

1. the need for Councillors to have a private life voice when dealing with the city as a private citizen (there may not be consensus on this issue – see below)
2. appropriate dealings with staff
3. the ramifications of breaching the code
4. the process for enacting the code
5. the expectations for confidentiality

Should Private Life be included?	#
Include Private Life	7
Do Not Include private life	7

The issue of including a Councillor’s private life conduct is a contentious one, as it be limiting their ability to conduct their personal business and interact with city staff as a private citizen. Councillors are also judged by the electorate every four years, and in a tight knit northern community their private life conduct will certainly be part of the voters’ assessment when casting their ballots.

As will also be seen in the comparator research, only one of the six comparator municipalities explicitly included a Councillor’s private life conduct within their code.

Freedom from harassment in the workplace is an important consideration when developing a code of conduct for Councillors. Staff are afforded protections from harassment through the City’s *Respectful Workplace and Anti-Harassment Procedure*, but that protection is not automatically applicable to interactions between staff and Councillors. This could leave staff in an untenable working environment without protection or recourse. We recommend referencing this City Policy in the Council Code of Conduct.

We also heard repeatedly that a code without teeth would be marginally effective in assuring good conduct. The code needs to spell out the potential ramifications of a breach. There were many suggestions as to what the ramification should or could be, but the *Cities Towns and Villages Act* is clear on this matter, limiting the ramifications of a breach of conduct to censure or removal from meetings. This too will be detailed in the code.

There was significant feedback that clarity throughout the by-law is an imperative, and that the most significant difficulty with the existing code was a lack of clarity on the process of administering a complaint from receipt to final dispensation. A detailed process will also be established in the new by-law.

The process will need to balance confidentiality with due process, fairness, and the need for transparency with the public. Ideally the by-law will provide a confidential investigation process that divulges the outcome reports publicly but maintains the strictest confidence prior to a ruling.

Confidentiality was also flagged as an important conduct concern, both in the interviews and the comparator research. Specific language should be included on Councillors maintaining confidences, and not disclosing information that is obtained in a private meeting, until it is brought forward at a public meeting. The public can and should expect transparency in government but matters that are discussed in private must remain private until an appropriate time to release the information is determined. The concept of confidentiality also extends to prohibiting the use of confidential information for personal benefit.

Here are the results of the interviews in terms of what is important to include in the Code of Conduct:

What is Important to Include in the New Code of Conduct By-Law	#	What is Important to Include in the New Code of Conduct By-Law	#
Councillors Need a Private Life Voice	11	Onboarding/Training on the Code of Conduct	3
Interactions with Staff	9	The Bylaw Must be Taken Seriously	3
Ramifications of Breaches	9	Gifts	2
Clarity of By-Law	8	Conduct at Meetings	2
Confidentiality	7	Preparation and Attendance	2
Respect	4	Tie to Employee Handbook	2
Abuse of Power/Influence Peddling	4	Definitions Needed	2
Interaction with Other Councillors	4	Councillors Must Sign to Acknowledge	2
Do Not Use Councillors to Investigate	4	Conduct and Communications with Media	1
Conflict of Interest	3	Bullying	1
Harassment	3	Transparency	1
Social Media	3	Appeals Process	1

Complaint Process

The majority of respondents support a third-party complaint and investigation process. Using an independent, Integrity Commissioner was determined by those interviewed to be best practice for oversight of the complaints and evaluation process. Internal interviewees report a strong preference for an independent evaluator.

External benchmarking interviewees indicated that municipalities using an Integrity Commissioner were more satisfied with their code of conduct results. Benchmarking research showed that 4 of 6 of these use an Integrity Commissioner as third party oversight.

Complaint Process	#
Independent Third Party	8
Need Reasonable Time Frames	5
No Frivolous Complaints	4
Confidential Process for Complaints	3
Use Best Practice	2
2 Councillors Needed	2

What is Working Well?

As fully expected by the City, interviewees felt the existing code and process does not work well. The current code of conduct is dated and rarely used. In fact, 6 of the 14 respondents to the interviews stated explicitly that nothing was working well with the existing code and it needs a complete re-write.

A couple of respondents feel that using community representatives on the Conduct Review Committee works well and the process for handling complaints is relatively speedy.

The results verify the need for a renewed Code of Conduct; one that rethinks not just the implications and definitions of Councillor conduct but also sets out a detailed process for dealing with complaints in a timely, robust, and fair manner.

What Is Working Well with the Current Code?	# of Respondents
Nothing is working well	6
Using community representatives on the Conduct Review Committee works well	2
Process for handling complaints is speedy	2

COMPARATOR BENCHMARKING INTERVIEW RESEARCH (EXTERNAL PARTIES)

Though a benchmarking interview process was not required, we find that a follow up interview with comparator municipalities is very enlightening. Just over half of the selected comparator Councils chose to respond to the interview process. One of the comparator Councils is in the process of developing their code, so has no experience with its application currently.

Mississauga, Saanich and Nanaimo were very forthcoming, and their responses are quite illuminating. GSI reviewed several good documents.

In our opinion, Mississauga has the best code. It is very well written, thoughtful, and complete. They are quite happy with the code as developed. Councillors have respected it and take it seriously. Though they have had many public complaints, they have not had a single complaint from a staff member or another Councillor since it was written.

Mississauga was also very forthcoming about ways in which to keep Integrity Commissioner costs in line. They do this by developing a stringent RFP that asks for annual training for Councillors pro-bono as part of the contract and determining a tight scope of work. Many Integrity Commissioners go beyond just evaluating complaints and are tasked with training and giving advice on conflict of interest matter to Councillors. These additional duties are highly valued but can add significant costs.

Conversely, the City of Nanaimo was the outlier in this comparator group. They do not employ a principle-based code, and had no process documented for complaints, or investigations.

The code of conduct in Nanaimo has some very good governance best practice sections and sets out the difference between governing and managing. However, without process in place to enforce the code it is not taken seriously. Only four of the nine Councillors would sign the acknowledgement, and it is quite common to have breaches.

This further supports the internal interviewees' desire to have clear process in place.

APPENDIX ONE: DETAILED RESEARCH FINDINGS TABLE OF COMPARATOR BENCHMARK CODES

The following table provides an outline of the detailed findings of the comprehensive review of the comparator municipalities' codes of conducts:

Code of Conduct Coverage	Detail Area	Regina	Calgary	Mississauga	Saanich	Winnipeg	Nanaimo
Standards/ Principles	Transparency ¹	Yes	No	Yes	Yes	Yes	No
	Diligent	Yes	Yes	Yes	No	Yes	No
	Respect	Yes	Yes	No	Yes	Yes	No
	Conscientious	Yes	No	Yes	No	Yes	No
	Integrity	No	No	Yes	Yes	Yes	No
	Confidentiality ²	Yes	No	Yes	No	No	No
	Objectivity	Yes	Yes	No	No	Yes	No
	Ethical Conduct	No	Yes	No	No	Yes	No
	Honesty	Yes	No	No	No	Yes	No
	Impartial	No	Yes	No	No	Yes	No
	Leadership	Yes	No	No	Yes	No	No
	Responsibility	Yes	No	No	No	Yes	No
	Accountability	Yes	No	No	Yes	No	No
	Independent	No	Yes	No	No	No	No
Councillor Responsibilities/ Rules	Decision-making	Yes	Yes	Yes	Yes	Yes	Yes
	Confidentiality	Yes	Yes	Yes	Yes	Yes	Yes
	Conflict of Interest	Yes	Yes	Yes	Yes	Yes	Yes
	Bullying	Yes	Yes	Yes	No	Yes	Yes
	Intimidation	No	Yes	Yes	No	Yes	Yes
	Use of Influence	No	Yes	Yes	No	Yes	Yes

¹ Transparency is included as both a principle-based determinant of the code (4 times) and as a rule in some of those same codes (3 of the 4 times).

² Confidentiality is included as both a principle-based determinant of the code (2 times) but is a rule in all of the codes reviewed.

Code of Conduct Coverage	Detail Area	Regina	Calgary	Mississauga	Saanich	Winnipeg	Nanaimo
	Election Activities	Yes - refer to act	Yes -Act	Yes	No	Yes	No
	Harassment	Yes	No	Yes	No	Yes	No
	Use of City Resources	No	Yes	Yes	No	Yes	No
	Transparency	Yes	No	Yes	Yes	No	No
	Use of Social Media	No	Yes	No	Yes	No	No
	Disclosure of Interests (Annual)	No	Yes	No	No	Yes	No
	Attendance	No	No	Yes	No	No	Yes
	Office Expenditures	No	Yes	Yes	No	No	No
	Business Relations	No	Yes	Yes	No	No	No
Code of Conduct Applicability	Conduct as Councillor	Yes	Yes	Yes	Yes	Yes	Yes
	Conduct as Private Citizen (explicitly)	No	No	Yes	No	No	No
	Interaction with Staff	Yes, treat with dignity understanding and respect. No bullying, harassment discrimination or derogatory language (applies to all,	Yes, may not direct staff, follow channels of communication and authority, no private work from employees	Yes, only council has authority to direct staff, collective decisions only, can't direct staff individually	Yes, only through CAO. Not disparage publicly	Yes, Council through CAO	Yes, Through city manager Respectful, business like

Code of Conduct Coverage	Detail Area	Regina	Calgary	Mississauga	Saanich	Winnipeg	Nanaimo
		every person, not just staff)					
	Conduct with Members of the Public	Yes	Yes	Yes	Yes	No	No
	Conduct with Media	No	No	Yes	Yes	No	Yes
Gifts	Addressed	No	Yes	Yes	Yes	Yes	No
	\$ Materiality	Not addressed	Refer to separate policy	\$500	\$100 \$50 from business	\$50	Not addressed
	Family	No	Yes	Yes	No	Yes	No
	Discounts	No	Yes	Yes	Yes	No	No
	Reporting	No	Yes	Yes	Yes	Yes	No
Process for Reporting of Complaints	Who can report	Anyone	Anyone	Anyone	Anyone	Anyone	Not Specified
	During Election	Deferred	Deferred	Deferred	No	Deferred	No
	False reports	Yes	Yes	Yes	No	Yes	No
	Time limit	No	Yes	No	Yes	Yes	No
	Forms	Yes	No	Yes	No	Yes	No
Investigation Protocol	Who Investigates?	Integrity Commissioner	Integrity Commissioner	Integrity Commissioner	Mayor CAO start, then third party if substantiated	Integrity Commissioner	Not specified
	Confidentiality of Process	Yes	Yes	Yes	Yes	Yes	No
	Informal Process	No	Yes	Yes	Yes	Yes	Yes
	Final Ruling	Council	Council	Council	Mayor/ Council	Council	No
	No Reprisals	Yes	Yes	Yes	Yes	No	Yes

Code of Conduct Coverage	Detail Area	Regina	Calgary	Mississauga	Saanich	Winnipeg	Nanaimo
	Timing	90 days to report, 90 days for council to act on report	180 days from incident 10 days for councillor to respond 90 days for ruling	No	90 days	60 days	No
	During Election	Deferred	90 days prior	Deferred	No	Deferred	No
	No Obstruction	Yes	No	Yes	No	Yes	No
Corrective Action	Remove from Committees/ Other Bodies	Yes	No	Yes	No	Yes	Yes
	Apologies	Yes	No	Yes	Yes	Yes	No
	Censure	No	No	No	Yes	No	Yes
	Reprimand	Yes	No	Yes	No	Yes	No
	Training	Yes	No	No	Yes	No	No
	Penalties	No	No	Yes	No	No	No
Acknowledgement/ Sign off policy/by-law (understand and comply)	Addressed	No	No	No	No	Yes	Yes
	Annually	No	No	No	No	Yes	No
	Start of Term	No	No	No	No	No	Yes

INTEGRITY COMMISSIONER COSTS

Additional initial research has been included in this section on the costs associated with retaining an Integrity Commissioner.

The comparator cities in this study that currently use Integrity Commissioners have much larger populations than the City of Yellowknife. For closer comparisons of potential costs GSI conducted some initial research of costs in towns or cities that are closer in size to the City of Yellowknife.

Using an independent, Integrity Commissioner was determined by those interviewed to be best practice for oversight of the complaints and evaluation process. Internal interviewees report a strong preference for an independent evaluator. External benchmarking interviewees indicated that municipalities using an integrity commissioner were more satisfied with their code of conduct results. Benchmarking research showed that 4 of 6 use an integrity commissioner as 3rd party oversight.

Costs in smaller centers are:

1. Town of Orangeville, Ontario, Population 28,900 - \$6,000/year (investigation only)
2. Town of Georgina, Ontario, Population 45,418 - \$10,000/year (investigation only)
3. Town of Wasaga Beach, Ontario, Population 20,675 - \$25,000/year (investigations 2016)
4. City of St. Albert, Alberta, Population 65,589 - \$40,000/year (budget for newly created position)

RECOMMENDATIONS

Governance Solutions makes the following recommendations to the City of Yellowknife on its new Code of Conduct Bylaw, based on our experience with governance best practices and our research findings from internal interviews, document reviews and external research on comparators and best practices:

1. The Code of Conduct Bylaw must be written so that it is clear and unambiguous. This means that it will be easily understood by Councillors and anyone trying to determine if a breach of conduct has in fact occurred.
2. Councillors still need to have the ability to interact with the City and others as private citizens, the bylaw should not force them to lose their voice on private matters.
3. The Code must be clear on the appropriate interaction between Councillors and staff.
4. The Code should (at a minimum) address the following conduct areas:
 - a. Respect
 - b. Confidentiality of Information
 - c. Transparency
 - d. Diligence
 - e. Decision Making
 - f. Conflict of Interest
 - g. Bullying
 - h. Intimidation
 - i. Use of Influence
 - j. Election Activities
5. The process should:
 - a. Include an informal process that would avoid investigations
 - b. Be administered by an independent third party (Integrity Commissioner)
 - c. Protect the confidentiality of complaints and investigations
 - d. Defer complaints before and during elections
 - e. Impose reasonable timeframes for investigation activities
 - f. Include quick disposition of frivolous complaints
 - g. Allow anyone to report a violation of the code
 - h. Ensure final rulings are decided by Council only
 - i. Include wording on reprisals and obstruction
 - j. Detail the potential ramifications of a breach of the Code (authority of Council under Act)

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5. Whistleblower Procedure 1000.14
6. *Respectful Workplace and Anti-harassment procedure* 1050.3
7. *The Cities, Towns and Villages Act* S.N.W.T. 2003, c 22
8. *The Conflict of Interest Act* R.S.N.W.T. 1988,c.C-16
9. City of Regina Bylaw No. 2017-4
10. Council Policy District of Saanich, Code of Conduct 16/CNCL
11. Mississauga Council Code of Conduct
12. CP2017-Ethical-Conduct-Policy Calgary CP2017-03
13. City of Nanaimo Role of Councillor
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19. *Regina Leader-Post*, Code of Ethics bylaw and integrity commissioner coming to City of Regina, Feb. 2, 2017

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