

**Report to
Rapport au:**

**Council
Conseil**

25 September 2019 / 25 septembre 2019

**Submitted on September 6, 2019
Soumis le 6 septembre 2019**

**Submitted by
Soumis par:
Robert Marleau, Integrity Commissioner/Commissaire à l'intégrité**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2019-OCC-GEN-0006

**SUBJECT: Report to Council on an Inquiry Respecting the Conduct of
Councillor Darouze**

**OBJET: Rapport au Conseil sur une enquête concernant la conduite du
conseiller Darouze**

REPORT RECOMMENDATIONS

The Integrity Commissioner recommends that City Council:

- 1. Receive this report, including the finding that Councillor Darouze has contravened Section 7 of the Code of Conduct;**
- 2. Direct Councillor Darouze to issue a sincere written apology to both Complainants within 7 days of Council receiving this report;**
- 3. Direct Councillor Darouze to write to the Interim Chief of Police, within 7 days of Council receiving this report, to make him aware of this report and**

request that his email to the Chief of Police, dated September 21, 2018, be removed from the personnel file of the male Complainant; and

4. Reprimand Councillor Darouze in accordance with Section 15 of the Code of Conduct (Compliance with the Code of Conduct).

RECOMMANDATIONS DU RAPPORT

Le commissaire à l'intégrité recommande que le Conseil municipal :

1. prenne connaissance du présent rapport, ainsi que de la conclusion selon laquelle le conseiller Darouze a enfreint l'article 7 du Code de conduite;
2. enjoigne au conseiller Darouze de présenter par écrit des excuses sincères aux plaignants dans les sept jours suivant la prise de connaissance du présent rapport par le Conseil;
3. enjoigne au conseiller Darouze d'écrire au chef de police par intérim, dans les sept jours suivant la prise de connaissance du présent rapport par le Conseil, pour lui faire part du présent rapport et demander à ce que son courriel au chef de police en date du 21 septembre 2018 soit retiré du dossier du plaignant;
4. réprimande le conseiller Darouze, conformément à l'article 15 du Code de conduite (« Respect du Code de conduite »).

BACKGROUND

On July 11, 2012, City Council approved the establishment of the Integrity Commissioner position. The City of Ottawa's Integrity Commissioner fulfills the role of Integrity Commissioner, Lobbyist Registrar and Meetings Investigator.

The jurisdiction of the Integrity Commissioner is set out in Section 223.3 of the *Municipal Act, 2001* (the "Act"), as follows:

1. *The application of the code of conduct for members of council and the code of conduct for members of local boards.*
2. *The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.*

3. *The application of sections 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards.*
4. *Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.*
5. *Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.*
6. *Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act.*
7. *The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act. 2017, c. 10, Sched. 1, s. 19 (1).*

[...]

Powers and duties

(2) Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

The attached report relates to an inquiry undertaken by the Integrity Commissioner in his role as Integrity Commissioner pursuant to his jurisdiction set out in Section 223.4 of the Act, as follows:

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or*
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.*

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the Public Inquiries Act, 2009, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (1).

The report is submitted to Council under subsections 223.4(1), 223.6(2) and 223.6(3) of the Act and Section 15 of the Code of Conduct for Members of Council (By-law 2018-400).

The Integrity Commissioner and all people acting under his instructions are bound by a duty of confidentiality under which secrecy is to be preserved with respect to all matters that come to his or her knowledge in the course of conducting an Inquiry, in accordance with Section 223.5 of the Act, as follows:

Duty of Confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Exception

(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.

[...]

Section prevails

(3) This section prevails over the Municipal Freedom of Information and Protection of Privacy Act. 2006, c.32, Sched. A, s. 98.

DISCUSSION

On March 12, 2019, two Complainants filed a Request for Investigation Form/Affidavit under the Code of Conduct for Members of Council. The Complainants alleged contraventions of Sections 5 (Confidential Information) and 7 (Discrimination and Harassment) of the *Code of Conduct for Members of Council* (By-law 2018-400) on the part of Councillor George Darouze (Ward 20).

Following a preliminary review of the information submitted, the Integrity Commissioner met with the Complainants and determined that the complaint was not frivolous or vexatious. The Complainants declined the option of proceeding with an informal complaint. The Integrity Commissioner concluded there were sufficient grounds for a formal investigation.

The Integrity Commissioner retained the services of an independent investigator to complete the investigation. The Investigator was delegated the responsibility for the investigation in accordance with subsections 223.3(3) and 223.3(4) of the *Municipal Act, 2001*:

Delegation

223.3 (3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

223.3 (4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98

The attached report outlines the Integrity Commissioner's findings and recommended corrective actions.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

As this is considered an internal administrative matter, no public consultation was undertaken.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report

LEGAL IMPLICATIONS

There are no legal impediments to City Council receiving this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

This report has no direct impacts on the City's strategic priorities or directions identified for the current Term of Council.

SUPPORTING DOCUMENTATION

Document 1 – Integrity Commissioner - Report to Council on an Inquiry Respecting the Conduct of Councillor Darouze

DISPOSITION

The Integrity Commissioner and the Office of the City Clerk will undertake the implementation of any decisions made by Council as a result of this report.