

Code of Conduct - Next Steps

Governance Committee

October 4, 2023

Drafting Provisions

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Format of the Code

Bylaw	Policy
Sidney	Esquimalt
Nanaimo	Langford
Surrey	Saanich
Vancouver	Comox Valley RD

Recommendation • Code of conduct be in the form of a bylaw

Value Statements

The *Principles for Codes of Conduct Regulation* sets out foundational principles that must be considered when establishing standards of conduct:

- members must carry out their duties with integrity
- members are accountable for the decisions that they make, and the actions that they take in the course of their duties
- members must be respectful of others
- members must demonstrate leadership and collaboration

Standards of Conduct

Examples:

- Compliance with applicable laws
 - Interactions with staff
 - Respect for procedural requirements
 - Communication and advocacy
 - Use of social media
 - Collection and handling of confidential information
 - Conflict of interest
 - Receipt of Gifts
 - Use of public resources
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- Code should not overlap with existing policies or deal with any conduct that is criminal in nature

Scope of Application

Who will the code apply to?

The CRD has a governance system that includes the three CRD Boards; standing, select and advisory committees; and over 78 committees and commissions.

Recommendation

- Board Directors, Alternate Directors, and elected members of CRD Committees and Commissions
- Does not generally apply to conduct in an elected member's personal life
- Does not apply to staff

Resolution Process

Complaints – common provisions

- Made in confidence and kept confidential
- Must allege conduct that is a breach of the code
- May have a limitation date
- Can include a blackout period during elections
- Submitted to whom? Can be CAO, CO or third party

Recommendation

- Code includes a clear process for filing complaints

Resolution Process Adjudication of Complaints

- Should not involve staff beyond the early stages
- Third-party adjudicator will reduce any perception of bias
- Integrity/Ethic Commissioner can play a proactive role in educating members on the code and assist in more timely resolution of complaints, but may increase costs

Recommendation

- Code should allow complaints to be referred to a third-party investigator
- Do not recommend appointment of a standing Integrity Commissioner
- Board may pre-approve a list of qualified adjudicators who may be engaged on an *ad hoc* basis

Resolution Process

Tiered Approach

- Preliminary screening will ensure resources are not wasted on complaints that are vexatious, insignificant, or without merit
- Informal resolution allows the parties to come to a mutual resolution without a formal investigation and report
- Formal resolution would include a full investigation and written investigation report with findings and potential recommendations on appropriate sanctions

Recommendation

- Code should have a preliminary screening mechanism, an informal and a formal resolution process

Resolution Process Remedies and Sanctions

- The code may include a list of options
- Sanctions must be proportionate to the nature and degree of a breach
- May be recommended by the adjudicator but imposed by resolution of the Board
- Legal limitations to what may be imposed

Recommendation

- Code should allow for the imposition of remedies and sanctions

Resolution Process

Confidentiality and Release of Findings

- Ensure confidentiality during investigation
- The report on findings of an investigation should be received *in camera*
- Provision to release report on findings, subject to *FOIPPA*

Recommendation

- Code should include guidelines for confidentiality in investigations and provide for the public release of reports

Reimbursement of Legal Expenses

- Reimbursement can be a discretionary decision of the Board
- Can apply a cap on the amount that is reimbursable
- Can be made to apply only when an alleged breach is unsubstantiated
- Indemnity under the *LGA* or bylaw does not apply

Recommendation

- Code should provide for the discretionary reimbursement of legal expenses

Additional Options

- No obstruction or reprisal clause
- Blackout periods for receipt of complaints or release of reports during election periods
- Inclusion of a template apology letter
- Requirement for a signed statement of commitment
- Prescribe an oath of office consistent with the code provisions
- Others?