

Subject: Reimbursement of Members' legal expenses related to the Code of Conduct for Members of Council

File Number: ACS2025-OCC-GEN-0008

**Report to Finance and Corporate Services Committee on 2 September 2025
and Council 10 September 2025**

Submitted on August 21, 2025 by Caitlin Salter MacDonald, City Clerk

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Ward: Citywide

**Objet : Remboursement des dépenses juridiques des membres du Conseil
relatives au *Code de conduite des membres du Conseil***

Numéro de dossier : ACS2025-OCC-GEN-0008

Rapport présenté au Comité des finances et des services organisationnels

Rapport soumis le 2 septembre 2025

et au Conseil le 10 septembre 2025

Soumis le 2025-09-02 par Caitlin Salter MacDonald, greffière municipale

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Quartier : À l'échelle de la ville

REPORT RECOMMENDATION(S)

That the Finance and Corporate Services Committee recommend City Council approve amendments to the Complaint Protocol for the Code of Conduct for Members of Council and the Elected Officials' Office Manual, as described in this report.

RECOMMANDATION(S) DU RAPPORT

Que le Comité des finances et des services organisationnels recommande au Conseil municipal d'approuver les modifications du protocole de plaintes du *Code de conduite des membres du Conseil* et du *Manuel administratif des bureaux des représentants élus* décrites dans le présent rapport.

BACKGROUND

Code of Conduct for Members of Council and associated Complaint Protocol

On May 8, 2013, City Council considered the report from staff and the Integrity Commissioner titled, "[Code of Conduct for Members of Council and Gifts Registry](#)." Among other things, Council approved the [Code of Conduct for Members of Council](#) and received the Integrity Commissioner's Complaint Protocol for the code of conduct.

In 2018, Council approved enacting the code of conduct as a by-law through consideration of the [2018-2022 Council Governance Review](#) report. The by-law (No. 2025-99) includes the Complaint Protocol as "Appendix 'A.'"

The Code of Conduct for Members of Council fulfills a requirement under Subsection 223.2(1) of the *Municipal Act, 2001*, which provides that, "A municipality shall establish codes of conduct **for members of the council of the municipality** and of its local boards" (emphasis added).

Complaint Protocol for the Code of Conduct for Members of Council

The Complaint Protocol sets out the process for informal and formal complaints under the Code of Conduct for Members of Council. This includes the manner in which the Integrity Commissioner conducts investigations (inquiries), and related processes.

Currently, Subsection 9(2)(a) of the Complaint Protocol provides that a Member who is the subject of an inquiry by the Integrity Commissioner may consult with a lawyer and charge legal expenses to their Constituency Services Budget¹ under certain circumstances.

Council direction to find a new funding source for Members' legal expenses related to the code of conduct

On January 29, 2025, City Council considered the [2022-2026 Mid-term Governance Review](#) report, which included proposed amendments to the Complaint Protocol. Council also approved Motion No. 2025-50-15, as follows:

¹ Members of Council are each provided with a Constituency Services Budget with which to operate their respective offices. The Constituency Services Budget provides Members with resources required to support their role, enabling Members to undertake activities such as communicating with constituents about the meetings and activities of Council and the City, assisting with and leading activities that enhance the communities in their wards, representing the City at functions and events, and administering their offices to serve constituents and support their legislative role.

WHEREAS the Code of Conduct for Members of Council (By-law No. 2018-400), Part III, Section 9 – Investigation, provides that a “Member who is the subject of an inquiry may consult with a lawyer”, and that if “[...] the complaint is dismissed or no contravention is found, the Member may charge the applicable expenses to their Constituency Services Budget”; and

WHEREAS consulting with a lawyer and obtaining legal services can be expensive; and

WHEREAS a Member’s Constituency Services Budget may not have enough funds to cover their legal fees; and

WHEREAS even if a Member’s Constituency Services Budget has enough funds to cover their legal fees, this will likely significantly reduce the funds available to the Member to operate their office and conduct their business; and

THEREFORE BE IT RESOLVED THAT, City Clerk present for the consideration of Council, no later than 30 September 2025, a report detailing the creation of a Council Administration fund, and associated policies and procedures, for the reimbursement of a Member’s legal fees.

DISCUSSION

In accordance with City Council’s direction of January 29, 2025, staff undertook work to identify an appropriate administration fund and associated policies and procedures for the reimbursement of a Member’s applicable legal expenses related to an inquiry under the Code of Conduct for Members of Council.

Staff, in consultation with the Integrity Commissioner, recommend amending the Complaint Protocol for the Code of Conduct for Members of Council to provide as follows, as set out in Document 1:

1. Reimbursement of Members’ applicable legal expenses through the existing Council Administration Budget, rather than the Member’s Constituency Services Budget.
2. Procedural conditions and requirements for reimbursement.

Should Council approve the report recommendation, staff will also amend the Elected Officials’ Office Manual to reflect the updated approach and any associated procedures. Additional information about each matter is provided below.

- 1. Reimbursement of Members’ applicable legal expenses through the Council Administration Budget**

The Council Administration Budget is currently used to finance various items commonly used in the operation of each elected official's office, and to cover certain expenses involved in the operation of City Council. The budget is administered by the City Clerk and City Clerk's designates, and funds matters such as:

- Salary, benefits, and transportation allowance of all Members of Council;
- Benefits costs associated with Members' staff, and costs related to Members' staff on extended leave of greater than one month;
- Travel expenses for Members to attend meetings/conferences/conventions outside the City that are approved by Council or its committees, or where Council has appointed a Member to represent the City; and
- Office and shared area supplies, furniture and equipment.

Permitting Members' applicable legal expenses to be reimbursed from the Council Administration Budget, rather than the Constituency Services Budget, would ensure that a Member's individual office budget used for expenses such as staff and community/ward engagement is not adversely affected by a code of conduct complaint and subsequent investigation that may be outside of the Member's control. That being said, where the Integrity Commissioner finds that a contravention of the code of conduct has occurred, the Integrity Commissioner may determine that the applicable expenses will not be reimbursed by the City.

Staff anticipate the Council Administration Budget can absorb any legal expenses that may arise from matters relating to the Complaint Protocol. As such, it is recommended the Complaint Protocol be amended to provide for the Council Administration Budget to serve as the source for reimbursement of applicable legal expenses, in accordance with recommended conditions and requirements described below.

2. Procedural conditions and requirements for reimbursement

The following conditions and requirements are proposed to provide accountability and transparency while recognizing a Member's right to determine and retain their own legal counsel and receive reimbursement in the circumstances described in the Complaint Protocol:

- *Invoice requirements* – Before any reimbursement, the Member would be required to provide the City Clerk/City Clerk's designate(s) with original invoice(s) from the lawyer that detail hours worked, the fee per hour and the nature of work performed. The City Clerk/City Clerk's designate(s) may consult with the City Solicitor regarding reasonableness of any legal expenses, in line with the criteria set out under the City's Legal Indemnification Policy. Such records would be subject to the solicitor-client privilege provision under the *Municipal Freedom of*

Information and Protection of Privacy Act in addition to confidentiality provisions relating to the Integrity Commissioner under the *Municipal Act, 2001*.

- *Public disclosure* – Total legal expenses charged by Members to the Council Administration Budget would be publicly disclosed on the City's website on an annual basis. To maintain the confidentiality of the Integrity Commissioner's work in accordance with requirements under the *Municipal Act, 2001*, the disclosure would provide the total legal expenses reimbursed to all Members, without any further breakdown or disclosure regarding the investigation(s) and/or identity of Member(s) who were reimbursed.

Related amendments to the Elected Officials' Office Manual

The Elected Officials' Office Manual is a tool that contains current policies and procedures related to the administration of Members' offices, and incorporates other office-related matters. If Council approves the report recommendation to amend the Complaint Protocol, staff will also amend the office manual to reflect the updated approach.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the report. Any legal expenses that may arise from matters relating to the Complaint Protocol will be covered within the existing operating budget.

LEGAL IMPLICATIONS

There are no legal impediments to Council approving the recommendations contained in this report.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report.

CONSULTATION

This report is administrative in nature and therefore no public consultation was required.

DELEGATION OF AUTHORITY IMPLICATIONS

Under the proposed approach described in this report, staff would continue to process the reimbursement of applicable legal expenses in accordance with the Complaint Protocol for the Code of Conduct for Members of Council, using the Council Administration Budget as the funding source. Staff would publicly disclose on the City's website the anonymized total legal expenses charged by Members to the Council Administration Budget.

SUPPORTING DOCUMENTATION

Document 1 – Recommended amendments to Subsection 9(2) of the Complaint Protocol for the Code of Conduct for Members of Council regarding Members' legal expenses

DISPOSITION

Upon approval of the report by City Council, staff in the Office of the City Clerk will implement the amendments and actions described in this report.