

Item No. 8.1 (i)
Halifax Regional Council
October 25, 2011

TO: Mayor Kelly and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Mayor Kelly, Chair of the Executive Standing Committee

DATE: October 14, 2011

SUBJECT: Implementation – Code of Conduct for Municipal Elected Officials

SUPPLEMENTARY REPORT

ORIGIN

Deferral of the matter at the September 13, 2011 meeting of Regional Council, pending discussions between the Executive Standing Committee and the Office of the Auditor General.

RECOMMENDATION

The Executive Standing Committee recommends, following discussion with the Auditor General, that Halifax Regional Council

1. Encourage all members of Regional Council to sign the HRM Municipal Elected Officials Code of Conduct
2. Formally adopt the revised Implementation Process as outlined in Attachment 1 of this report
3. That the document be forwarded to the Province to request the ability to implement sanctions as well as any required changes to the HRM Charter.

BACKGROUND

The Executive Committee was requested by Regional Council to meet with the Auditor General to determine any areas of concern or improvement that could be made to the proposed process implementing a complaint & resolution process for matters under the Municipal Elected Officials Code of Conduct.

DISCUSSION

The Executive Standing Committee met with the Auditor General on October 4, 2011 to review comments and suggestions from the Office of the Auditor General.

The Committee determined that there was merit in the recommendations of the Auditor General's office. After discussion they further determined that, in keeping with the advice of the Auditor General, Council's concerns regarding adopting a process without the ability to enforce appropriate sanctions were valid and need to be pressed with the Province in order to move the required amendments to the Charter forward without delay.

The following motion was passed by the Executive Standing Committee:

MOVED by Councillor Walker, seconded by Councillor Mosher that the Executive Standing Committee recommend that Regional Council:

1. Adopt the Complaint Process with respect to the Code of Conduct for Municipal Officials; and
2. That the document be forwarded to the Province to request the potential to implement sanctions as well as any required changes to the HRM Charter.

MOTION PUT AND PASSED.

BUDGET IMPLICATIONS

As outlined in the budget implications section of the initial staff report dated August 23, 2011, funding for engagement of a Panel or other 3rd party resources has not been identified in the 2011-2012 Budget. Should there be a requirement for the services of a 3rd party during the 2011-2012 fiscal year in regard to matters related to the Municipal Elected Officials Code of Conduct funds will be identified from within the approved CAO's, Legal Services and Human Resources operating budgets.

A funding proposal will be brought forward for inclusion in the 2012-2013 Budget for Council's consideration.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The Executive Standing Committee is composed of the Mayor and eight (8) members of Regional Council. Standing Committee meetings are open to the public.

ALTERNATIVES

Council could adopt the complaints process and not defer implementation pending discussion with the Province of Nova Scotia regarding Charter changes to allow for the implementation of sanctions.

This is not the recommended option, as implementation of a process without adequate authority to determine outcomes may, as the Auditor General points out, result in additional frustration and cost to the organization and participants.

ATTACHMENTS

Attachment 1- Proposed Complaint Process under the HRM Council Code of Conduct
Attachment 2 – Auditor General's Notes in regard to the proposed Implementation of HRM Complaint process – Council Code of Conduct

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

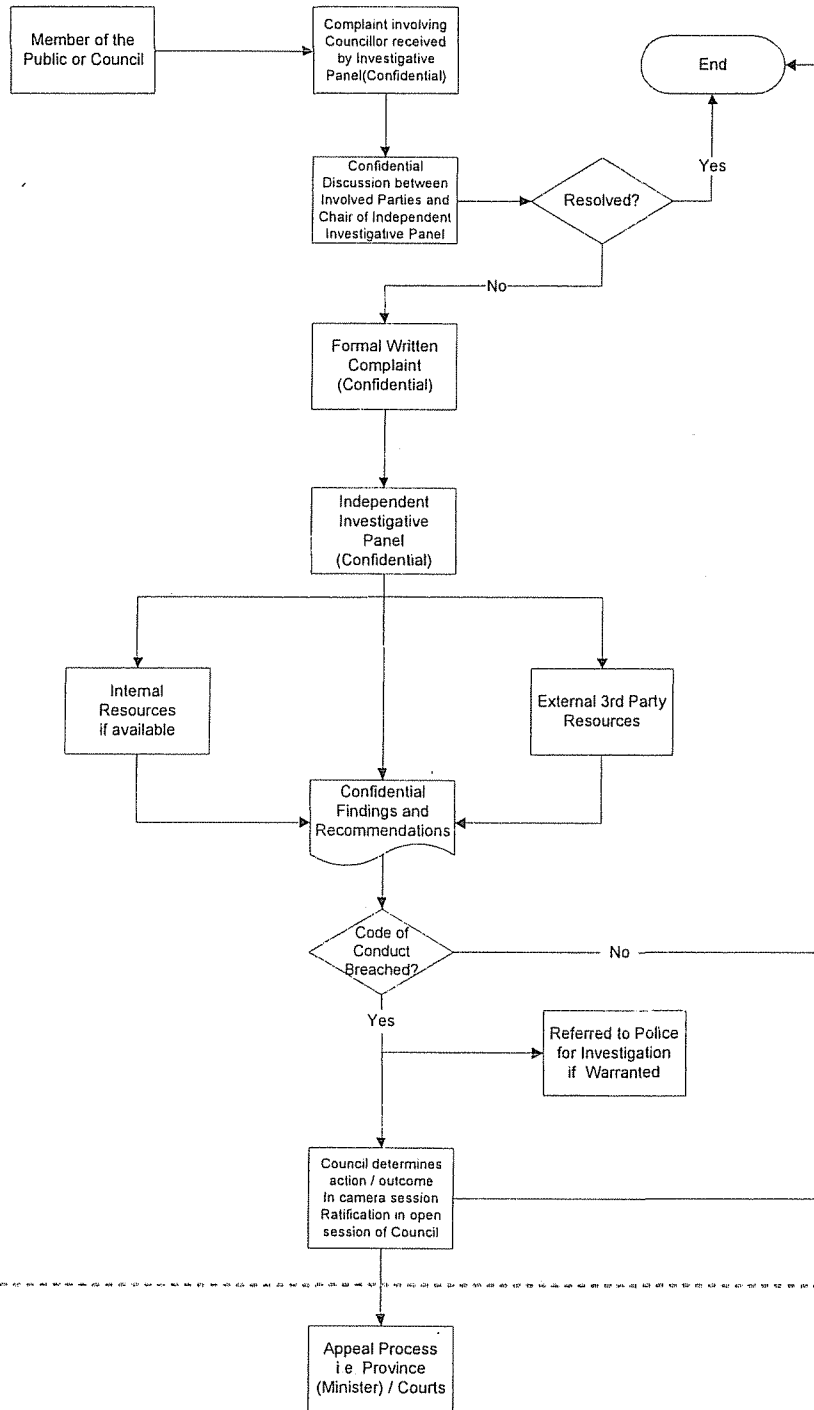
Report Prepared by: Cathy J. Mellett, Municipal Clerk , 490-6456

Original signed

Financial Approval by:

James Cooke, CGA, Director of Finance/CFO, 490-6308

Attachment 1



Office of the Auditor General, October 12, 2011

Notes regarding the Proposed Implementation of HRM Complaint Process – Council Code of Conduct

For any code of conduct and complaint process to be effective, the ability of the governing body to determine and enforce sanctions is of critical importance. Without the authority to determine outcomes for breaches of the code, any complaint process likely becomes nothing more than a frustrating experience for participants and a potentially costly undertaking for the organization with no measurable outcomes.

Recommendation: Following adoption by Regional Council of the Complaint Process with respect to the Council Code of Conduct, the Office of the Auditor General would recommend deferring implementation of the process until discussions are held with the Province of Nova Scotia relating to implementation of sanctions and other required changes to the HRM Charter.

Legislative Changes: Inherent in the complaint process is the overriding requirement for legislative changes to the HRM Charter. Amendments would be required to entrench the power of HRM Regional Council to determine and enforce sanctions as a result of the Complaint Process. Additionally, a process for appeal to the Province via the Minister of Service Nova Scotia Municipal Relations would be required.

Investigative Panel and Chair of Panel: members of this panel must be independent and external to the organization, particularly the Chair. A list of potential participants would be compiled. Members' skill sets must include conflict resolution, facilitation, ethics, etc. Examples of members could include professionals from the Employee Assistance Program (EAP) Human Solutions, senior Human Resource specialists, retired lawyers/jurists and educators. The Chair of the Investigative Panel would be named and would be the first point of contact for lodging a complaint. Once a formal written complaint is submitted, the Municipal Solicitor would also be copied. This would ensure a confidential and official formal document of the Municipality is maintained. The formal complaint would be personally held and kept confidential by the Solicitor.

We would foresee the only paid position being that of the Chair of the Panel. The remaining two positions would be of a volunteer nature. This point can be revisited once frequency and time commitments around complaints are better known.

The number of complaints which may be received will likely be highest upon implementation, therefore HRM may wish to contract with an individual for a fixed fee to 'establish the office' and initial processes, and then revert to a per diem rate. From an effectiveness and efficiency perspective, should a publicly spirited individual with the required expertise to act as the Chair be available and wish to serve for no fee, this would of course be desirable.

Internal Resources: professionals within the organization including senior HR personnel, any of a number of trained facilitators or conflict resolution specialists. Assignment of these resources would be at the request of the Investigative Panel. Since these resources are the resources of the Administration

who have ongoing daily responsibilities, their participation would be based upon availability and the agreement of the CAO. As part of its recommendations to Council, the Investigative Panel may also recommend the use of other HRM resources including EAP or HRM training programs (Dispute Resolution, Diversity Awareness, Anger Management, Workplace Rights, Substance Abuse Policy, etc.).

External 3rd Party Resources: these 3rd party resources would be chosen from a compiled list for use by the Investigative Panel, with the same skill set requirements as those of the internal group, including being independent and external to the organization. Resource persons would be invited by the Investigative Panel to assist with a particular issue. Skill sets would include conflict resolution, facilitation, ethics, etc. Examples of members could include professionals from the Employee Assistance Program (EAP), external senior Human Resource specialists, retired lawyers/jurists and educators. These individuals may be called upon in a variety of circumstances. These may include situations where internal resources are either not available or do not have appropriate skill sets. Also, given a particularly sensitive issue, the use of an external third party resource may be preferred by the Investigative Panel. It would be anticipated these resources would be paid a per diem for their assistance.

Confidentiality: All steps in the process would be confidential up to and including the Findings and Recommendations. When the Findings and Recommendations are brought to Regional Council, Council will decide on actions to be taken at an In camera session, with subsequent ratification of the action in an open session of Regional Council.