

CITY OF SURREY ETHICS COMMISSIONER OFFICE

POLICY NO. 2020-04

CONFIDENTIALITY AND ANONYMITY POLICY

Purpose

This Policy establishes the Ethics Commissioner's policy on confidentiality and anonymity in the review and processing of complaints.

Citation

This Policy may be cited for all purposes as the "SECO Confidentiality and Anonymity Policy No. 2020-04".

Scope

This Policy applies to all processes under the Code and the Establishment Bylaw.

Definitions

For the purpose of this Policy:

"Code" means the City of Surrey *Council Code of Conduct Bylaw, 2020, No. 20020*;

"Complainant" means the person who submitted the Formal Complaint;

"Establishment Bylaw" means the City of Surrey *Ethics Commissioner Establishment Bylaw, 2020, No. 20018*;

"Formal Complaint" means a complaint, in compliance with sections 66, 68 and 69 of the Code, that the Ethics Commissioner has accepted for the purposes of a Formal Review in accordance with the SECO Complaint Intake Policy No. 2020-01;

"Formal Review" means the Ethics Commissioner's review of a Formal Complaint in accordance with section 70 of the Code;

"Investigation" means an investigation initiated by the Ethics Commissioner under section 70(c) of the Code as part of a Formal Review;

“Records and Information Policy” means the SECO Records and Information Policy No. 2020-03; and

“Respondent” means the Council Member who is alleged in the Formal Complaint to have acted in contravention of the Code or another City policy.

Policy Statement

Sole Custody and Control of Records

1. The Records and Information Policy applies to matters addressed in this Policy. For convenience of reference, the Records and Information Policy provides that all records that the Commissioner creates or compiles in the course of performing the Commissioner’s powers, duties and functions are in the Commissioner’s sole custody and control, and the Commissioner has sole authority over all such records. This means that no one else, including the City of Surrey, has any right (whether contractual or otherwise) to the custody of, or to inspect, review, possess or obtain a copy of, any such records, with the sole authority over the management, storage, retention and disposition of records being that of the Commissioner. Accordingly, it is the position of the Ethics Commissioner that the *Freedom of Information and Protection of Privacy Act* (British Columbia), does not apply to any such records.

Discussions with Council Members

2. If a Council Member seeks advice from the Ethics Commissioner under the Code or the Establishment Bylaw, all information received or given, and any record created or compiled, in connection with the seeking or giving of advice is confidential and will be kept confidential except as otherwise required by law.
3. A Council Member may consent in writing, including by email, to disclosure by the Ethics Commissioner of information or records.

Complaint Intake

4. The Ethics Commissioner does not accept anonymous complaints as Formal Complaints.

Formal Review

5. In a Formal Review, the Ethics Commissioner reserves the right to disclose the identity of a Complainant to the Respondent. In considering whether to disclose the Complainant’s identity, the Ethics Commissioner shall consider:
 - a. whether the Complainant consents to the disclosure of their identity;

- b. whether disclosure of the Complainant's identity could result in an invasion of the personal privacy of the Complainant or anyone else;
- c. whether procedural fairness considerations require the Complainant's identity to be disclosed; and
- d. any other relevant considerations.

Investigation Report

- 6. Upon completion of an Investigation, the Ethics Commissioner shall deliver a copy of the investigation report to the City, and that copy alone is in the City's custody and control, with all other records related to the preparation of that report being in the in the sole custody and control of the Ethics Commissioner. As provided in the Code, every investigation report that the Ethics Commissioner delivers to the City is retained in a confidential file maintained by the City Manager.

ADOPTED this 10th day of December, 2020.


Ethics Commissioner