

# **2022 Annual Report of the Integrity Commissioner**

Karen E. Shepherd  
Integrity Commissioner

November 2022

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# Message from the Commissioner

I am pleased to present City Council with my second report on the operations of the Office of the Integrity Commissioner for the period of April 1 to September 30, 2022.<sup>1</sup>

As I have reported previously, the Office has seen a steady increase in the number of complaints received in recent years. Not only has that trend continued during this reporting period, but the number of questions received during the 2022 reporting cycle has also increased in comparison to the last two years.

These facts indicate that members of the public are engaged in matters of accountability and transparency, and Members of Council are seeking advice from the Integrity Commissioner. I am encouraged by both trends and look forward to working with Mayor Sutcliffe and the newly elected City Council.

While continuing in my advice and complaint investigation functions, I intend to have a renewed focus on education and outreach as the Term of Council begins. I will increase communication with members whose codes of conduct I oversee, including Members of Council and soon-to-be-appointed members of the City's local boards.

In my communications to Members of Council, I strive to convey two key messages:

1. During the course of the Term of Council, Members may have conflicts, either real or apparent, receive gifts, and/or be lobbied. The important thing is to ensure Members are in compliance with the Code of Conduct and to take steps to address the conflict or to ensure that declarations are made as required.
2. The ethical path forward may not always be clear. Please reach out with any questions you may have: [integrity@ottawa.ca](mailto:integrity@ottawa.ca). Our conversations are confidential.



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<sup>1</sup> This report is filed in accordance with the requirement, set out in Section 6 of the Complaint Protocol (Appendix "A" to the Code of Conduct for Members of Council) that the Integrity Commissioner report to Council semi-annually during the first year, and annually thereafter. Integrity Commissioner Karen Shepherd was appointed on September 1, 2021. The Integrity Commissioner brought her first 2022 mid-year Report to Council on May 25, 2022. This second report to Council on 2022 operations completes the mid-year reporting requirement.

I would like to extend my thanks to the members of staff of the Office of the City Clerk who support my work as the City's Integrity Commissioner, Lobbyist Registrar and Meetings Investigator. As the demands on the Office of the Integrity Commissioner have increased, their dedication continues to be a key factor in the fulfillment of my statutory mandate.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'KES', with a long horizontal stroke extending to the right.

Karen E. Shepherd  
Integrity Commissioner, City of Ottawa

# Mandate

As the City’s “three-in-one” Commissioner, my mandate includes:

## Integrity Commissioner

- Providing advice to Members of Council and members of local boards on their respective codes of conduct and their obligations under the *Municipal Conflict of Interest Act (MCIA)*
- Resolving complaints related to a potential breach of a code of conduct or the MCIA, either through informal resolution or formal investigation
- Offering education and training to Members of Council, members of local boards, the City administration and the public about matters within my jurisdiction

## Lobbyist Registrar

- Administering the Lobbyist Registry
- Ensuring compliance with the Lobbyist Registry By-law and Lobbyists' Code of Conduct, investigating complaints and imposing sanctions as necessary
- Offering education and training to lobbyists, City staff, and Members of Council on their obligations under the Lobbyist Registry By-law

## Meetings Investigator

- Receiving requests for investigation of closed meetings to the public of City Council, a local board or committee and investigating as required

# Integrity Commissioner

The Office of the Integrity Commissioner has been in place for ten years and has evolved a great deal. During the early part of the pandemic there was a decrease in queries from Members of Council and the public. By comparison, the number of points of contact with my Office returned to pre-pandemic levels in the full 2022 reporting cycle. This combined with a steady increase in complaints filed with my Office demonstrates a high level of engagement by Members of Council and the public.

## 2022 IN BRIEF

### Compliance

As Integrity Commissioner, I oversee the Code of Conduct for Members of Council (Bylaw 2018-400), which also applies to citizen members of the Transit Commission when they are acting in their official capacity. In addition, I oversee the Code of Conduct for Citizen Members of the Built Heritage Sub-Committee (By-law 2018-401), and the Code of Conduct for Members of Local Boards (By-law 2018-399).

This report summarizes the operations of the Office of the Integrity Commissioner for the period of April 1 to September 30, 2022. My 2022 Mid-year report summarized the Office's operations for the first half of the 2022 reporting cycle, specifically the period of October 1, 2021 to March 31, 2022.<sup>2</sup>

This year, the activities of my Office were impacted by the restrictions set out in the *Municipal Act, 2001* that are in effect during a regular municipal election year. Specifically, between Nomination Day (August 19, 2022) and Voting Day (October 24, 2022) the following rules apply:

- Ongoing investigations must be terminated;
- No request for investigation may be accepted;
- The Integrity Commissioner may not report to Council respecting a contravention of the Code of Conduct; and
- Council may not consider whether to impose penalties on a Member found in contravention of the Code of Conduct.

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<sup>2</sup> As required by Section 6 of the Complaint Protocol (Appendix "A" to the Code of Conduct for Members of Council), the Integrity Commissioner reports to Council semi-annually during the first year, and annually thereafter. Integrity Commissioner Karen Shepherd was appointed on September 1, 2021 for one year, and extended for a five-year term ending on August 31, 2027.

## Complaints Respecting the Code of Conduct for Members of Council

Table 1 - Total complaints within the Integrity Commissioner's jurisdiction respecting the Code of Conduct

Category	Number
Formal complaints – ongoing from previous reporting period	5
Formal complaints – received in reporting period	4 <sup>3</sup>
Informal complaints – received in reporting period	0
<b>Total</b>	<b>9<sup>4</sup></b>

### Formal Complaints

From April 1 to September 30, 2022, work continued on five formal complaints, ongoing from my 2022 mid-year report, and three additional formal complaints were filed. The disposition of those formal complaints is discussed below.

#### *Dismissed at intake stage*

1. A member of the public alleged:
  - i. That Members of Council had breached three sections of the Code of Conduct for Members of Council (Code of Conduct): Section 1 (Statutory Provisions Regulating Conduct); Section 4 (General Integrity); and Section 7 (Discrimination and Harassment) by not responding to requests to enact by-laws or adopt policies to address specific matters. The complainant also alleged that by not acting, Members had also breached the *Municipal Conflict of Interest Act* (MCIA).

I determined that the formal complaint had not provided sufficient information or evidence to substantiate the alleged breach of the MCIA. With respect to the alleged breach of the Code of Conduct, it is my position that the Code

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<sup>3</sup> Officially, three formal complaints were filed with my Office during the reporting period. However, in one case, I exercised my discretion to divide a formal complaint into two separate complaints and assessed each formal complaint separately. In effect, the total of formal complaints managed by the Office in the reporting period is four.

<sup>4</sup> From August 19, 2022 to October 24, 2022, I was unable to accept requests for investigations. Those wishing to file a formal complaint were advised of the statutory blackout period and the option to file their formal complaint after Voting Day.

does not require Members to address specific policy requests. With few exceptions, the Code of Conduct does not set out specific duties that Members must fulfill in their position as elected officials.

- ii. That one Member of Council undertook a specific action that was in breach of the Code of Conduct. The complaint did not include an explanation of the allegation, or any information or evidence to substantiate it. As a result, I did not have sufficient grounds to investigate the allegation.
  - iii. That the Ottawa Police Services Board, the Ottawa Police Service and the Ottawa Board of Health had contravened various policies, By-laws and pieces of legislation. I responded to the complainant that oversight of these entities is outside of my jurisdiction.
2. A Member of the public alleged that Members of a Committee of Council contravened Section 7 (Discrimination and Harassment) of the Code of Conduct by treating the complainant in an unfair and discriminatory manner when the complainant made a delegation at a virtual meeting of the Committee.

With respect to the context of the complainant's allegations, I reviewed the video and noted that the Chair took specific actions in response to the concerns raised by the complainant. I believed these actions to have been in line with the Chair's duty to enforce the Rules of Procedure. As a result, based on my review of the matter, I determined there were not sufficient grounds to exercise my authority to investigate the allegations.

3. A member of the public alleged that a Member of Council contravened Section 7 (Discrimination and Harassment) of the Code of Conduct by issuing a tweet on a specific matter. The matter in question had generated some controversy. The complaint also indicated that the Member may have used a City-issued device to issue the tweet.

I carefully considered the content and context of the tweet, including the nature of replies it generated. I noted that the tweet was deleted shortly after it had been issued. I determined that the Member's action to delete the tweet, shortly after issuing it, served to remedy the situation to some degree. The action by the Member in deleting the tweet was central to my determination not to move forward with an investigation.

With respect to using a City-issued device: Section 9 (Use of Municipal Property and Resources) of the Code of Conduct prohibits Members from using such resources for activities other than purposes connected with the discharge of Council duties or



City business. In order to investigate a potential breach of Section 9, I require that the alleged breach be clearly set out, and that there is sufficient information to substantiate the allegation. In this case, I determined the complaint did not provide sufficient grounds to move forward with an investigation into the matter.

4. A Member of Council alleged that two other Members of Council had contravened the Code of Conduct by including false or misleading statements in a Council motion. The formal complaint alleged the Members had breached Section 4 (General Integrity) and Section 8 (Improper Use of Influence) of the Code of Conduct. Following a careful review of the allegations and the public debate on the relevant Council motion, I determined that there were insufficient grounds to investigate the matter.
5. A Member of the public alleged that a Member of Council breached Section 4 (General Integrity) of the Code of Conduct when that Member allegedly:
  - i. Failed to respond to specific emails the complainant sent the Member; and
  - ii. In response to other emails the complainant sent the member, provided responses that the complainant indicated were insufficient for various reasons.

I am of the opinion that, while Members of Council have a broad duty to engage with their constituents, the Code of Conduct does not specifically require Members to answer each inquiry received. Members are responsible for managing their office to accommodate the various demands on their time and office resources. With respect to the complainant's issue that the responses provided by the Member were not sufficient, it is my position this is a service standard issue which is not within my jurisdiction. Therefore, I determined there were not sufficient grounds to initiate an investigation.

6. A member of the public alleged that a Member of one of the City's local boards contravened Section 4 (General Integrity) and Section 13 (Outside Activities) of the Code of Conduct for Members of Local Boards. The complaint was filed less than three weeks before Nomination Day (August 19, 2022).

While I had commenced work on an intake analysis of the complaint, I was unable to come to a determination before Nomination Day. As noted above, I am required to terminate any ongoing inquiry on Nomination Day, as set out in the *Municipal Act, 2001* (the Act). I advised the complainant that, as set out in the Act, when an inquiry is terminated on Nomination Day, the complainant may make a written request that

the Integrity Commissioner commence another inquiry into the matter within six weeks after Voting Day (October 24, 2022).

*Investigated and not sustained*

I received two complaints, one from a member of the public (filed on February 18, 2022) and the other from a Member of Council (filed on April 5, 2022), respecting the conduct of a Member of Council surrounding a specific event. Following an intake analysis and submissions from the parties, I determined there were sufficient grounds to investigate the matter further. As the allegations set out in the two complaints overlapped, I exercised my discretion to combine the complaints and conducted one investigation.

The complaints combined alleged contraventions of the following sections of the Code of Conduct for Members of Council:

- Section 4 (General Integrity)
- Section 5 (Confidential Information)
- Section 8 (Improper Use of Influence)
- Section 10 (Conduct Respecting Staff)

An independent investigator was delegated the authority to conduct the investigation. The investigation involved an examination of electronic documentation including emails, text messages and audio recordings. Interviews were conducted with all parties and nine witnesses.

Following the investigation and my review of the investigator's final report, I concluded none of the allegations were substantiated and that no contravention of the Code of Conduct occurred. Subsection 11(5) of the Formal Complaint Procedure provides that "except for in exceptional circumstances, the Integrity Commissioner shall not report to Council the result of the investigation except as part of an annual or other periodic report."

*Investigated, sustained and reported to Council*

A member of the public, a former employee of a Member of Council, filed a complaint respecting the conduct of that Member of Council. The complaint concerned the conduct of the Member while the former employee worked in the Member's Office. Following an intake analysis and submissions from the two parties, I determined there were sufficient grounds to investigate the matter further. I further determined I had jurisdiction to investigate four of the five allegations set out in the complaint.

The complaint alleged contraventions of the following sections of the Code of Conduct for Members of Council:

- Section 4 (General Integrity)
- Section 7 (Discrimination and Harassment)

An independent investigator was delegated the authority to conduct the investigation. The investigation involved interviews with both parties and five witnesses and a review of limited electronic records including e-mail correspondence and human resources documentation.

Following the investigation, I found that, on a balance of probabilities, two of the four allegations were substantiated. I concluded the Member of Council had contravened the Code of Conduct. The final investigation report was presented for Council consideration at its meeting of November 9, 2022.

#### *Ongoing*

In light of the statutory “blackout period”, all open files were dealt with prior to Nomination Day (August 19, 2022). Accordingly, there were no formal complaints open at the end of the 2022 reporting cycle.

#### Informal Complaints

There were no informal complaints filed during the balance of the 2022 reporting cycle.

### ***Complaints Respecting the Municipal Conflict of Interest Act***

I did not receive any complaints alleging contraventions of the *Municipal Conflict of Interest Act* (MCIA) during this reporting period. My authority to investigate complaints with respect to an alleged contravention of the MCIA is subject to the same “blackout period” referred to above. Specifically, between Nomination Day (August 19, 2022) and Voting Day (October 24, 2022):

- Any ongoing inquiry must be terminated; and
- I cannot accept an application for an inquiry.

Under the *Municipal Act, 2001*, an eligible elector or person demonstrably acting in the public interest who believes a Member of Council or member of a local board has violated the conflict-of-interest rules in the MCIA may apply to my Office for an inquiry into the matter.

In accordance with the *Municipal Act, 2001*, I must complete an investigation within 180 days after receiving the completed application. If, after completing an investigation, I

determine it is appropriate to do so, I may apply to a judge for a determination as to whether the member has a conflict of interest. Only a judge may make a final determination and apply any or all of the penalties provided in the MCIA.

## **Advice**

### ***Advice with respect to Codes of Conduct***

On account of the 2022 Municipal Election, the majority of my advice to Members of Council from April 1 to September 30, 2022 related to the impact of a Member's candidacy on their obligations under the Code of Conduct and other relevant policies.

#### Member-organized community events

In response to questions from Members, the City Clerk and I issued several joint interpretations under the [Election-Related Resources Policy](#) (ERRP) and the [Community, Funding and Special Events Policy](#) (CFSEP). The majority of these interpretations related to the key considerations for hosting community events during a municipal election year and the solicitation and acceptance of donations and sponsorships in support of these events.

In light of the pandemic, a temporary exemption was granted to both policies permitting community events that had not been held in the previous two years (as required by the ERRP and the CFSEP). Other general requirements for Member-organized events continued to apply, including:

- Unless pre-approved by the Integrity Commissioner, Members must not solicit or accept donations from lobbyists with active files in the City's Lobbyist Registry; and
- Members of Council seeking re-election shall not accept donations for Member-organized community events after they have filed their nomination papers.

### Acceptance of gifts and tickets

My Office received several questions regarding gifts and tickets.

As a rule, gifts or hospitality that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions must not be accepted.

That said, it is not uncommon for Members of Council to be offered gifts or hospitality as part of the social protocol. In some instances, acceptance of a small gift or invitation to an event may be linked to a Member's duties as an elected official. In other cases, the disclosure of gifts and tickets in the Gifts Registry provides context to the acceptance and the disposition of the gift or ticket.

In my guidance to Members, I emphasize that disclosure of a gift or ticket provides a level of transparency and accountability that can strengthen the public's trust in government institutions.

The Code of Conduct establishes the following monetary thresholds for disclosure in the Gifts Registry (unless exempted under one of the eleven exceptions set out in the Code of Conduct):

- Tickets that individually exceed \$30 in value; and
- Gifts or hospitality valued at more than \$100.

Members are encouraged to reach out to my Office to confirm whether a specific gift or ticket/invitation is permissible under the Code of Conduct or requires disclosure in the Gifts Registry.

### Use of personal information

A Member contacted my Office with concerns about community members who had collected personal information from constituents and shared it with the Member's office so that the Member could take some action on behalf of the constituents. It was not clear whether the personal information was collected with the understanding it would be

When faced with an offer of a gift or hospitality, Members are encouraged to ask themselves the following questions:

- Who is giving me this gift or hospitality and why?
- Is the gift or hospitality connected to my responsibilities of office and would I be accepting it as part of my duties?
- Could this gift or hospitality be reasonably perceived as an effort to influence my actions or decisions, now or in the future?

shared with the Member's office nor whether this was explicitly expressed to the individuals who shared their personal information.

“The MCIA imposes a high standard of integrity, transparency and accountability upon members of municipal Councils and local boards. The public has the right to expect that elected officials will be diligent in discharging the duties of their office while eschewing private or personal economic benefits.”

- *The Corporation of the Townships of Brudenell, Lyndoch and Raglan (Integrity Commissioner) v. Andrea Emma Budarick 2021 ONSC 7635*

Generally speaking, Members of Council are not subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). That said, my general guidance in this matter and similar matters is that Members should exercise caution when handling personal/confidential information and must be sensitive to how they deal with personal information obtained by their offices through their interactions with constituents. Consistent with guidance provided by the City's Access to Information and Privacy Office, I encourage Members to adhere to the same rules and principles followed by City staff for the collection of personal information, including:

- Information must be collected directly from the individual, unless another manner is specifically authorized;

- Members must provide “notice of collection” either in a letter, verbally or by notice on a form; and
- If the contact information will be used in a database for a purpose other than why it was collected, explicit permission must be sought.

In addition to observing the general principles of MFIPPA, Members of Council have obligations under the Code of Conduct with respect to confidential information. Members have an obligation to protect confidential information and to refrain from using confidential information, obtained in their capacity as a Member of Council, to further or seek to further their own private interests or improperly further the private interests of another person.

### ***Advice/ Opinion with respect to the Municipal Conflict of Interest Act***

As public officials, Members have an obligation to act with concern for the public good and not for their private interests. The *Municipal Conflict of Interest Act* (MCIA) requires that Members of Council and members of local boards avoid conflicts of interest that are financial (pecuniary) in nature.

In the balance of the 2022 reporting cycle, I continued to provide advice respecting Members' obligations under the MCIA on a couple of occasions. The questions received by my Office concerned indirect and deemed pecuniary interests. These conflicts of interest are not directly linked to the Member's personal financial interests, but rather the financial interests of individuals or entities connected to the Member which may create a tension between the Member's public duty and private interests.

As outlined in the 2022-2026 Governance Review report, I have recommended that Members engage in regular disclosure of financial interests and directorships to my Office. I believe this practice will support my work in providing Members with detailed and timely conflict-of-interest advice.

## **Education and Outreach**

Between April 1, 2022 and September 30, 2022, I issued two IntegriTalk bulletins:

- **June:** Elections and Members' Social Media Use

The bulletin emphasized the purpose of the Election-Related Resources Policy and discussed how the Policy's restrictions impacted Member's use of social media. Specifically, Members are not to use City resources (e.g. computers, smartphones, Members' staff during work hours) to maintain and update campaign-related social media sites. Links to Members' campaign social media accounts must be removed from Members' communications and websites.

- **July:** Donations and sponsorships for Member-organized community events

Members of Council were reminded of key considerations when seeking and accepting donations and sponsorships for their community events in a municipal election year. Of particular note, once a Member is a registered candidate, the Member can no longer seek or accept donations. The prohibition is intended to guard against the perception that donations to community events can buy favour with, or indicate support of, an incumbent candidate.

# 2022 IN NUMBERS

## Trends

As noted in my 2022 Mid-year report, the Office of the Integrity Commissioner has seen a steady increase in the number of complaints received in recent years, with the highest number of complaints (17) managed during the 2022 reporting cycle.

There was a noticeable decline in questions to the Office during the first two years of the pandemic (2020 and 2021 reporting cycles). However, the number of points of contact or questions received (194) increased during the full-year reporting cycle for 2022.

Queries from members of the public reached an all-time high during this reporting cycle. However, as noted in Figure 4 below, a large portion of these queries concern matters that are outside of my jurisdiction as Integrity Commissioner.

## Number of Complaints

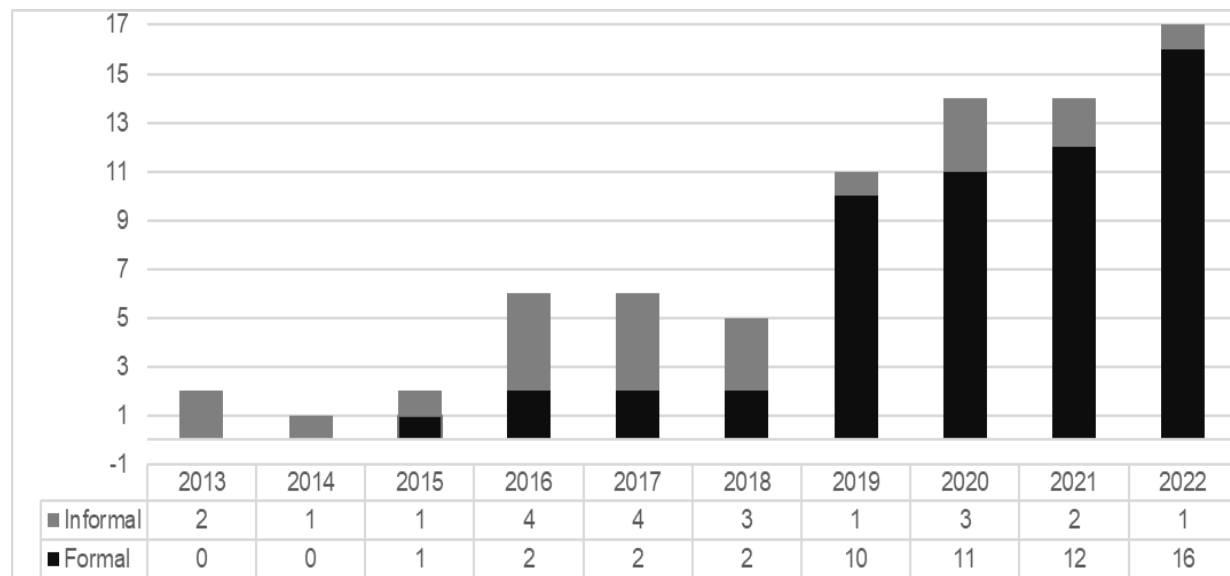


Figure 1: Total number of complaints within the Integrity Commissioner's jurisdiction managed (October 1, 2021 to September 30, 2022)



## Source and Type of Inquiries

In my 2022 Mid-year report, I commented that in recent reporting years (2020 and 2021), members of the public sent more inquiries to the Integrity Commissioner than any other group.

At the 2022 mid-year mark, however, that trend had changed. During the first half of the 2022 reporting cycle, I received more inquiries in general from elected officials than from members of the public.

Looking now at the second half of the 2022 reporting cycle, the number of inquiries from members of the public has once again surpassed those from Members of Council. As noted earlier, points of contact with members of the public reached an all-time high this past year.

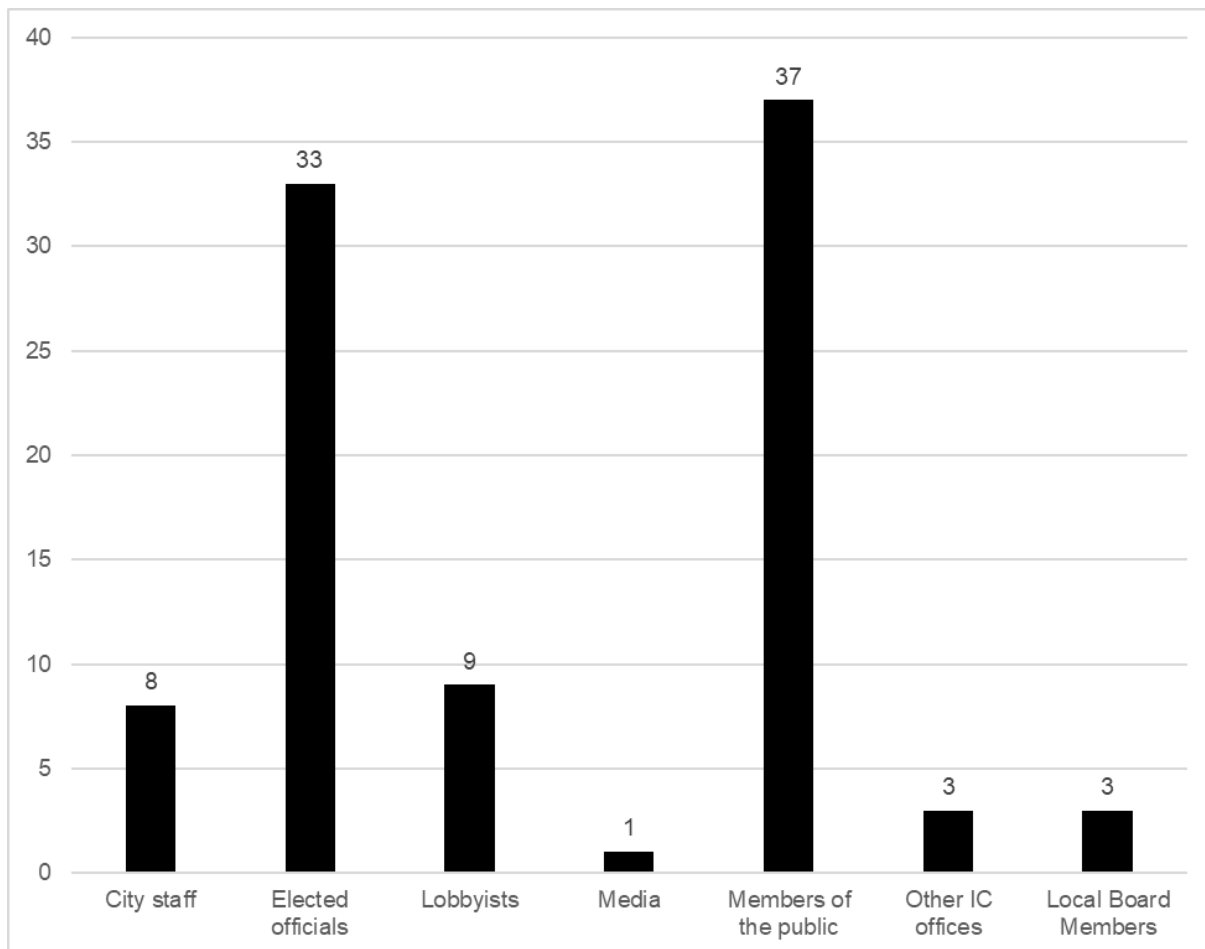


Figure 2: Total points of contact by source (April 1 to September 30, 2022)

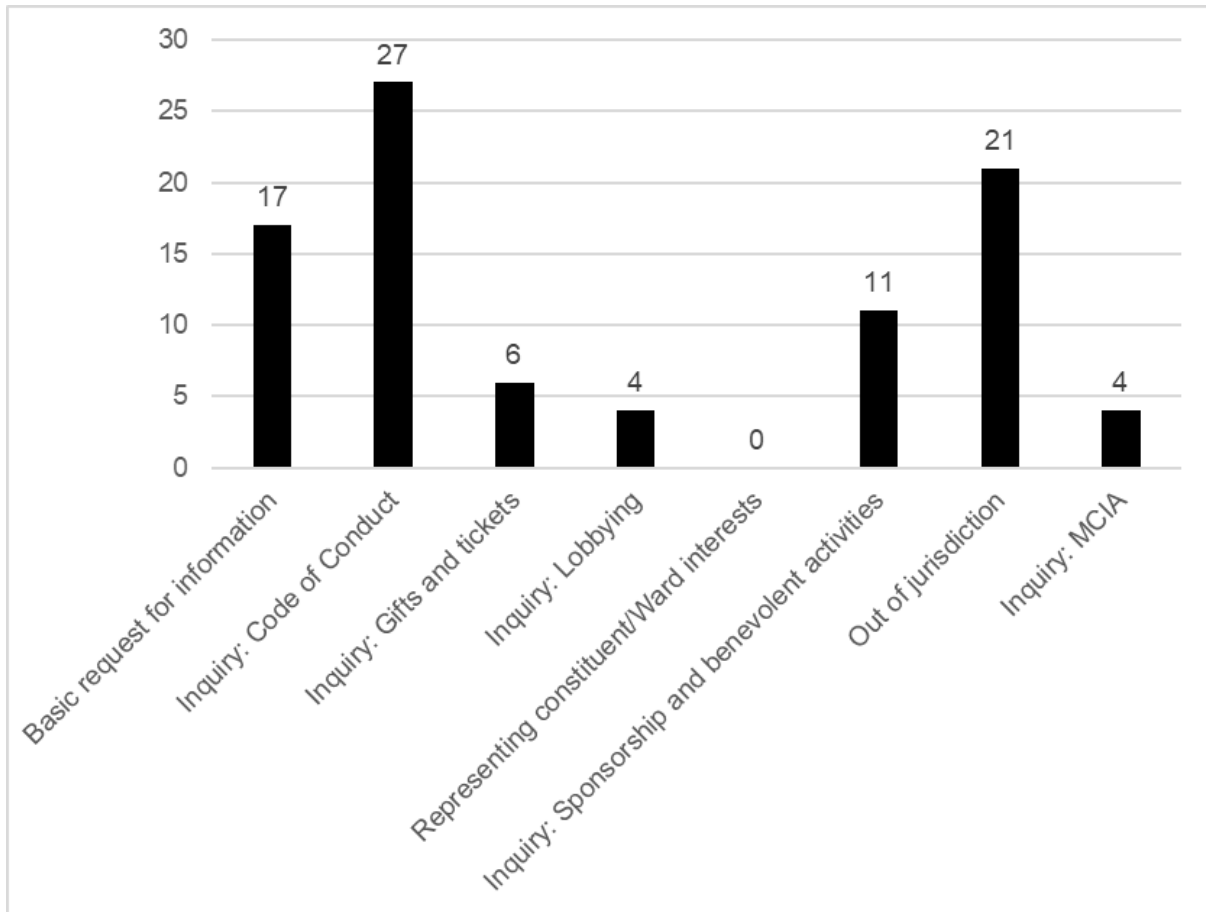


Figure 3: Total points of contact by type (April 1 to September 30, 2022)

A noticeable trend in the type of inquiries received by my Office was an increase in the number of questions related to sponsorship of community events and benevolent activities. This increase aligns with the lifting of pandemic restrictions in late April 2022 and the return of Member-organized community events.

Members are encouraged to reach out to my Office when hosting a community event supported by donations and sponsorships (monetary and/or in kind). As a practice, I issue Terms and Conditions for the event to assist the Member in fulfilling their obligations under the [Community, Fundraising and Special Events Policy](#).

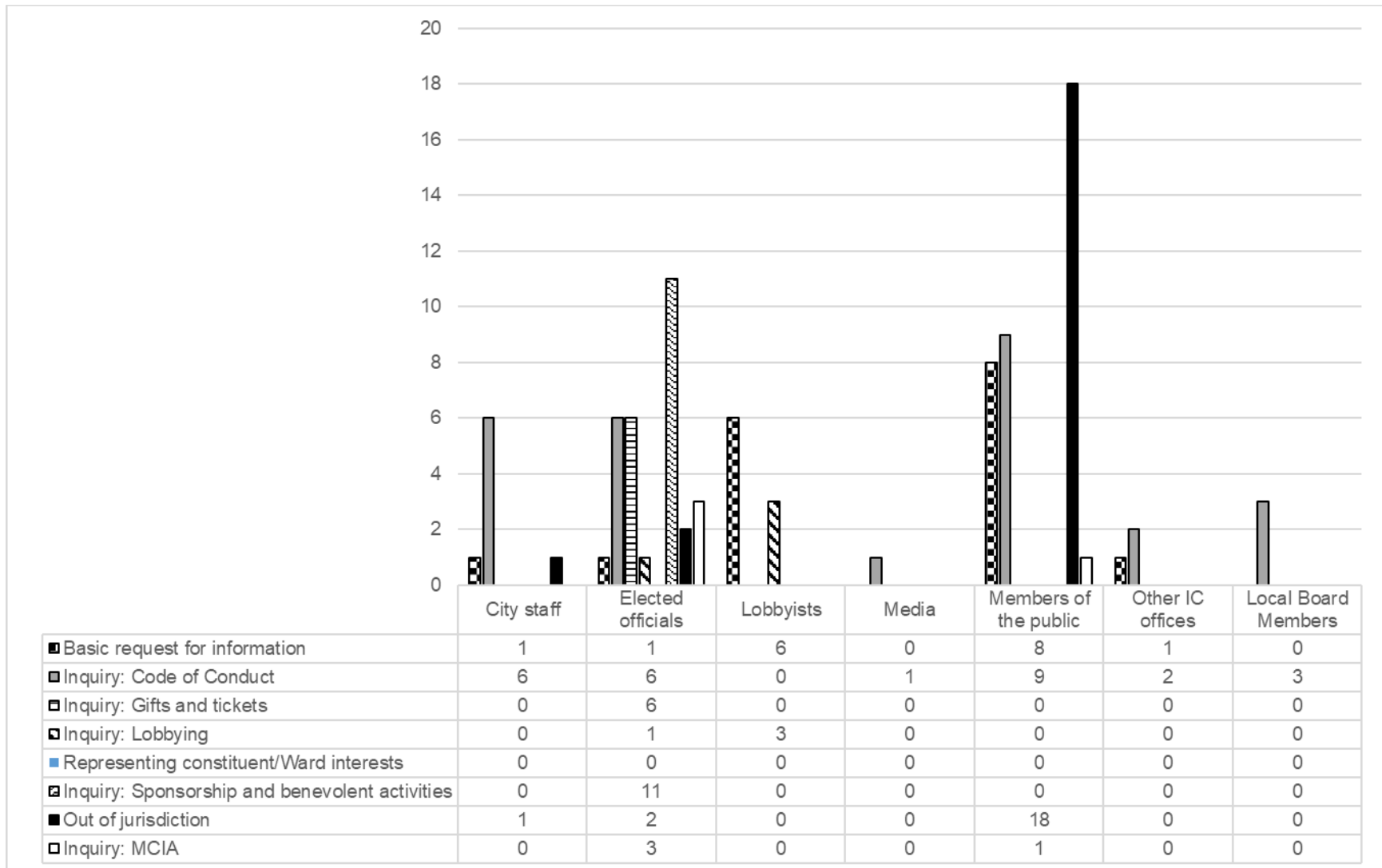


Figure 4: Source and subject matter of inquiries received (April 1 to September 30, 2022)

## **KEY THEMES AND TOPICS**

### **Education**

As noted in the 2022 Mid-year report and echoed in this report, much of my focus in the past year has been on complaints, investigations and complaint-like inquiries.

I am available to members of Council as they need me. As discussed in the 2022- 2026 Governance Report, I intend to meet with each Member of Council annually.

Orientation for incoming Members of Council and their staff will occur as part of the Council Orientation process. I recognize that new Members of Council will be receiving an overwhelming amount of information on their responsibilities and obligations under the Municipal Act, MCIA, C of C and other relevant policies. As a result, I plan to commence my annual meetings in Jan 2023. I will also recommence the monthly installments of IntegriTalk to highlight specific elements of the Accountability Framework.

The coming year also provides an opportunity to initiate an education program for members of the City's local boards, as citizen members will be appointed early in the new Term of Council. In order to reach as many citizen members as possible, I will look to combine in-person orientation sessions with a variety of resources and tools.

## **Lobbyist Registrar**

### **2022 IN BRIEF**

#### **Compliance**

The Lobbyist Registry By-law prescribes an escalating compliance scheme, which provides the Lobbyist Registrar with a continuum of tools to ensure that lobbyists comply with the registration and conduct requirements in the By-law and the Code of Conduct. The tools available to the Lobbyist Registrar include administrative interventions, Letters of Direction, compliance agreements, communication bans and formal investigations.

Since my 2022 mid-year report, I did not engage any of the Lobbyist Registry By-law compliance measures.

As described in the 2022-2026 Governance Review report, I am recommending the addition of a complaint protocol in the Lobbyist Registry By-law to formalize existing procedures and to provide some transparency to the investigative process.

## **Education and Outreach**

The Lobbyist Registrar has an education mandate to ensure that lobbyists, public office holders and members of the public are aware of the requirements under the By-law and the Code of Conduct.

In July, I attended a departmental leadership team meeting for Infrastructure and Water Services. I gave a general presentation on lobbying including what constitutes lobbying under the Lobbyist Registry By-law as well as the responsibilities of lobbyists and public office holders.

More recently, I attended the annual conference of the Lobbyists Registrars and Commissioners Network (LRCN). The LRCN is a Canadian network of lobbyist registrars/commissioners including representatives at the federal, provincial and municipal levels.

Lobbyisme Québec was the host for this year's conference. The four main areas covered during the conference included:

- The impact of the COVID-19 pandemic on lobbying and how Registrars/Commissioners and lobbyists had to learn to work differently.
- Grassroots lobbying and disclosing the sources of funding for research, think tanks and organizations.
- Accountability of public office holders with respect to lobbying.
- Best sanction models to promote compliance.

## **2022 IN NUMBERS**

### **Trends**

In 2021 I reported a slow return to business as usual post-pandemic, with a modest (15.54%) increase in new lobbyist registrations since 2020. There were 193 new registrations in 2020, and 223 new registrations in 2021.

At my 2022 Mid-year report, I reported 102 new registrations – a signal that we appeared to be on track to match the number of new registrations in 2021. In the second half of the 2022 reporting year, however, there were only 80 new lobbyist registrations, bringing the 2022 annual total of new registrations to 182.

It is possible that the decline in expected new registrations between April to September is due to the 2022 Municipal Election.

With respect to new lobbying *files* opened, the total for new files opened in the third quarter of 2022 (28) is the lowest recorded of any quarter since the Integrity Commissioner began tracking the statistic in 2017. This is consistent with a recent trend, which has the higher number of files being opened in the first and second quarter of the year. In 2022, there were 39 new files opened in the first quarter and 40 in the second quarter.

For each lobbying *file*, lobbyists are required to record each instance of lobbying *activity* (for example, a meeting, email or phone call where the communication meets the definition of lobbying). While the number of new lobbying files opened in the first three quarters of 2022 was lower than in past years, lobbying activity per month in the 2022 reporting year has remained high, at approximately 83 communications per month on average. While this figure is lower than the monthly average for the 2021 reporting year (114.5), it exceeds the figures for the 2018 (75), 2019 (59) and 2020 (73) reporting years.

This means that while fewer new lobbying files were created in the 2022 reporting period, lobbyists recorded a significant amount of lobbying activity on those files. In other words, while there may not have been a lot of new business, there was continued activity on ongoing files.

In the 2021 Annual Report, I observed that “Health & Safety” had risen to one of the top three most popular subject matters registered in that reporting cycle. Looking at the full 2022 reporting cycle, “Health & Safety” (9 files) remains in the top ten most popular subject matters; however, the top three subject matters were “Transportation” (24 files), “Planning and Development” (23 files), and “Information Technology” (16 files).

I will continue to monitor these trends as the new Term of Council begins.

## Graphs

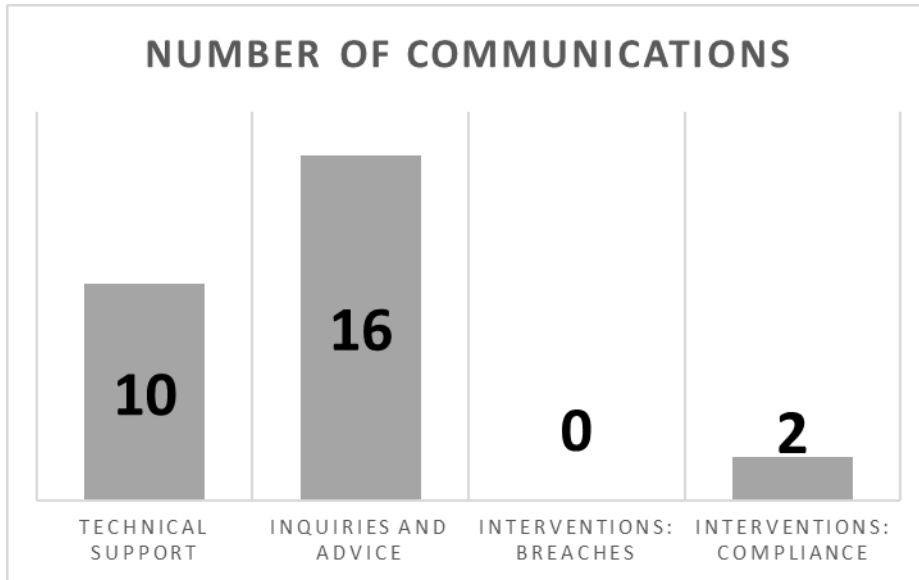


Figure 5: Total number of communications (initial points of contact)

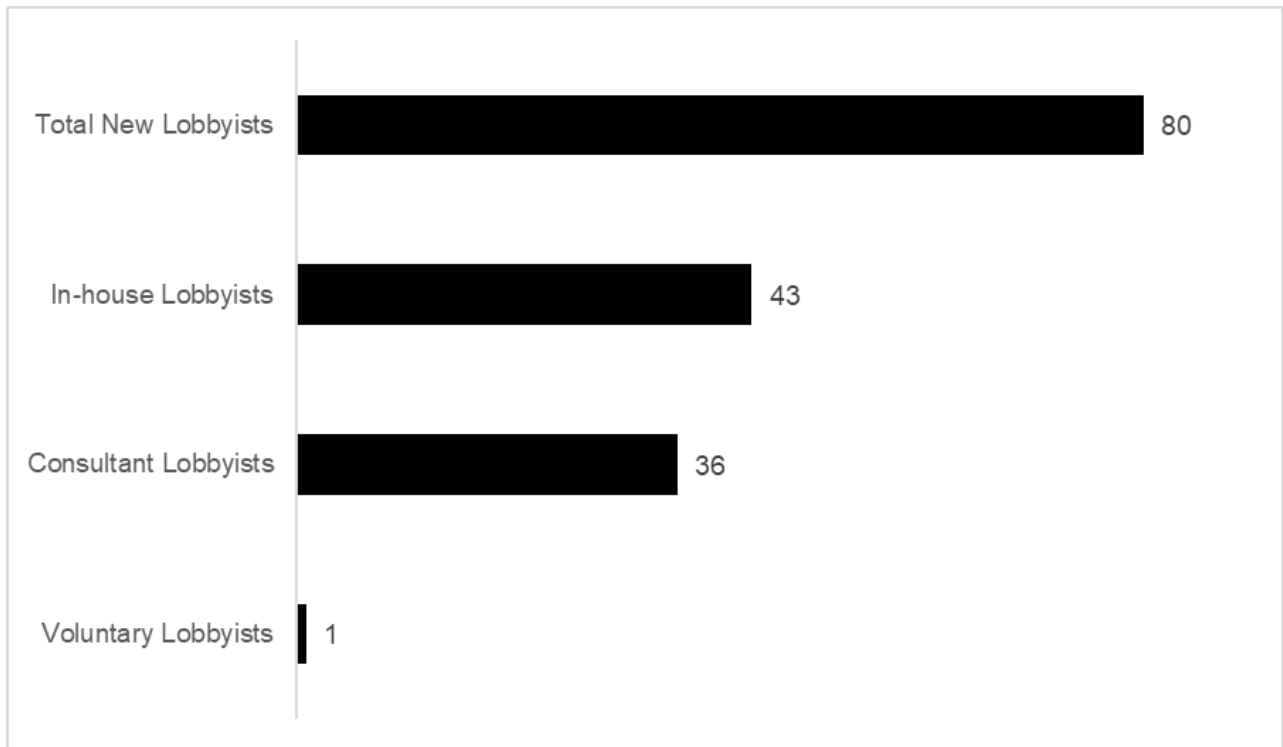


Figure 6: Total number of new lobbyists

Table 1 - Top ten registered subject matters

Rank	Subject	Total lobbying files registered
1	Planning and development	11
2	Transportation	9
3	Infrastructure	6
4	Information Technology	4
5	Water/Sewer	4
6	Affordable Housing	3
7	Parks/Recreation	3
8	Zoning By-law	3
9	By-law Regulation	2
10	Construction	2

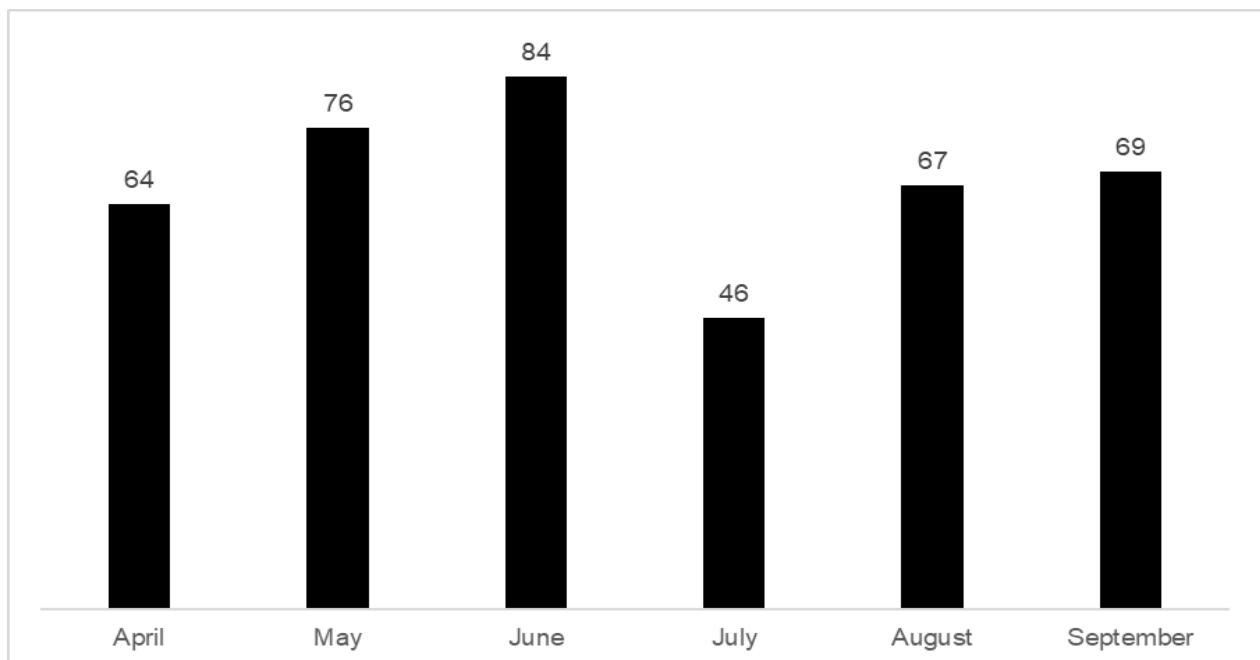


Figure 7: Total lobbying activity by month



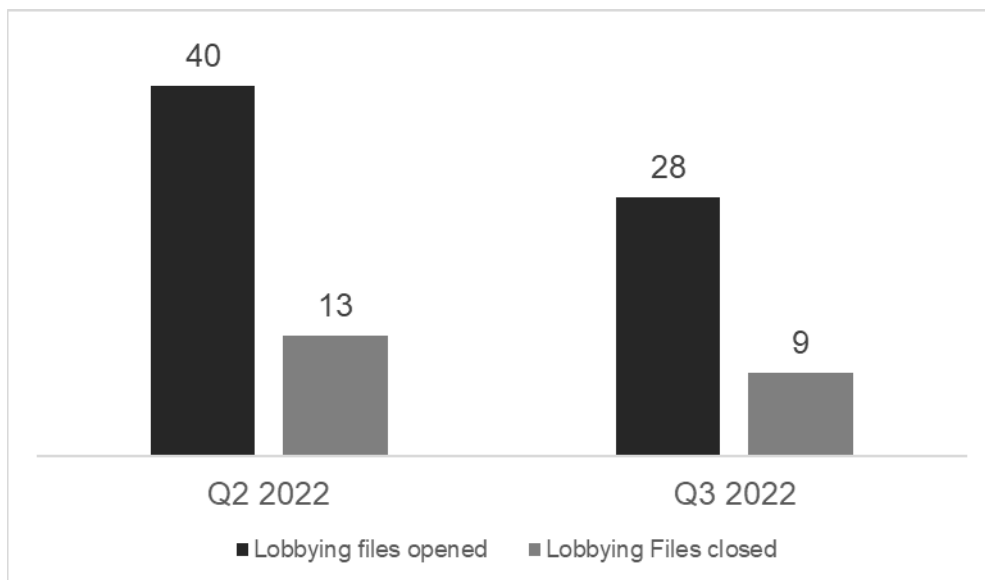


Figure 8: Lobbying files opened and closed by quarter

## KEY THEMES AND TOPICS

### Political Activities and Conflicts of Interest

In my 2022 Mid-year report, I issued an Interpretation Bulletin informing lobbyists that engaging in political activities in support of one or more municipal campaigns could give rise to a conflict of interest if those candidates were elected to office on October 24, 2022.

To summarize the Interpretation Bulletin, I recognize that lobbyists, like other members of the public, are entitled to engage in political activities to support a candidate's campaign. A lobbyist's engagement in such activities, however, has the potential to create a sense of obligation on the part of the candidate towards the lobbyist. Should a candidate then be lobbied by an individual to whom they feel indebted, concerns under the Lobbyist Registry By-law and Lobbyists' Code of Conduct arise.

A lobbyist's engagement in political activities does not automatically create a sense of obligation. As the Interpretation Bulletin describes, the risk of creating a sense of obligation increases with the strategic importance of the political activities, as well as proximity between the lobbyist and candidate.

Some political activities that carry a higher risk of creating such a sense of obligation to include:

- Serving as campaign chair, treasurer or fundraising manager for a campaign

- Organizing political fundraising events or soliciting donations for a campaign
- Acting as a designated spokesperson for a candidate

Activities that carry a lower risk of creating a sense of obligation include:

- Volunteering, canvassing or scrutineering without significant interaction with a candidate
- Donating to a political campaign
- Placing a candidate's sign on one's lawn

By way of example, a lobbyist approached my Office during the election campaign period for guidance respecting a series of town halls they wished to host to engage candidates on a particular subject. Given the intent and purpose of the proposed events and that all candidates would be invited to participate, I determined the town halls constituted a low-risk political activity.

The 2022 Municipal Election is now over, and the newly elected Members of Council have been sworn into office. A legislated probationary period for lobbying following an election does not currently exist. However, lobbyists who engaged in high-risk activities during the municipal election are advised to seek advice from my Office before lobbying Members of Council or their staff.

## Meetings Investigator

### 2022 IN BRIEF

Between April 1, 2022 and September 30, 2022, I received one request for investigation of a closed meeting.

As noted below, Council and its committees went into closed session five times during the six-month reporting period.

#### Compliance

The *Municipal Act, 2001* requires that all meetings of City Council, its committees and local boards be open to the public, except as permitted by specific discretionary and mandatory exceptions.

The exceptions permit closed meetings of City Council, a local board or committee of either, to discuss a number of matters including, but not limited to: labour relations or employee negotiations, litigation or potential litigation affecting the municipality or local

board, advice that is subject to solicitor-client privilege, and personal matters about an identifiable individual.

Anyone who feels that a meeting or part of a meeting of City Council, a local board, or a committee of either was closed to the public for the wrong reason, or that other rules for closed meetings were not upheld, may submit a request for investigation to my Office. Individuals may complete the “Request for investigation of a closed meeting” form online at Ottawa.ca. There is no fee for submitting a request.

In my capacity as Council-appointed Meetings Investigator, I receive such requests and investigate as required. At the end of an investigation, I submit my findings and recommendations in a public report to City Council or the local board.

When a violation of the open meeting rules has been reported, City Council (or the local board) is required to pass a resolution stating how it intends to address the report.

### ***Requests for Investigation of a Closed Meeting***

The requester alleged that public access to a meeting of the Court of Revision was restricted in such a way that prohibited viewing of the proceedings, as well as difficulty hearing the proceedings, and that the restrictions impeded public access to the meeting.

Based on my review of the *Municipal Act, 2001* (the Act) and relevant court decisions, I determined that the Court of Revision is not subject to the open meeting rules set out in the Act and, correspondingly, that I did not have jurisdiction to investigate the matter.

In order to confirm if the open meeting rules applied to the Court of Revision, it was necessary to determine if the Court of Revision qualified as a “local board” defined in the Act as follows:

“a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority.”

Though the open meeting rules set out in the Act apply to many of the committees and bodies who conduct municipal business, not all bodies associated with the municipality are subject to the open meeting rules.

The Act further clarifies that police service boards and public library boards are not subject to the open meeting rules.

While a Court of Revision is not specifically listed under the definition of “local board”, I considered whether the Court fell within the general language of any, “body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities”.

For the following reasons, I determined that the Court of Revision is not a local board and is not subject to the open meeting rules, nor my authority as Meetings Investigator:

- The Court of Revision does not carry on the operations of the municipality, but rather has a specific function that is limited to hearing appeals from owners of lands that have been assessed for the drainage works<sup>5</sup>;
- City Council does not have authority to dissolve the Court of Revision and assume its powers to hear appeals under the *Drainage Act*<sup>6</sup>; and
- The Court of Revision holds “hearings” as opposed to “meetings” during which members decide on the merits of an appeal.<sup>7</sup>

As a result of my analysis, I confirmed to the requester that I did not have jurisdiction to investigate the matter.

## **Closed sessions of Council and its Committees**

From April 1, 2022 to September 30, 2022, Council and its Committees went into closed session five times to consider six matters. The body holding the meeting, date, reason for resolving in camera and open meeting exception(s) cited were as follows:

### *Audit Committee*

June 13 2022: To receive the report “Office of the Auditor General – Cybersecurity Investigation Report”

- Security of the property of the City

### *Council*

June 8 2022: To receive a briefing from the City Manager with respect to the Bilingualism Policy and exemptions for four positions within the Extended Senior Leadership Team, and to receive the results of the voluntary exit interviews conducted with the former Integrity Commissioner and former Auditor General.

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<sup>5</sup> *Ontario Ombudsman v. Hamilton (City)*, 2018 ONCA 502 at para 13.

<sup>6</sup> O. Reg. 582/06: Dissolution of and Assumption of Powers of Local boards, under *Municipal Act, 2001*, S.O. 2001, c. 25, s 2.

<sup>7</sup> *Ontario Ombudsman v. Hamilton (City)*, 2018 ONCA 502 at para 73

- Personal matters about an identifiable individual
- Labour relations or employee negotiations

July 6 2022: To consider information regarding Collective Agreements with CUPE Local 5500

- Labour relations or employee negotiations
- The receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose

Before going in closed session to consider the item, Council resolved that the consideration by Council of any motions and recommendations regarding the *in camera* matters be in open session. Accordingly, after resuming in open session, Council carried a motion requiring that Council ratify the tentative agreements reached with CUPE Local 5500, and that the terms of the collective agreement be made public.

#### *Finance and Economic Development Committee*

April 29 2022: To receive and consider the Light Rail Transit (LRT) – Legal Update

- Litigation or potential litigation affecting the City
- The receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose

#### *Information Technology Sub-Committee*

May 31 2022: To receive a verbal update on cyber security and the external threat landscape

- Security of the property of the City

City Council is not required to go in camera every time an exception applies. During the current reporting period, there were two instances where an *in camera* item was listed on a Council agenda, but the item was addressed in open session.

July 6 2022:

- To consider the Ottawa Board of Health recommendation to appoint a specific individual as the Associate Medical Officer of Health (approved in open session)

August 31 2022:

- To receive the City Manager and Auditor General's 2021 Performance Appraisal (received in open session)

## **Advance Notice of *in camera* items**

During the Integrity Commissioner's 2014-2015 reporting cycle, the Office of the City Clerk initiated a practice of notifying the Meetings Investigator in advance of the public notice of any Council or committee meeting where it was expected that matters would be considered in camera. The practice provided the Meetings Investigator with the opportunity to review the appropriateness of the planned closed session before the Clerk's Office issued public notice as part of the meeting agenda.

In December, 2020, as part of the 2018-2022 Mid-term Governance Review, City Council endorsed the informal practice as a formal protocol of the Office of the City Clerk through an amendment to the Council Procedure By-law.

Since that time, staff of the Office of the City Clerk and the Meetings Investigator have upheld this protocol.

## **Conclusion**

In my first full year as Integrity Commissioner, Lobbyist Registrar and Meetings Investigator for the City of Ottawa, I have had the privilege to work with dedicated and professional Members of Council and City staff, as well as members of the public engaged in matters of accountability and transparency.

As I enter the second year of my mandate, I look forward to continuing to uphold my statutory obligations to ensure compliance with: the codes of conduct that I oversee; the Lobbyist Registry By-law and Lobbyists' Code of Conduct; and the open meetings rules of the Act.

In fulfillment of the outreach and education portion of my mandate, in the coming months, my priority will be to:

- Provide Members of Council with the option for an annual "check in";
- Resume my regular "IntegriTalk" bulletins to Members of Council and their staff;
- Engage in increased outreach to members of the City's local boards, including providing orientation sessions to new members on their Code of Conduct and associated requirements; and
- Develop outreach tools for Lobbyist Registry stakeholders, including lobbyists and City staff, to communicate the responsibilities of all parties under the Lobbyist Registry By-law.

Finally, I look forward to implementing Council’s direction with respect to the recommendations of the 2022-2026 Governance Review report.

## Financial Statement

The Integrity Commissioner’s Office is funded through the Office of the City Clerk. As of September 1, 2021, the Integrity Commissioner’s remuneration consists of a \$25,000 annual retainer and a per diem of \$250 per hour to a daily maximum of \$1,250.

The work of the Integrity Commissioner, including the frequency and complexity of the investigations conducted by the Office, has evolved over the past few years and external services have been retained, as necessary. The cost of these additional services is reflected in the breakdown below.

The following is a breakdown of the period of April 1 to September 30, 2022.

*Table 2 - Financial Statement April 1, 2022 to September 30, 2022*

	<b>Q2 2022</b>	<b>Q3 2022</b>	<b>TOTAL</b>
<b>Retainer*</b>		\$ 25,440	\$ 25,440
<b>Salary*</b>	\$ 40,450	\$ 42,358	\$ 82,808
<b>Ancillary Costs</b>	\$ 1,807	\$ 716	\$ 2,523
<b>Materials and Services</b>	\$ 48,646	\$ 23,006	\$ 71,652
<b>Hours Logged</b>	159	166.5	325.5

\* includes tax less eligible municipal rebates