

Office of the  
**INTEGRITY** COMMISSIONER

# 2017 BIA National Conference

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Valerie Jepson, Integrity Commissioner

April 3, 2017



# **INTEGRITY** COMMISSIONER

## Outline

1. The Integrity Commissioner at the City of Toronto.
2. Standards of conduct.
3. Questions.

# Accountability framework at the City of Toronto

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- November 2004 – Toronto City Council appoints the first IC.
- 2006 – Provincial legislation requires an IC, Ombudsman, Lobbyist Registry and an Auditor General in Toronto; optional in the rest of Ontario.
- All Accountability Officers must carry out work in an independent manner.
- Duties of the Integrity Commissioner in Toronto:
  - Confidential, binding advice to individual members of council *and local boards* about compliance with standards of conduct.
  - Education and Outreach.
  - Policy advice to City Council and *local boards*.
  - Investigations in accordance with the complaint protocol into allegations that a standard of conduct has not been met.

# The bigger picture

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- Modelled after the Canadian Model of Parliamentary Ethics Officers.
- A growing number of municipalities across Canada have an IC.
  - In Ontario there are 31 Commissioners serving 77 cities. Approximately 64% of Ontarians are served by a local IC.
- Bill 68 will expand the role and increase the number of IC's in Ontario.
- Dual role:
  - Prevention
  - Oversight

# Work of the office at a glance

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## Advice Provided to Members of Local Boards

	Average annual activity (2012 – 2014)	2015	2016
Advice Provided	1	15	48
Number of Local Boards	1	10	18

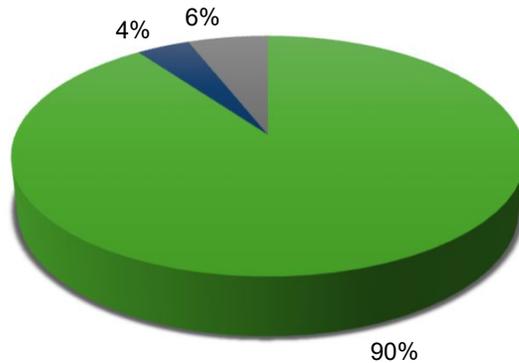
## Advice Provided to Members of Council

	Average annual activity (2012 – 2014)	2015	2016
Advice Provided	170	170	136
Number of Members	43	39	37

# Advice Response Time

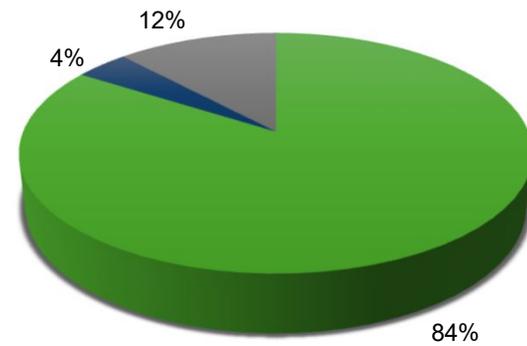
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**2016 Advice to Members of Council**



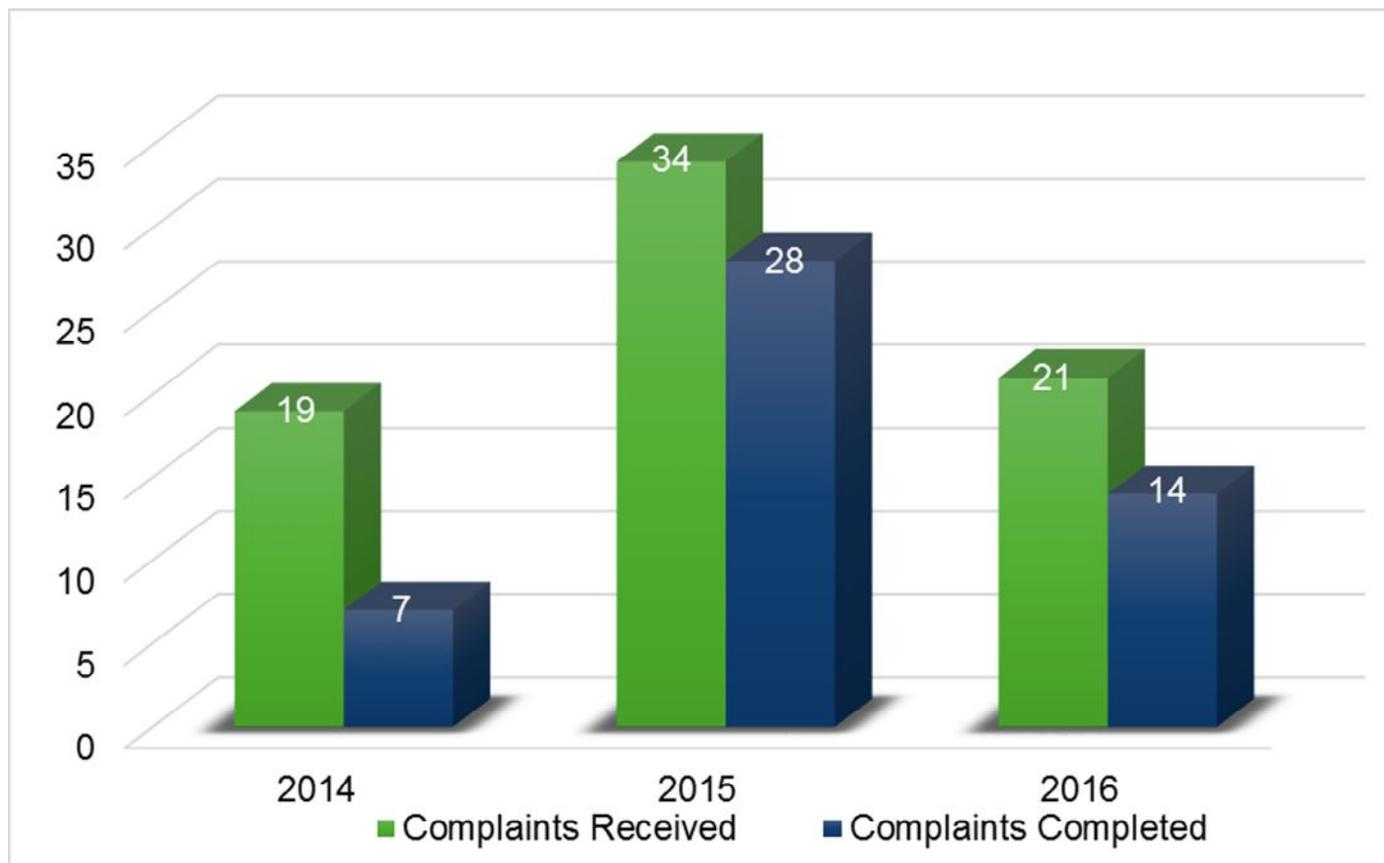
- Advice Provided in 2 days or less
- Advice Provided in 3 days
- Advice Provided in 4 Days or more

**2016 Advice to Members of Local Boards**



- Advice Provided in 2 days or less
- Advice Provided in 3 days
- Advice Provided in 4 Days or more

# Proportion of New Cases Open and Closed (2014-2016)



# Time Taken to Close Complaints

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<b>Average Time Taken to Complete Complaints (January 01, 2015 Onwards)</b>	
<b>Complaint Type</b>	<b>Number of Days</b>
Investigated complaints	200
Dismissed without investigation	42



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Standards of  
Conduct

# Sources of the Standards of Conduct for Toronto BIA Boards

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- Code of Conduct
  - Approved by Council, applicable to all appointees of all Local Boards such as BIA Boards.
- *Municipal Conflict of Interest Act*
  - Provincial legislation applicable to all municipalities in Ontario.
  - Narrow definition of conflict of interest.
  - Concerned with voting.
- Board and City policies
  - Code requires that members observe the terms of policies and procedures established by the BIA or City Council

# Code of Conduct: Preamble and principles

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- “the public is entitled to expect the highest standards of conduct from members of Council and the citizen members” appointed to BIA Boards
- Principles:
  - Members must serve and be seen to serve in a conscientious and diligent manner
  - Perform functions with integrity and avoid improper use of influence, conflicts of interest, apparent and real
  - Arrange private affairs in a manner that promotes public confidence and will bear close public scrutiny
  - Uphold both the letter and spirit of the law

# Key Code of Conduct provisions

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- Members cannot accept **gifts or benefits** connected directly or indirectly with duties unless an exception applies. (Article IV)
- Members must preserve **confidential information** and refrain from using it for personal or private gain. (Article V)
- Members must ensure **proper use of city property**, services and resources. (Articles VI and VII)
  - Eg. cannot use Board resources for election campaigns.

# Key Code of Conduct provisions

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- Members must use the influence of their office *only* for the exercise of official duties. (Article VIII)
- Members must treat staff, each other and the parties with respect and act with decorum. (Articles XI, XII and XIV)
- Members must not engage knowingly in communications with lobbyists who are not registered on the Toronto Lobbyist Registry (Article XIII)
- Members must adhere to board and city policies. (Article XV)

# Sample advice and cases

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- **When volunteer contributions become paid services**

A long-time member of a local board had, for many years, provided voluntary services to the board. The board began to revisit the way in which it was providing the services and a dispute arose as to the board's rights versus the rights of the board member as a service provider and whether other options should be considered, including the use of paid services. The member sought advice about how to deal with this situation.

The Commissioner explained to the member that he had a private interest in the issue and, as a result, would have a conflict of interest if he participated in the board's discussions about the future plan for services. The Commissioner provided the member with advice about how to formally document the conflict in a transparent manner.

# Sample advice and cases

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- **Discreditable conduct**

A BIA staff member complained that a member of the Board contravened of Articles XII (Conduct Respecting Staff) and XIV (Discreditable Conduct) of the Code of Conduct for Members of Local Boards (Restricted Definition).

- Conduct: Two emails were sent to the Complainant, other Board members, and a Board contractor, accusing the Complainant of not properly carrying out duties as a then-staff member of the Board and engaging in threats.

The Commissioner found that by threatening the Complainant, the Respondent contravened Article XIV's prohibition against abuse, bullying and intimidation.

No sanction or remedial measures because the board member had resigned.

# Sample advice and cases

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- **Use of title to endorse a candidate in the municipal election (slide 1/2)**

Two complaints were filed about the conduct of a member of the board of management of a Business Improvement Area ("BIA") alleging that it was wrong and contrary to the *Code of Conduct for Members of Local Boards (Restricted Definition)* to endorse a Councillor using the Respondent's BIA Board member title. The complaints were also concerned that the endorsement contravened the Board's obligations under the City's BIA bylaw.

The Commissioner found that the Board, as an entity, cannot contravene the Board Members' Code of Conduct. The Commissioner also found that by giving the endorsement, the Respondent contravened the Code.

# Sample advice and cases

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- **Use of title to endorse a candidate in the municipal election (slide 2/2)**

The Board had already sanctioned the Respondent (i.e. removing the Respondent from its committees and website). The Commissioner determined that a Board can take steps to stop ongoing breaches of the Code, but should not take further action to impose personal consequences on a member without an investigation and findings by the Commissioner.

The Commissioner reported to the Board, but did not recommend any penalty because the Respondent was no longer a Board member, and because in this case, the Respondent had taken measures to prevent the contravention and the contravention was made through inadvertence or an error of judgement made in good faith.

# Common goals

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- Improve public administration.
- Protect the reputation and integrity of cities councils and boards, like BIA Boards.
- Increase trust in local government and respect for public service.
  - Members.
  - The public.
  - City Council.
  - The media.

# Building trust, in practice

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- Recognize that board members are *public office holders*.
- Seek advice (or advise another to seek advice).
- Encourage discussions about conflicts of interest and codes of conduct. Discuss possible issues in a respectful and constructive way.
- Remember: It's not personal.
- Prepare for common issues and difficult conversations arising from code of conduct concerns.
- (*Giving Voice to Values* method. By Mary Gentile -- <http://www.givingvoicetovaluesthebook.com/>)

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## Discussion and questions

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