

CITY OF SURREY ETHICS COMMISSIONER OFFICE

POLICY NO. 2020-03

RECORDS & INFORMATION POLICY

Purpose

This Policy deals with records and information management issues that may arise in relation to the Office of the Ethics Commissioner (the “Commissioner”) for the City of Surrey (the “City”). The goal is to describe how the Commissioner’s Office manages records it compiles and creates while doing its work, and what happens to those records when the Commissioner’s term ends. This Policy is intended to assist the Commissioner, the Commissioner’s Office, the City, individuals involved in investigations, and the public.

Citation

This Policy may be cited for all purposes as the “SECO Record & Information Policy No. 2020-03”.

Definitions

For the purpose of this Policy:

“**Code**” means the *Council Code of Conduct Bylaw, 2020, No. 20020*;

“**Establishment Bylaw**” means the *Ethics Commissioner Establishment Bylaw, 2020, No. 20018*;

“**Formal Review**” means the Commissioner’s review of a Formal Complaint in accordance with section 70 of the Code; and

“**Investigation**” means an investigation initiated by the Ethics Commissioner under section 70(c) of the Code as part of a Formal Review.

Context

The Establishment Bylaw created the Commissioner’s Office. Among other things, the Establishment Bylaw authorizes the Commissioner to, independent of the City, handle, investigate and adjudicate complaints related to the conduct of a member of the City’s Council, including complaints about violations of the Code. Under the Establishment Bylaw, the

Commissioner performs investigative and adjudicative functions independent of the City. This is necessary to enable the Commissioner to perform those duties free from influence or interference by the City or anyone else and free from any perceptions of influence or interference.

The Commissioner's powers include the power to decide whether to investigate a complaint formally or handle it in a summary manner. If the Commissioner decides, in a Formal Review, that a complaint is well-founded, the Commissioner provides a report to the City's Council, which decides on an appropriate sanction.

In addition to having these law enforcement functions under the Code, the Commissioner may also advise individual Council Members about their ethical obligations under the Code and provide advice or recommendations to Council about amendments to the Code and regarding other matters.

In performing these and other duties and functions, the Commissioner compiles and creates considerable numbers of records, which span a broad spectrum of types. These records typically include personal information (information about identifiable individuals), information that is protected by legal privilege, information about a law enforcement matter, and information that qualifies as advice or recommendations to or from the Commissioner.

Policy Statement

Records Management

1. The Commissioner maintains a records management system for the use and retention of records involved in the Commissioner's work under the Establishment Bylaw and the Code. The system is designed and administered consistent with generally accepted practices in British Columbia's legal profession. The City has no role in designing or administering the system, generally or in relation to specific records.

Records Retention

2. Subject to section 3, the Commissioner retains records created or compiled in the course of performing the Commissioner's powers, duties and functions until at least the 10th anniversary of the date on which file for the matter is closed.

Transfer of Records to New Commissioner

3. Promptly after an individual ceases to be the Commissioner, she or he will transfer to the successor Commissioner, but not the City, all records created or compiled in the course of the performance of the Commissioner's powers, duties and functions.

Privacy & Confidentiality

4. The Commissioner treats all complaints as confidential and receives and treats all information, including anyone's personal information, as confidential. This includes the personal information of a complainant, an individual against whom a complaint is made, and witnesses. The Commissioner has communicated this confidentiality position to the City for the City's information only.

Custody & Control of Records

5. 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. The City has no 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, not the City or anyone else. This does not apply to an Investigation report that the Commissioner has delivered to the City in execution of the Commissioner's powers, duties and functions, with that report alone being in the City's custody and control and, for clarity, the rest of this Policy applies to all records in the Commissioner's custody that are in any way related to the preparation of that report.

ADOPTED this 10th day of December, 2020.


Ethics Commissioner