REPORT OF THE INTEGRITY COMMISSIONER: RECOMMENDING AN AMENDMENT TO THE CODE OF CONDUCT FOR MEMBERS OF COUNCIL FOR THE CITY OF WINNIPEG

REPORT NO. 3 – MARCH 22, 2018

To: Members of Council for The City of Winnipeg

Background

On February 22, 2018, Council passed a resolution enacting a new Code of Conduct for Members of Council for The City of Winnipeg.

One of the significant differences between the newly enacted Code and its predecessor (the 1994 Code of Conduct) is the Complaint Protocol which forms part of the Code and which provides a mechanism for receiving, investigating and reporting on complaints about the ethical conduct of Members of Council.

In order to prevent undue influence and interference in the electoral process, including preventing the complaint process from being used as a political or campaign tool, the Complaint Protocol suspends the complaint process during the campaign period. Specifically, Part B, paragraph 24 of the Complaint Protocol provides:

Election Year

24. During the campaign period, with respect to complaints alleging that a Member of Council has breached the Code of Conduct, the Integrity Commissioner will:

a. not receive any complaints;

b. suspend any ongoing investigation of a previously filed complaint; and

c. not submit any report to Council, of findings with respect to complaints.

The "campaign period" is as defined in section 31(1) of The City of Winnipeg Charter.

Section 31(1) of *The City of Winnipeg Charter* defines "campaign period" in part, as follows:

"campaign period" for an election means the period

(a) in a general election

(i) in the case of a candidate for mayor, beginning on May 1 in the year of the election and ending on March 31 of the year after the election; and

(ii) in the case of other candidates, beginning on June 30 in the year of the election and ending on March 31 of the year after the election; …

Upon reflection I am of the view that it is not necessary to suspend the complaint process for such an extended amount of time, having regard to the purpose for suspending the process.

I recommend that we shorten the end date of the "campaign period" as it is defined in the Complaint Protocol, to be consistent with the start of the new term of Council as defined in section 18 of the *Charter:*

Term of office

18(1) The mayor and each councillor elected at a general election hold office for a term of four years, commencing at 12 noon on the first Tuesday in November that follows the election and ending at 12 noon on the first Tuesday in November that follows the next general election.

(emphasis added)

The definition of "campaign period" as referenced in the Complaint Protocol at Part B, paragraphs 4 and 24 would, therefore, be amended to read as follows:

"the campaign period:

(a) in a general election

(i) in the case of a candidate for mayor, begins on May 1 in the year of the election and ends on the start of the new term of Council as defined in section 18 of *The City of Winnipeg Charter*; and

(ii) in the case of other candidates, begins on June 30 in the year of the election and ends on the start of the new term of Council as defined in section 18 of *The City of Winnipeg Charter;*

Significance for the 2018 Municipal Election

If this amendment is approved, the period in which the complaint investigation process would be suspended for this year would be May 1, 2018 to November 6, 2018 for candidates running for

mayor and June 30, 2018 to November 6, 2018 for candidates running for the position of councillor.

The relevant sections of the proposed amendments to the Complaint Protocol are attached to this Report as Attachment #1 with the proposed changes underlined.

Sherri Walsh, Integrity Commissioner
March 22, 2018

Part B: Formal Complaint Procedure

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Time for Filing Complaints

4. Complaints must generally be made: (a) within 60 days after the date of conduct giving rise to the complaint; or (b) within 60 days after the Complainant became aware of the conduct giving rise to the complaint. Subject to section 25 of this Part, the campaign period prior to a ~~general~~ Municipal election will not be counted as part of the 60 days in which a complaint may be made.

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   (a) in a general election

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   The "campaign period":

   (a) in a general election

(i) in the case of a candidate for mayor, begins on May 1 in the year of the election and ends on the start of the new term of Council as defined in section 18 of the *Charter*; and

(ii) in the case of other candidates, begins on June 30 in the year of the election and ends on the start of the new term of Council as defined in section 18 of the *Charter;*

25. Following the Municipal election, investigations or reports concerning the conduct of a former Member while that individual was still a Member, will only be commenced or continued at the request of Council, by resolution.