

Frequently Asked Questions

Please note that the FAQs are provided for general information purposes only. The FAQs are not intended to be exhaustive, to provide legal or other professional advice, or to fetter the Ethics Commissioner's discretion in any way. The FAQs are also not intended to be a part of or to alter any City of Surrey Bylaw or Policy.

GENERAL

1. What is an Ethics Commissioner?

An Ethics Commissioner is a neutral, independent officer who oversees the conduct of elected officials, and operates independently of City Council and City Administration.

The City of Surrey Ethics Commissioner is the first of its kind in British Columbia at the local government level.

2. Who does the Ethics Commissioner oversee?

The Ethics Commissioner oversees the Mayor and the Council Members of the City of Surrey.

All references to "Council Member" include the Mayor.

The Ethics Commissioner does not oversee conduct of the public or City of Surrey staff.

3. Why was the Office of the Ethics Commissioner established?

The Office of the Ethics Commissioner was established to advise and assist Council in furthering its objectives with respect to enhancing the openness, transparency and accountability of its decision making.

4. When was the Office of the Ethics Commissioner established?

The Office of the Ethics Commissioner was established on February 24, 2020 with the adoption of the *Ethics Commissioner Establishment Bylaw, 2020, No. 20018*.

5. What is the legal authority to establish an Ethics Commissioner?

Section 154(1)(b) of the *Community Charter*, [SBC 2003] c 26, authorizes Council to delegate its powers, duties and functions to an officer or employee of the municipality by bylaw.

Council established the role of Ethics Commissioner and adopted the Code of Conduct by bylaw, through the [Ethics Commissioner Establishment Bylaw, 2020, No. 20018](#) and the [Council Code of Conduct Bylaw, 2020, No. 20020](#), respectively.

ETHICS COMMISSIONER

6. Who is the Ethics Commissioner?

Council appointed Reece Harding as the Ethics Commissioner for a term of two years, beginning July 13, 2020.

Reece is a partner at the municipal law firm of Young Anderson. You can learn more about him [here](#).

7. What are the Ethics Commissioner's functions and powers?

The Ethics Commissioner:

- advises Council Members on behaviour that is consistent with their ethical obligations under the Code of Conduct, and delivers any necessary training;
- receives, reviews, investigates and adjudicates complaints within his jurisdiction related to the conduct of a Council Member and violations of the Code of Conduct;
- adopts procedures, policies and protocols to ensure that complaints are fully and fairly investigated; and
- provides advice and recommendations to Council regarding amendments to the Code of Conduct and any other policies, procedures or protocols governing Council Members' ethical behaviour.

8. How is the Ethics Commissioner appointed?

Council appoints the Ethics Commissioner by resolution after the Selection Committee has recruited, interviewed and recommended candidates for the position.

The Selection Committee is composed of five members appointed by a resolution of Council as follows:

- three members of the public;
- two Council Members; and
- one legal professional (non-voting member).

ADVISORY & EDUCATIONAL ROLE

9. What does the Ethics Commissioner advise Council Members on?

The Ethics Commissioner provides advice to Council Members on behaviour that would be consistent with their ethical obligations under the Code of Conduct. For example, the Ethics Commissioner might advise Council Members on whether their outside activities and business relations are compatible with their obligations under the Code of Conduct.

The Ethics Commissioner may also provide advice or recommendations to Council regarding amendments to the Code of Conduct or to other policies, procedures or protocols governing a Council Member's ethical behaviour.

10. When does the Ethics Commissioner offer training to Council Members?

The Ethics Commissioner may offer or require training on any aspects of ethical conduct that the Ethics Commissioner determines may be valuable for Council Members in carrying out their responsibilities. Such training may be part of a Council Member's orientation or may be delivered on an annual basis. Council may also direct mandatory training as it deems necessary.

COUNCIL MEMBER CONDUCT

11. What conduct is required of Council Members?

Council Members are required to treat City employees, other Council Members and the public with respect and dignity, and to comply with the Code of Conduct, all City bylaws and policies, and all provincial and federal laws.

12. What is the Code of Conduct?

The Code of Conduct means the [Council Code of Conduct Bylaw, 2020, No. 20020](#).

The Code of Conduct was adopted by Council on May 4, 2020 to regulate the ethical conduct of Council Members and to establish the process by which the Ethics Commissioner will investigate complaints of violations.

13. What is considered non-compliance under the Code of Conduct?

The Code of Conduct prohibits Council Members from:

- bullying or harassing another person;
- defaming another person;
- abusing their office;
- contravening any City bylaw, including the [Council Procedure Bylaw, No. 15300](#); and
- contravening any provincial or federal laws.

14. What is considered bullying or harassment under the Code of Conduct?

Bullying and harassment is defined in the Code of Conduct to include:

- discriminatory conduct or comments contrary to the *Human Rights Code* with respect to a person's race, colour, ancestry, place of origin, religion, marital status, physical or mental disability, sex, sexual orientation, family status, age, political beliefs or previous criminal convictions;
- any verbal, written or physical conduct, comment, gesture or contact of a sexual nature that may cause offence or humiliation to another person or that might reasonably be perceived as placing a condition of a sexual nature on employment or on any opportunity for training or promotion;

- unwelcome or objectionable conduct or comments that cause humiliation or intimidation, such as verbal aggression or insults, derogatory comments or names, hazing or initiation practices, vandalization or spreading malicious and untrue rumours; and
- any conduct that would be contrary to the City's [Respectful Workplace Policy](#).

15. What would constitute an abuse of office?

Council Members are required to use the influence of their office only in the good faith exercise of their official duties.

The Code of Conduct imposes restrictions on a Council Member's:

- interactions with other City employees;
- election activities;
- use of municipal assets and services;
- ability to obtain benefits or gifts for themselves or their family members; and
- outside activities and business relations, limiting other potential conflicts of interest.

16. What restrictions are in place regarding Council Member interactions with City employees?

A Council Member is not permitted to:

- request that a City officer, employee, contractor, consultant, or other service provider undertake personal or private work for the Council Member, nor may the Council Member accept such work;
- issue instructions or directions to any City officer, employee, contractor, consultant, or other service provider regarding any City program, activity, policy, process, project, or undertaking, except through the City Manager or appropriate department manager;
- attempt to influence personnel decisions regarding the hiring, transfer, promotion, demotion, discipline or termination of any City employees or volunteers;
- interfere with, hinder or obstruct any City officer, employee, volunteer, Advisory Board Member, contractor, consultant, or other service provider in the exercise or performance of their roles, responsibilities, powers, duties or functions;
- issue instructions or directions to a contractor, tenderer, proponent, consultant or other service provider before, during, or after a procurement process; or
- communicate with a tenderer or proponent regarding the subject matter of a procurement outside of a Council or committee meeting.

17. What activities are prohibited during the municipal election?

Council Members must comply with the *Local Government Act* and the *Local Elections Campaign Financing Act* when undertaking election campaign activities and fundraising.

A Council Member must not:

- use the City's employees, property or resources for election campaign or fundraising activities, unless such resources are available to all candidates and paid for with election campaign funds;
- use any data or personal information collected and maintained by the City;
- use City office space for campaigning purposes;
- use any City websites or external websites paid for by the City (but may link to such websites on his or her campaign website); or
- perform official ceremonial duties in any civic events between the last day of the nomination period and the voting day, unless authorized by a resolution of Council.

Additionally, from October 1st to the day of the general election in an election year, a Council Member must not:

- deliver City funded newsletters;
- conduct open houses funded by the City;
- distribute mass e-mails from his or her City e-mail address (unless for emergency purposes and authorized by the City Manager);
- update City websites or any external websites paid for by the City; or
- use social media or internet resources such as Twitter, Facebook or Instagram in their personal name (except with a disclaimer that they are not City-funded and do not reflect City policy).

18. What outside activities or business relations are not permitted?

A Council Member who engages in another profession, business or occupation may not allow such activity to affect their integrity, independence or competence.

A Council Member will contravene the Code of Conduct if they:

- act as an officer or director for a business that lobbies the City or receives City funds;
- allow the prospect of any future non-City employment to affect the performance of their duties;
- borrow money from any person or corporation who regularly does business with the City (not including banks or credit unions);
- act as a paid agent before Council, a committee, task force, commission, board or other body established or appointed by Council or by the Mayor;
- receive compensation for a business referral or the awarding of a contract with the City; or
- provide paid advice to any person involved in litigation or lobbying against the City (unless the Council Member first gives written notice of the relationship to the Ethics Commissioner).

19. When will the use of City assets, services or information be a breach of the Code of Conduct?

A Council Member may not:

- use, or allow to be used, any City land, facilities, equipment, supplies, services, property, employees or other resources for personal activities (except on the same terms and conditions that are available to the general public);
- attempt to obtain a benefit from the City for a family member; or
- obtain personal gain from the use or sale of any City-developed intellectual property, including discoveries, developments, processes, technology, designs, techniques, methods, research, software or trade secrets.

COMPLAINTS

20. Who may submit a complaint about a Council Member?

Any person who has witnessed or experienced conduct by a Council Member which they believe to be in contravention of the Code of Conduct, a City bylaw, or a provincial or federal law may submit a complaint to the Ethics Commissioner.

21. How do I submit a complaint?

You may submit a complaint to the Ethics Commissioner by filling out the online form or by sending your completed form to ethicsoffice@surrey.ca. Complaints must contain details of the allegation and the date(s) on which the conduct that is the subject of the complaint occurred.

Please refer to the [SECO Complaint Intake Policy No. 2020-01](#) for additional information on the complaint intake process.

22. Can I submit my complaint anonymously?

No. In accordance with the [SECO Confidentiality and Anonymity Policy No. 2020-04](#), the Ethics Commissioner will not accept anonymous complaints.

23. After I submit a complaint, will my name be kept confidential from the respondent?

The Ethics Commissioner may, if the complaint requires by the circumstances of the complaint, disclose your name to the respondent. Before disclosing your name to the respondent, the Ethics Commissioner will always seek your consent.

Please refer to [SECO Confidentiality and Anonymity Policy No. 2020-04](#) for more information.

24. Can I submit a complaint from last year?

All complaints must be submitted within six months of the date of the alleged conduct (unless both parties have agreed in writing to postpone the deadline in order to pursue another resolution process).

Additionally, the Code of Conduct is only applicable from May 4, 2020 onwards, the date it was adopted by Council.

25. Can I submit a complaint if I have already pursued other legal remedies?

Yes. All complainants are entitled to simultaneously pursue any other legal remedies, including but not limited to a human rights complaint, a grievance, another applicable process under a collective agreement, a complaint with WorkSafe BC, or other proceedings, as applicable.

26. What happens after I submit a complaint to the Ethics Commissioner?

After you submit a complaint, the Ethics Commissioner will provide you with written confirmation that your complaint has been received.

Next, the Ethics Commissioner will review your complaint and, in accordance with the SECO Complaint Intake Policy No. 2020-01, may:

- a. dismiss the complaint summarily, in accordance with section 11(f) of the [Ethics Commissioner Establishment Bylaw, 2020, No. 20018](#);
- b. dismiss the complaint for a lack of jurisdiction, in accordance with section 11(d) of the Establishment Bylaw;
- c. refer the complaint back to you for more information; or
- d. accept the complaint as a Formal Complaint.

Please refer to the [Complaint Intake Policy](#) for more information.

27. How are complaints resolved?

If your complaint is accepted as a Formal Complaint, then the Ethics Commissioner will conduct a Formal Review in accordance with the [SECO Formal Review Policy No. 2020-02](#).

28. Can I withdraw my complaint?

You may withdraw your complaint at any time; however, the Ethics Commissioner may still choose to proceed with a Formal Review.

INFORMAL STEPS TO RESOLUTION

29. When will the Individual Steps procedure be used to resolve my complaint?

City Staff, Council Members or Advisory Board Members are always permitted to address a complaint internally and informally, starting with the Individual Steps procedure.

For members of the public, complaints must go directly to the Ethics Commissioner, who may determine that the matter is suitable for informal steps where the Code of Conduct permits informal steps (please see the [SECO Formal Review Policy No. 2020-02](#) for more information). If you believe your matter is suitable for informal steps, you may notify the Ethics Commissioner in your complaint form.

30. How do I begin the Individual Steps procedure?

If you are a member of City Staff, Council, or an Advisory Board, and would like to address the complaint internally and informally through the Individual Steps procedure, you may inform the City Manager of the allegation.

31. What happens after the City Manager has been notified about my complaint?

At this stage, the City Manager will act as your advisor (or appoint an advisor) and assist you in resolving the complaint, including through discussions with the Council Member.

32. Will my complaint be confidential?

All discussions with the City Manager (or your appointed advisor) will be confidential, advisory and informal in nature, provided the complaint does not indicate a possible physical threat to any person.

33. What if I am not satisfied with the outcome after the Individual Steps procedure?

If you are not satisfied with the outcome after the City Manager (or your appointed advisor) has assisted you in resolving the complaint and informed you of the outcome, then you may proceed to Mutual Resolution by filing a written record of the allegation with the Ethics Commissioner within 10 days.

34. What happens in the Mutual Resolution procedure?

In Mutual Resolution, a third-party mediator will be selected to assist you and the Council Member in resolving your complaint through mediation. The mediator will help you and the Council Member come to an agreement but will not advocate a position or impose a decision.

After a meeting with all parties, the mediator will provide a report to you, the Council Member, and the Ethics Commissioner, consisting of a written record of the complaint, the outcome of the discussions, and the agreed upon resolution (if applicable). The mediator may provide recommendations for the City to consider by forwarding such recommendations to the Ethics Commissioner and the City Solicitor.

35. When can Mutual Resolution be used to resolve complaints?

For City Staff, Council Members or Advisory Board Members, the Mutual Resolution procedure can be used at your request, and with the agreement of the Council Member, if the Individual Steps procedure has been unsuccessful in resolving your complaint. You must file a written record of the allegation with the Ethics Commissioner within 10 days of being informed of the outcome of the Individual Steps procedure.

Alternatively, the Ethics Commissioner may direct that Mutual Resolution is the appropriate procedure after accepting a Formal Complaint for Formal Review (please see the [SECO Formal Review Policy No. 2020-02](#) for more information).

36. What if the Council Member and I cannot agree to try Mutual Resolution?

If you and the Council Member cannot agree to resolve the complaint through Mutual Resolution, then you may elect to proceed to a Formal Review.

37. How is a mediator selected?

The mediator will be selected by agreement between you and the Council Member.

38. What if the Council Member and I cannot agree on a mediator?

The Ethics Commissioner retains the right to select a mediator if you and the Council Member are unable to agree.

39. Can I bring a lawyer?

Yes, both parties may be accompanied by a representative of their choice. If you are a member of a union, you may choose to bring a union representative, a lawyer on behalf of the union, or both.

40. Is the Mutual Resolution procedure confidential?

Yes. The mediator's report, along with any resolution or recommendations, must be kept confidential by all parties (unless the parties have agreed in writing to disclose the information).

41. What if my complaint is not resolved through Mutual Resolution?

If Mutual Resolution is not successful in resolving your complaint, you may pursue a Formal Review by submitting your complaint to the Ethics Commissioner for intake within ten business days of receiving the mediator's report.

FORMAL REVIEW

42. What happens after my complaint has been accepted as a Formal Complaint?

After your complaint is accepted as a Formal Complaint, the Ethics Commissioner will conduct a Formal Review in accordance with the [SECO Formal Review Policy No. 2020-02](#).

First, the Ethics Commissioner will send written notice to both you and the Council Member, and determine the appropriate stage to begin the Formal Review:

1. Stage 1 – with the informal steps in accordance with section 70(a) of the Code of Conduct; or
2. Stage 2 – with an investigation in accordance with section 70(c) of the Code of Conduct.

The Ethics Commissioner will then work with you and the Council Member to resolve or investigate your complaint, keeping you informed as to the next steps. Please refer to the [SECO Formal Review Policy No. 2020-02](#) for more information.

43. How are investigations conducted?

Investigations are conducted by the Ethics Commissioner in accordance with the [SECO Formal Review Policy No. 2020-02](#) and associated [guidance document](#).

As a brief summary, the Ethics Commissioner will review your complaint, give the Council Member a reasonable opportunity to respond, and receive information from any witnesses that he or she believes may have information relevant to the complaint through written documentation, interviews or informal hearings.

44. Are investigation reports made public?

Once an investigation is completed, the Ethics Commissioner will prepare a written report containing a description of the allegations, a summary of the evidence, a determination of whether a contravention occurred, and any recommendations with respect to the potential outcome. A copy of the report will be provided to the City Manager and Council, and it will not be made public except as required by law.

After the completion of the hearing, the City of Surrey may, at its sole discretion, release a summary of the Ethics Commissioner's findings or recommendations.

Please refer to the [SECO Confidentiality and Anonymity Policy No. 2020-04](#) for more information.

AFTER AN INVESTIGATION

45. What penalties can be imposed if a Council Member has contravened the Code of Conduct?

Council will decide on the appropriate measures where a Council Member is found to have contravened the Code of Conduct, taking into account the Ethics Commissioner's report and factors such as:

- the degree and nature of the conduct;
- whether the contravention was a single or repeated act;
- the impact of the contravention on the complainant; and
- the Council Member's history of other contraventions.

Such measures may include, for example:

- mandatory training;
- an apology from the Council Member;
- removal of the Council Member from appointments such as chairperson, committees, commissions or Advisory Boards;
- referral to a prosecutor or the police; or
- any other action recommended by the Ethics Commissioner.

46. Will the penalty be made public?

A copy of the Ethics Commissioner's report and the Council decision will be retained in a confidential file maintained by the City Manager, unless all or part of the decision is disclosed to the public by Council or in accordance with the *Freedom of Information and Protection of Privacy Act*.

The written decision will be provided to the complainant and Council Member within ten business days of Council's determination.