

**POLICY PAPER
TO BE CONSIDERED AT THE
2017 UBCM CONVENTION**

SEPTEMBER 2017

POLICY BOOK #1

PLEASE BRING THIS BOOK WITH YOU TO CONVENTION

TO: UBCM MEMBERS

FROM: Councillor Murry Krause, President

DATE: August 10, 2017

RE: **POLICY PAPER TO BE CONSIDERED AT THE 2017 UBCM CONVENTION**

Introduction to UBCM Policy Development Process

UBCM is a policy-driven organization. Policy established at the annual UBCM Convention provides direction to the Executive and Secretariat.

Policy is established through two main routes:

- **Resolutions** on specific issues or concerns submitted by members, considered and endorsed at the annual Convention. Members submitted 150 resolutions this year for consideration.
- **Policy papers** developed and presented to Convention by the UBCM Executive where a broader comprehensive policy approach may be warranted.

Policy papers may be drafted at a number of levels of specificity:

- Overarching policies (UBCM General Policies)
- General themes (e.g. local government finance)
- Topic specific (e.g. packaging and printed paper product stewardship)

UBCM Policy in Totality

UBCM policy is comprised of both policy papers and resolutions.

Making changes to legislation or provincial policy is a process that can take many years. For this reason, resolutions and policies adopted at Convention but not accepted by government are recorded as standing UBCM policy.

This package—Book 1—contains one paper:

- ***Responsible Conduct of Local Government Elected Officials
Working Group on Responsible Conduct Policy Report***

Any other papers will be presented in Policy Book 2, which will be distributed on site at Convention.

Consideration of policy papers will occur during the policy sessions, Wednesday through Friday.

UBCM: A POLICY-BASED ORGANIZATION

UBCM is directed by the policies established by its members. The two main ways members establish the organization's policy directions are through:

- **resolutions** endorsed at annual Conventions; and
- **policy papers** endorsed at annual Conventions.

This summary is included to provide some indication of the types and examples of previous policies that have guided UBCM.

Resolutions

The past 35 years of UBCM resolutions and government responses are available on the UBCM website (ubcm.ca). Endorsed resolutions become part of ongoing UBCM policy until achieved or superseded. Even if a resolution is not acted on by, for instance, the provincial government after being endorsed at the UBCM Convention, the resolution does not lapse.

Policy Papers

These are comprehensive policy statements that fit under several categories of specificity.

Overarching

These policy papers set out broad policy. Examples are:

Statement of General Policies of the UBCM	1996
Local Government and the Constitutions	1993
Toward a Communities & Resource Strategy Paper	1993
Delegation of Environmental Responsibilities	1992

General Themes

The following are examples of policy papers in this category:

Local Government Finance	2013
Comment on Fiscal Management in BC's Municipalities	2011
Evaluating the Economic Development Role of BC Local Governments	2010
Regional District Task Force: Progress Report	2009
Financing Local Government: Achieving Fiscal Balance	2008

Specific Topics

Finally, UBCM policy papers on specific topics would include:

Socioeconomic Impact Analysis of BC Ferries	2014
Modernizing Building Code Safety Regulations	2012
Packaging & Printed Paper Product Stewardship	2012
Municipal Auditor General Policy Paper	2011
Response to White Paper on <i>Limitation Act</i> Reform	2010

TO: UBCM MEMBERS
FROM: UBCM Executive
DATE: August 10, 2017
RE: **STRENGTHENING BC'S
RESPONSIBLE CONDUCT FRAMEWORK**

**POLICY PAPER
#1
2017 CONVENTION**

1. DECISION REQUEST

That the UBCM membership endorse the Working Group on Responsible Conduct Policy Report which sets out recommendations in relation to strengthening BC's responsible conduct framework.

2. BACKGROUND

Resolution B70-2016 called on the provincial government to enact enabling legislation to empower local governments to appoint local independent integrity commissioners who would serve the public and elected officials in an advisory, educational and investigative role in the application and enforcement of Codes of Conduct. The membership referred the resolution to the UBCM Executive, as recommended by the Resolutions Committee.

In its comments on the resolution, the Resolutions Committee recognized that the issue of questionable conduct of local government elected officials is an emerging policy area, which is both complex and multi-faceted. It recommended that additional policy work be undertaken by UBCM, in cooperation with the Ministry of Community, Sport and Cultural Development (CSCD) and the Local Government Management Association of BC (LGMA), and a full report and recommendation provided at the 2017 UBCM Convention.

The Working Group on Responsible Conduct (WGRC) is a staff level committee with membership from UBCM, LGMA and CSCD, tasked with undertaking research and policy work on the framework and approaches related to responsible conduct. The WGRC's March 2017 Consultation Paper, which set out its summary of the issue and results of its initial research, was used by both UBCM and LGMA as a basis for consultations with their respective members during April and May. The results of those consultations informed development of the WGRC's July 2017 Policy Report.

3. EXECUTIVE CONSIDERATIONS

The work of the WGRC has been undertaken in the spirit of cooperation, and it is clear to Executive that all three partner organizations represented on the WGRC are committed to working toward strengthening the responsible conduct framework in BC to support local governance in this province.

Consultation results show that the linkages drawn by the WGRC between responsible conduct and effective local governance clearly resonated with UBCM members, as did the WGRC's assessment of the foundation of responsible conduct (e.g., written and unwritten rules, or norms) and the pressures on this foundation (e.g., pervasiveness of technology and social media; loss of knowledge and continuity).

Survey results also indicate strong member support for exploring a multi-pronged approach to strengthening the responsible conduct framework in BC, including such things as an emphasis on education, and measures to set and enforce standards of conduct. Executive notes that the WGRC recommendations are consistent with this multi-pronged approach and that they propose actions related to each of the four elements of an effective responsible conduct framework (i.e., promoting responsible conduct; repairing relationships; evaluating and making determinations about alleged breaches of standards of conduct; and imposing sanctions if a breach has occurred).

The WGRC propose a practical approach to implementation of the recommendations that recognizes timing, sequencing, and resourcing. While Executive recognizes members pressing need for changes to the framework to support local governance structures that are under stress, it also recognizes that some actions to strengthen the framework will require further development and that these will need to proceed at a measured pace. Executive is of the view that the recommended Action Plan will help to balance these two imperatives, by delivering some needed improvements over the short-term (e.g., embedding principles of responsible conduct in pre-election educational materials; assessing the feasibility of embedding responsible conduct foundational principles in the default oath of office), while at the same time allowing policy and detailed design work to proceed on the other actions to strengthen the framework (e.g. setting and enforcing standards of conduct).

4. RECOMMENDATION

That the UBCM membership endorse the proposed directions and recommendations within the Working Group on Responsible Conduct Policy Report.



RESPONSIBLE CONDUCT OF LOCAL GOVERNMENT ELECTED OFFICIALS

Working Group on Responsible Conduct

Policy Report



August 2017



The Working Group on Responsible Conduct is a joint initiative by the Union of B.C. Municipalities, the Local Government Management Association, and the Ministry of Municipal Affairs and Housing. The staff-level Working Group was created in Fall 2016 to undertake collaborative research and policy work on the issue of responsible conduct of local government elected officials.

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1. INTRODUCTION

Responsible conduct broadly refers to how local government elected officials conduct themselves with their colleagues, with staff, and with the public.

Responsible conduct is grounded in conducting oneself with honesty and integrity and in a way that furthers a local government's ability to provide good governance.

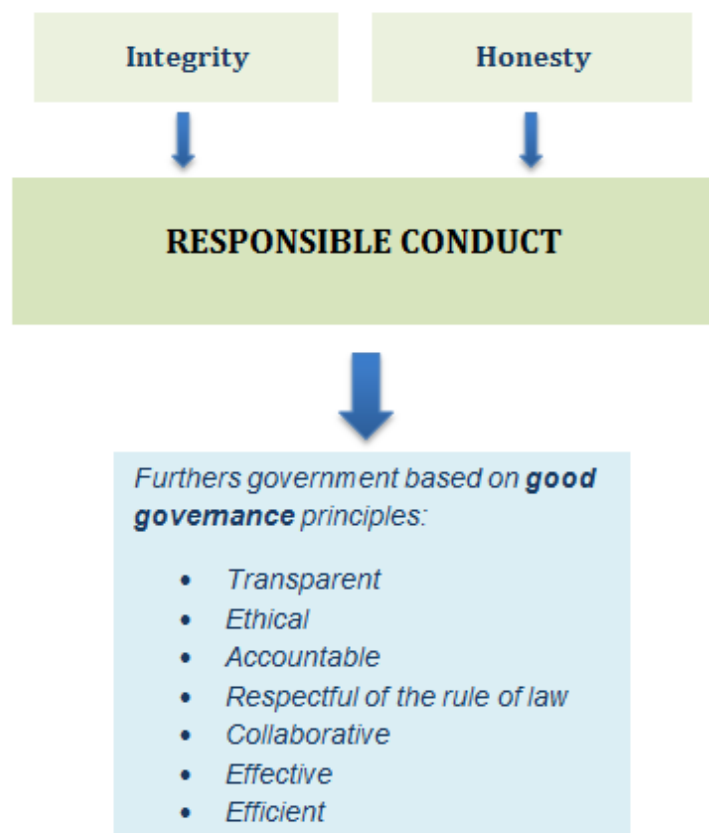
What is responsible conduct?

Local government elected officials have authority to make decisions that affect the daily lives of citizens, families, businesses and others, as well as the long-term vision of their communities. *Responsible conduct* broadly refers to how local government elected officials conduct themselves with their elected colleagues, with staff, and with the public – key groups that play a significant role in helping elected officials carry out their collective responsibilities as decision-makers of their communities.

Responsible conduct is grounded in conducting oneself with honesty and integrity and in a way that furthers a local government's ability to provide good governance to their community. Good governance includes:

- Providing for the stewardship of a community's public assets;
- Providing services, laws, and other matters for community benefit; and
- Acting in a way that is accountable, transparent, ethical, respectful of the rules of law, collaborative, effective, and efficient.

If a local government faces issues related to responsible conduct among its elected decision-makers, it can affect the local government's ability to provide good local governance. These issues can include disputes among local government elected officials on municipal councils and regional district boards, inappropriate behaviour towards staff, questionable behaviour at council/board meetings or in interactions with the public, conflict of interest violations, and alleged breaches of other procedures/rules such as open meetings and duty to respect confidentiality.



What is the issue?

Generally, B.C.'s local government elected officials effectively carry out their governance functions and responsibilities as decision-makers; they work well with each other, with local government staff and with the public. However, some concerns have been raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system. This is an important concern because local government elected officials can be more effective in providing good governance to their communities if they engage in responsible conduct.

What is the Working Group on Responsible Conduct (WGRC) and what activities has it undertaken to date?

At the 2016 Union of B.C. Municipalities Convention, a resolution related to responsible conduct (specifically about local integrity commissioners) was referred for further exploration. As a result, staff from the Union of B.C. Municipalities (UBCM), the Local Government Management Association (LGMA), and the Ministry of Municipal Affairs and Housing (the Ministry) formed a Working Group on Responsible Conduct (WGRC) that has been undertaking collaborative research and policy work to more broadly explore issues related to responsible conduct.¹

The WGRC has undertaken a variety of research and policy work that has focused on gaining a more complete understanding of the issue, and of the benefits and challenges of various approaches to enhancing responsible conduct to support the collective goal of a more effective local government system.

In March 2017, the WGRC published a [Consultation Paper](#) directed to UBCM and LGMA members. The paper was used by UBCM and LGMA as a basis for engagement with their respective members throughout Spring 2017. Presentations on the topic of responsible conduct were delivered at Area Association Conventions throughout April and May; in addition, a survey was used to seek input from UBCM members. A similar process was undertaken by LGMA with its members. Presentations were delivered to Chapter meetings and its Annual General Meeting and LGMA used a similar survey to collect feedback from its members on topics related to responsible conduct.

There have been some concerns raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system.

The Working Group on Responsible Conduct consists of staff from:

- ***the Union of B.C. Municipalities;***
- ***the Local Government Management Association; and***
- ***the Ministry of Municipal Affairs and Housing.***

UBCM and LGMA consulted with their respective members throughout Spring 2017 on the ideas presented in the Consultation Paper.

¹For more information on each organization, please see the following links: [UBCM](#), [LGMA](#), the [Ministry of Municipal Affairs and Housing](#).

This document:

- ***builds on the ideas outlined in the Consultation Paper;***
- ***reports back on feedback received from consultation undertaken by UBCM and LGMA with their respective members throughout Spring 2017; and***
- ***makes recommendations to begin the process of strengthening B.C.'s responsible conduct framework.***

What is the purpose of this report?

This document builds on the ideas outlined in the [Consultation Paper](#) and reports back on feedback received from consultation undertaken by UBCM and LGMA with their respective members. In addition, the report makes recommendations to begin the process of strengthening B.C.'s responsible conduct framework to help ensure local governments can provide effective governance to their communities.

Specifically, this report:

- identifies principles to guide the development of approaches to strengthen B.C.'s responsible conduct framework;
- identifies and describes four components of an effective responsible conduct framework that are used to evaluate B.C.'s current responsible conduct framework (including the current tools available) and guide further policy development;
- discusses feedback from UBCM and LGMA consultation with their members, as well as perspectives on emerging trends from research of other jurisdictions conducted by the WGRC; and
- recommends actions that can be taken and approaches that can be explored to strengthen B.C.'s responsible conduct framework.

2. RESPONSIBLE CONDUCT FRAMEWORK

What are the principles on which an effective responsible conduct framework should be based?

B.C.'s current responsible conduct framework includes a variety of tools that can be used to support responsible conduct and address issues that stem from less-than-responsible conduct. However, there are opportunities to strengthen B.C.'s current framework and consider additional tools of value.

How do we determine which tools are of value? One way to evaluate the various policy options is to consider them against a backdrop of principles that set out what constitutes an effective responsible conduct framework. The WGRC has developed ten principles, which reflect feedback from the consultation process, research undertaken by the WGRC, and the experiences of each WGRC member within the local government system.

One way to evaluate the current tools and consider policy options for additional tools is to consider them against a backdrop of principles.

The ten principles are:

- 1) A robust responsible conduct framework for local government elected officials is important to ensure local governments can effectively provide for the good governance of their communities.
- 2) No one tool will “solve” all responsible conduct issues given the wide spectrum of behaviours that can become an issue; a multi-pronged approach is required.
- 3) B.C.'s responsible conduct framework should reflect and promote a set of core values to guide the conduct of local government elected officials with the collective goal of supporting an effective local government system – the core values should reflect a clear understanding of the roles and responsibilities of elected officials, staff, and the public.
- 4) B.C.'s responsible conduct framework should address issues not only about individual elected officials but also related to councils/boards as a whole (the collective), especially in regard to promotion of responsible conduct and addressing issues/repairing relationships.
- 5) B.C.'s responsible conduct framework should respect local government autonomy; it should also account for situations in which councils/boards may find it difficult to internally solve challenging issues that stem from less-than-responsible conduct.
- 6) Each local government has its own culture and characteristics – this means that the tools available in B.C.'s responsible conduct framework need to function within and account for a variety of differences.
- 7) The elements of a responsible conduct framework are interrelated – for example, to be meaningful, standards of responsible conduct must be enforceable, and fair, effective enforcement depends on having clear standards understood by all.
- 8) A “Made in B.C.” approach to additional responsible conduct tools is important to ensure the responsible conduct framework aligns with B.C.'s traditions of local government autonomy and direct accountability to citizens.
- 9) Changes to the responsible conduct framework should consider existing tools and avoid duplication where possible, and also consider how each tool complements others to ensure an integrated and effective approach to supporting responsible conduct of local government elected officials.
- 10) Changes to the responsible conduct framework should consider the balance between voluntary and mandated tools and the roles and relationships of local government elected officials, local government staff, and the public in relation to those tools.

What are the key components of an effective responsible conduct framework?

In addition to identifying principles, the WGRC has identified the following four key components of an effective responsible conduct framework:

- **promoting responsible conduct** through education and clear standards of conduct;
- **repairing relationships** on a council/board due to challenges that stem from less-than-responsible conduct;
- **evaluating and making determinations** about alleged breaches of standards of conduct; and
- **imposing sanctions** if it has been determined that an individual breached standards of conduct.

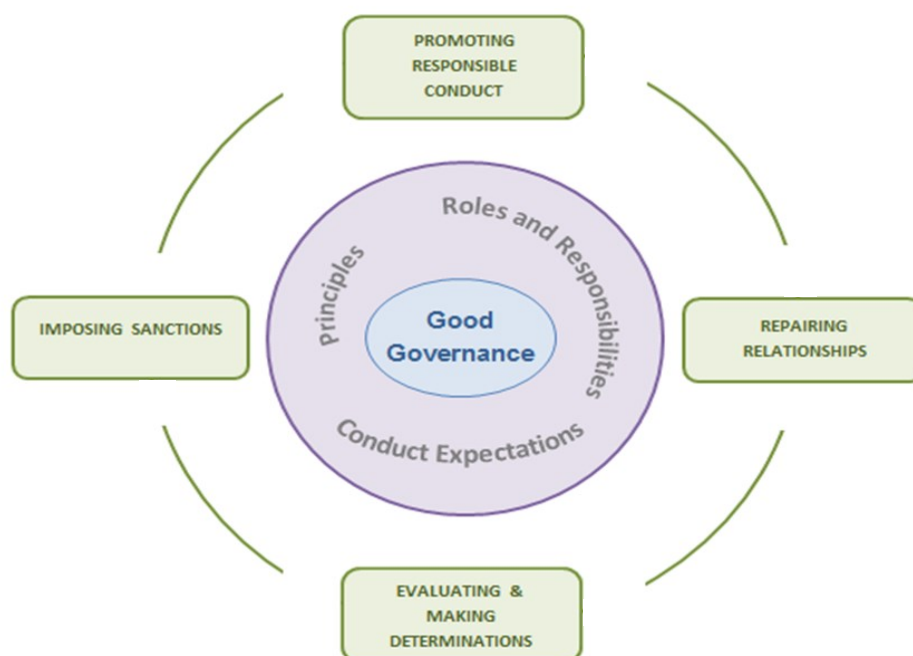
These key components help in assessing the current tools available in B.C.'s responsible conduct framework and guiding policy development of potential new tools – having effective tools available under each key component will help support local governments in encouraging responsible conduct and addressing various circumstances due to less-than-responsible conduct.

Ensuring there are tools available under the key components of an effective responsible conduct framework will help support local governments in encouraging responsible conduct and addressing circumstances due to less-than-responsible conduct.

Each of these components is distinct, but they are all interrelated. For example, tools under promoting responsible conduct that educate and establish standards may be vital to help elected officials understand roles and responsibilities and conduct expectations at the start of their term, but they can also be vital in repairing relationships among all members of a council/board, or reintegrating an individual who has been found to have engaged in less-than-responsible conduct. As another example, the standards of conduct that are established, how breaches of those standards are evaluated and determined, and the sanctions that are imposed must all be interconnected if they are to support an effective responsible conduct framework.

These four key components are also related to the primary purpose of an effective responsible conduct framework – helping to ensure that local governments can provide good governance to their communities. As Figure 1 illustrates below, good governance depends on elected officials having a clear understanding of their roles and responsibilities (in addition to those of staff and the public) in the local government system, setting clear conduct expectations for elected officials, and ensuring local governments have access to tools based on clearly understood principles. A description of each key component follows Figure 1.

Figure 1: The key components of an effective responsible conduct framework



The four key components of an effective responsible conduct framework:

Promoting responsible conduct:

- The focus of this component is to ensure that elected officials have a clear understanding of their roles and responsibilities and the conduct standards they need to meet. Tools that promote responsible conduct include education initiatives/resources and advice that elected officials can draw from to increase their knowledge about the roles of key groups in the local government system. Expectations of conduct may also be set out in tools such as a code of conduct, oath of office, or orientation and training programs for elected officials. Having clear standards of conduct is strongly linked to tools in the other components.

Repairing relationships:

- This component addresses situations in which individual elected officials or a council/board as a collective are facing challenges that stem from less-than-responsible conduct – situations such as interpersonal conflicts between individuals or a breakdown of relationships on a council/board where members are beginning to experience challenges carrying out their collective decision-making responsibilities. Tools centered on repairing relationships between elected officials can include peer-to-peer programs for individuals and connecting local governments with resources, such as individuals who can support council/board members in building more effective working relationships that allow them to carry out their duties. Repairing relationships of the collective depends on reinforcing the standards of conduct expected from individual council/board members.

Evaluating and making determinations:

- This component focuses on tools for evaluating complaints about individuals who are thought to have breached standards of conduct (e.g. considering whether or not the complaint is valid) and for investigating an alleged breach if the complaint is found to be valid. Investigation processes need to ensure procedural fairness and may be undertaken internally by the local government body or by an external body. Depending on the outcome of an investigation, sanctions could be recommended. The ability to evaluate and determine if there has been a breach depends on having clear standards against which conduct can be judged.

Imposing sanctions:

- This component focuses on both the particular sanctions that could be applied for breaching standards and the process for applying those sanctions. These processes may also be undertaken internally by the local government body or by an external body. Examples of sanctions include a reprimand, suspension of pay for a certain period of time, or disqualification. Sanctions can also be remedial, such as requiring an individual to undertake ethics training to encourage responsible conduct moving forward. Imposing sanctions is directly connected to enforcing standards of conduct (i.e. the sanction should reflect the severity of the breach).

3. PERSPECTIVES AND ANALYSIS

What are the elements of B.C.'s current responsible conduct framework?

B.C.'s local government framework consists of various elements that provide a foundation for responsible conduct, including access to advice, education and training for local government elected officials and staff; the legislative framework to which local governments and elected officials must adhere; and statutory Offices. The courts also play an important decision-making role within the system. Together, these elements are meant to provide support and guidance for local government elected officials so that they can govern effectively and according to good governance principles.

- **Access to education, advice and training:** B.C. has a tradition of close collaboration among “partner” organizations that support the local government system (e.g. UBCM; LGMA; Local Government Leadership Academy (LGLA); the Ministry) to provide advice, education and training for elected officials and staff, including topics related to responsible conduct. Education opportunities range from written guides to interactive workshops, such as LGLA forums and LGMA programs.
- **Legislation:** The *Community Charter* and the *Local Government Act* set out the purposes of municipalities and regional districts, the roles and responsibilities of elected officials, and specific obligations of the local government itself. Other legislation, such as the *Workers Compensation Act* and *B.C. Human Rights Code* require local governments to meet their obligations as employers to ensure the health and safety of their employees and to address and prevent inappropriate behaviour.
- **Statutory Offices:** Legislated Offices have targeted oversight functions related to local governments; however, issues related to responsible conduct typically fall outside the mandates of these Offices.
 - The *Inspector of Municipalities* primarily focuses on financial performance and statutory requirements (bylaw approval), as well as advice and education; although the Inspector has some enquiry powers into the conduct of local government business, such extraordinary powers have rarely been used as the matter would need to affect the fundamental viability of a local government or have serious consequences for the local government system.
 - The *Auditor General for Local Government* conducts independent performance audits of the operations of local governments and provides information/advice to assist in the stewardship of public assets; however, its mandate does not include reviewing policy decisions or considering complaints about individual elected officials.
 - The *Information and Privacy Commissioner* provides independent oversight of B.C.'s information access and privacy laws to which local governments are subject under the *Freedom of Information and Protection of Privacy Act*.
 - The *Ombudsperson* deals with public complaints regarding unfair treatment by a range of public authorities, including local governments (e.g. unreasonable delay, unfair policies); however, its mandate is limited to complaints about the corporate body (e.g. the municipality) rather than individual elected officials.

Elements of B.C.'s local government framework include:

- *access to advice, education and training for elected officials and staff; and*
- *rules and requirements set out in the legislative framework.*

The courts also play an important decision-making role.

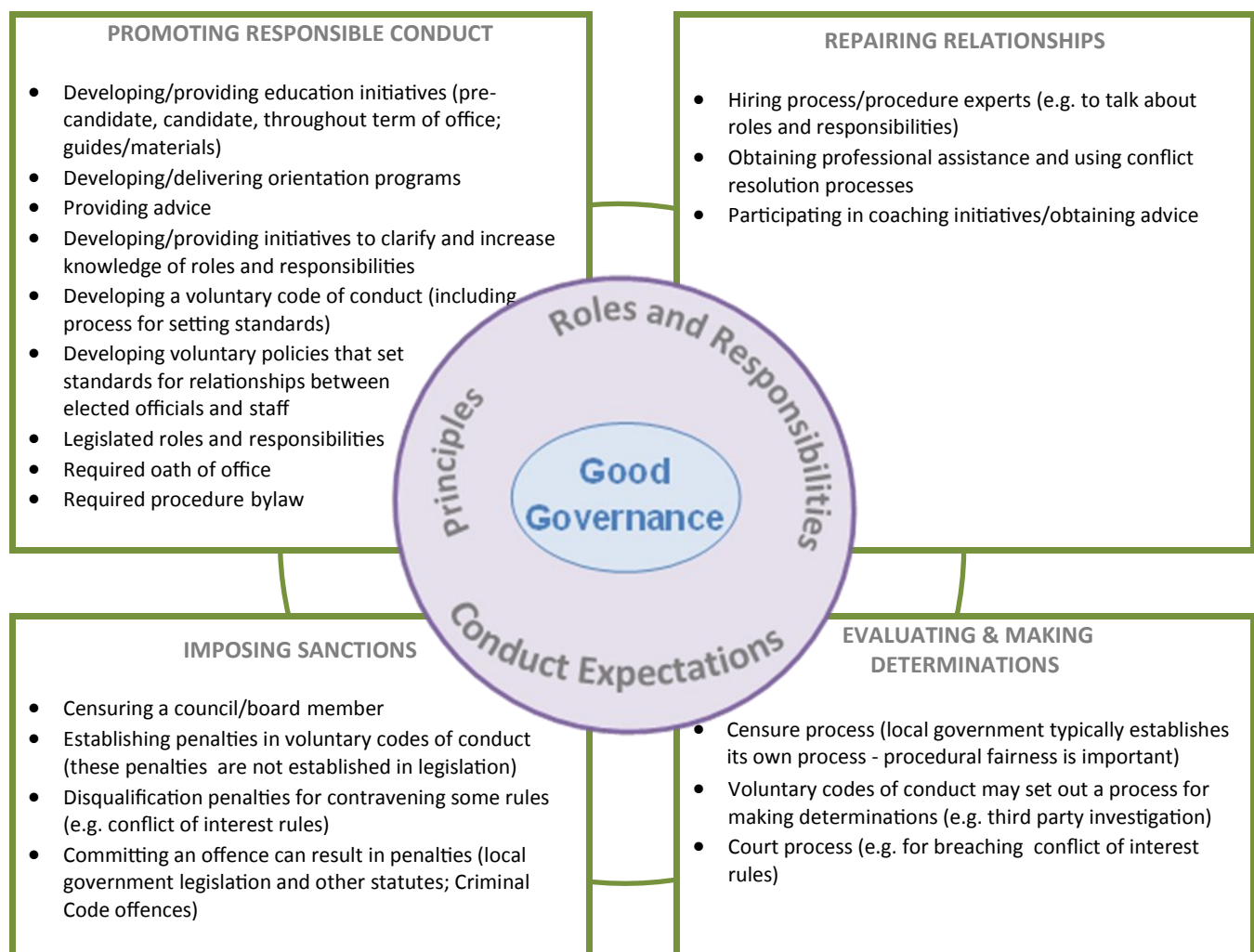
The courts also play a significant role in the existing framework as judges are responsible for making final decisions about legal matters that relate to responsible conduct issues (e.g. a dispute between two elected officials resulting in a defamation lawsuit; a prosecution against an elected official for divulging personal information contrary to the *Freedom of Information and Protection of Privacy Act*; a judicial review of a local government's failure to comply with closed meeting rules).

What tools are currently available in B.C. under the four key components of an effective responsible conduct framework and how are they similar or different to tools in other provinces?

B.C.'s responsible conduct framework includes a range of tools that can be used to prevent or address issues that stem from less-than-responsible conduct. The tools in B.C. range from voluntary tools to more directive tools (e.g. from voluntarily establishing a code of conduct to penalties for contravening legislated ethical standards rules) and may be aimed at individual elected officials or the collective decision-making body (e.g. council/board). They also tend to align with B.C.'s tradition of local government autonomy and focus on local government elected officials being directly accountable to their citizens, rather than being directly accountable to or supervised by the provincial government.

Figure 2 identifies the tools that are available in B.C. under each component of an effective responsible conduct framework. This information, in addition to the research trends and consultation feedback, can help to determine next steps for strengthening B.C.'s responsible conduct framework.

Figure 2: Responsible conduct tools in B.C.



Other Canadian jurisdictions also have tools that fall under each of the components of an effective responsible conduct framework. Like B.C., the tools available in other jurisdictions reflect the particular context and traditions of each province (for example, Quebec’s framework emphasizes more direct provincial involvement than would be traditional in B.C.). See Appendix A for a table that provides an overview of tools in other jurisdictions in comparison to tools available in B.C.

What are some of the key findings and trends that have emerged from the WGRC’s cross-jurisdictional research?

Although some of the tools in other jurisdictions may be similar, there are often variations in how the tools are designed. For example, several jurisdictions require local governments to develop and adopt a code of conduct for elected officials. However, the extent to which the content and enforcement processes are established in legislation vary. Consider the following examples:

Ontario	Local governments are required to establish a code of conduct and have flexibility to determine the content of the code (although the provincial government has authority to prescribe subject matter by regulation). Alleged breaches of the code of conduct are evaluated and investigated by a locally appointed integrity commissioner, who recommends sanctions (the council decides). ²
Saskatchewan	Local governments are required to establish a code of ethics, which must include the model code of ethics established in legislation. Local governments can customize other elements of the code of ethics and are required to establish their own processes for evaluating and investigating alleged breaches of the code. ³
Québec	Local governments are required to establish a code of conduct and have some flexibility to set out ethical values and conduct standards in the code. Complaints about alleged contraventions of the code are evaluated and investigated by a provincial body (the Commission municipale du Québec), which also imposes sanctions on individuals. ⁴

These approaches can also be compared to approaches taken in international jurisdictions, such as Australia. For example, in the state of Victoria, independent bodies, or “panels”, are established to investigate alleged breaches of conduct rules.

The cross-jurisdictional research indicated a tendency towards more mandatory tools and specific requirements than under the current B.C. framework. As discussed in the [Consultation Paper](#), the following trends also emerged from the research:

- **Multi-pronged approach:** Implementing a multi-pronged approach that includes a mix of voluntary and mandatory tools can be an important part of an effective responsible conduct framework.
- **Emphasis on education:** Education is generally seen as an important part of encouraging responsible conduct – developing educational resources (such as programs, handbooks, and webinars) is common in jurisdictions across Canada to provide guidance and support to both local government elected officials and staff.
- **Sharing expertise:** Peer-based programs are a trend, with some jurisdictions expressing this as formal peer mediation programs (such as the formal peer-to-peer mentorship program in Alberta). In that way, local government elected officials can obtain advice and guidance on a variety of topics.
- **Setting and enforcing conduct standards:** Setting standards for conduct is a trend towards explicitly encouraging or requiring certain standards of conduct, rather than leaving assumptions about what is/is not acceptable behaviour to unwritten rules. An important consideration for setting standards is developing processes for enforcement of those standards.
- **Spectrum of penalties:** A spectrum of penalties that can be applied to local government elected officials who breach rules related to responsible conduct has also been explored. This approach allows for flexibility when considering the consequences for the variety of behaviours that may be seen as a problem.

²See *Municipal Act*, https://www.ontario.ca/laws/statute/01m25?_ga=2.49707750.1936512436.1498774563-375804517.1498774563

³See *The Municipalities Act*, <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/M36-1.pdf>

⁴See *Municipal Ethics and Good Conduct Act*, <https://www.canlii.org/en/qc/laws/stat/cqlr-c-e-15.1.0.1/latest/cqlr-c-e-15.1.0.1.html>

The variety of tools implemented by other jurisdictions, and trends that emerged from the cross-jurisdictional research, highlight a range of policy options and considerations for tools that could be added under each of the four components of an effective responsible conduct framework to strengthen B.C.'s current system.

What are the themes that emerged from consultation undertaken by UBCM and LGMA with their members?

UBCM and LGMA consulted their respective members in Spring 2017 on the ideas and issues raised in the WGRC's [Consultation Paper](#). Specifically, consultation allowed UBCM and LGMA to test whether the WGRC's summary of the issue resonated with UBCM and LGMA members and to seek members' perspectives on the effectiveness of B.C.'s current responsible conduct framework to determine potential gaps in that framework. UBCM and LGMA members were also asked about whether the trends that emerged from the cross-jurisdictional research conducted by the WGRC could be of value to explore within the context of B.C.'s framework.

UBCM and LGMA obtained feedback from their respective members in part through the use of a survey, the quantitative results of which can be found on the following [website](#). Most questions were asked of both LGMA and UBCM members, and there was a strong correlation in survey responses between the two groups. The following section discusses the key themes from the survey responses.

What was the feedback on the Consultation Paper's issue summary?

In the [Consultation Paper](#), the WGRC identified that concerns have been raised about whether there has been a diminishment of responsible conduct in B.C.'s local government system. It then proposed factors that provide a foundation for responsible conduct, including written and unwritten rules, or norms (e.g. the conduct of elected officials should be grounded in respect and honesty; public interest should be more important than personal interest; and democratic processes – such as council discourse and public discussions – should be carried out civilly and respectfully). The paper also identified a variety of pressures that may be impacting these unwritten rules (e.g. pervasiveness of technology and social media, challenges of providing good governance in a 'post-truth'⁵ era, loss of knowledge and continuity due to continuous turn-over on local government bodies and staff, and a lack of shared understanding of the norms).

The survey results generally supported the WGRC's summary and assessment of the issue. In addition, both LGMA and UBCM respondents indicated a high degree of agreement with the unwritten rules, or norms, that the WGRC described as underpinning responsible conduct. Further, they agreed that the identified pressures on these unwritten rules represented significant influences on responsible conduct, with senior staff turnover and elected official turnover being ranked as significant influences by both groups. Both UBCM and LGMA respondents also identified that pressures associated with social media represented an important influence on responsible conduct; however, there was a significantly higher percentage of LGMA respondents who identified social media as being a particularly important influence. In addition, while both groups indicated that there was not always a shared understanding on a board or council of what constitutes "responsible conduct", this view was most prevalent in the LGMA results.

The survey results generally supported the WGRC's summary and assessment of the issue.

Survey respondents identified senior staff turnover and elected official turnover as significant influences on the "unwritten rules" that provide a foundation for responsible conduct.

Although both UBCM and LGMA respondents identified social media as impacting responsible conduct, a higher percentage of LGMA respondents identified social media as being an important influence.

⁵Oxford Dictionaries defines "post-truth" as "[r]elating to or denoting circumstances in which objective facts are less influential in shaping public opinion than appeals to emotion and personal belief" ("Post-truth", [Oxford Living Dictionaries](#)).

Survey results also pointed to factors that were seen to have a positive or negative influence on the conduct of elected officials, which are outlined in the table below.

Factors influencing elected officials' conduct:

Positive influences:

- Respect amongst colleagues;
- Ability for all elected officials to participate and express views in council/board discussions;
- Commitment for the collective to work together for a better community;
- Education, workshops, and open discussions; and
- Strong, effective leadership of a mayor or board chair.

Negative influences:

- Lack of understanding about roles and responsibilities;
- Lack of trust between elected officials and staff, or distrust of the local government by the public;
- Lack of consequences or repercussions for questionable behaviour; and
- Personal or partisan political agendas.

In addition to the influences outlined above, UBCM respondents also spoke to the negative influences of both racism and sexism in survey results and in conversations that took place as part of the consultation process (e.g. at Area Association Conventions). Some respondents also raised significant concerns about the lack of respect and bullying in closed meetings.

What was the feedback on the use and effectiveness of current tools in B.C.'s responsible conduct framework?

Of the tools currently available in B.C., the following tools were most often cited as being used by respondents:

- post-election education and orientation initiatives; and
- education for elected officials during the term of office.

Most of the other tools were used by many respondents, with the notable exceptions of peer-to-peer mentoring, contracted mediation or dispute resolution services, and censure, which were all used significantly less than other tools.

LGMA respondents consistently rated the effectiveness of existing tools slightly lower than UBCM respondents, but the two groups had similar views on the relative effectiveness of the tools. While most of the tools were considered by the majority of respondents to be effective, the three tools considered to be most effective were:

- post-election education and orientation initiatives;
- education for elected officials during the term of office; and
- joint elected official/staff training.

Contracted mediation and dispute resolution services and censure were not seen by the majority of respondents as significantly effective tools to support responsible conduct (as noted above, these tools were also used significantly less than other tools).

Respondents identified a variety of factors that may influence conduct.

- *Positive influences included respect amongst colleagues and effective leadership of a mayor or board chair.*
- *Negative influences included lack of understanding of roles and responsibilities and lack of trust.*

Post-election education and orientation initiatives, education during the term of office, and joint elected official/staff training were identified as effective tools.

What was the feedback on the potential usefulness of tools in other jurisdictions and on the value of exploring emerging research trends for B.C.'s responsible conduct framework?

Shift in balance between voluntary and mandatory tools:

Respondents in both groups suggested that a shift in the balance between voluntary and mandatory tools may be appropriate in relation to some elements of B.C.'s responsible conduct framework. For example, the results indicated support for mandatory tools that could be used to:

- set standards of conduct for elected officials; and
- clarify roles and responsibilities between elected officials and staff.

This result is consistent with the cross-jurisdictional trend of other provinces requiring local governments to set standards of conduct.

Flexibility for mandatory tools:

Results from the two groups diverged in relation to the degree of flexibility that would be appropriate for mandatory tools. For example, UBCM respondents tended to favour a mandatory requirement with flexibility for local governments to design specific components of the tool, whereas LGMA respondents tended to favour a mandatory requirement in which the specific components of the tool were mandated as well. This difference in perspectives also reflects the variety of options available for designing tools, which is demonstrated in the different approaches taken across Canada (e.g. the various approaches taken to set standards of conduct).

Both groups also saw some advantage in mandatory education requirements and establishing a spectrum of penalties that could be imposed if conduct standards were breached, with LGMA results being significantly higher than those of UBCM for the latter tool. Again, LGMA respondents more often indicated a desire to mandate specific components of these tools than did UBCM respondents. Both groups had less confidence that the use of external parties to resolve issues should be mandated, with a significant percentage of respondents indicating that the use of these tools should be voluntary.

Relevancy of research trends:

Responses indicated support for further exploration of approaches that reflect the trends that emerged from cross-jurisdictional research. Emphasizing education and setting and enforcing conduct standards were the highest ranked trends. The lowest ranked trends were those in relation to developing formal peer-to-peer mentoring programs (e.g. sharing expertise) and the use of external parties to investigate standards of conduct and make recommendations.

A shift in the balance between voluntary and mandatory tools was viewed as appropriate for some elements of B.C.'s responsible conduct framework.

While UBCM respondents tended to favour a mandatory tool with flexibility to customize some components of the tool, LGMA respondents tended to favour a mandatory tool that would have required components.

Respondents viewed emphasizing education and setting and enforcing conduct standards as the most applicable trends worth exploring.

The qualitative survey results generally supported the quantitative results discussed above, but also highlighted the complexity of the issues and the range of considerations when exploring additional tools to strengthen B.C.'s responsible conduct framework. For example:

a) Enforcing standards of conduct:

- The results indicated that establishing an effective approach to enforce standards of conduct was a significant concern. However, there were some differences in perspectives about the approach that should be taken. While the use of external parties to investigate standards of conduct was not amongst the highest ranking tools, many qualitative responses indicated that an enforcement approach *should* involve someone external to the local government body to investigate alleged breaches of conduct standards and recommend sanctions.
- Within these comments, views about what approaches would be most helpful varied considerably. Suggestions included:
 - ◇ involvement of the provincial government in enforcing standards of conduct;
 - ◇ a restorative justice approach;
 - ◇ an independent commissioner with or without the power to impose sanctions;
 - ◇ an imposed dispute resolution or mediation process; and
 - ◇ approaches that allowed for some form of public input in response to less-than-responsible conduct.
- These comments point to the potential benefit of researching and reviewing a variety of approaches that could be used to design an effective enforcement model.

b) Providing peer support:

- While formal peer-to-peer mentorship programs were not amongst the highest ranking tools in terms of what respondents believed would be most effective for addressing less-than-responsible conduct, these tools need to be considered against the backdrop of numerous qualitative responses that suggested value in coaching, team assessment, peer mentorship, support networks, and a “hotline” to use when problems present themselves.
- These responses suggest a desire to explore tools around providing peer support and/or developing “early detection”, fact-finding, and intervention strategies for councils/boards that are beginning to face challenges that stem from less-than-responsible conduct.

c) Mandating tools:

- The survey results generally indicated support for additional tools to support responsible conduct and address issues related to less-than-responsible conduct, and, in many cases, moving towards tools that have mandated requirements.
- However, several cautions were raised in relation to mandatory tools, including:
 - ◇ potential challenges associated with the additional administrative burden, particularly in small communities;
 - ◇ the potential for mandatory tools (such as mandatory education and required codes of conduct) and stricter enforcement procedures to act as disincentives for individuals to run for office;
 - ◇ the need to ensure that stronger rules respecting responsible conduct do not subjugate democratic processes or limit individual voices; and
 - ◇ the importance of maintaining some ability for councils and boards to resolve issues locally.

The consultation feedback provided perspectives on current tools that are effective in supporting responsible conduct and also indicated an interest in exploring additional tools. For example, the consultation feedback suggested that education initiatives are viewed as effective tools. Responses indicated an interest in mandatory tools for certain elements of the framework, such as setting standards of conduct. Qualitative survey results also suggested the potential for exploring tools to facilitate early intervention when individuals or a council/board as a collective are beginning to face challenges due to less-than-responsible conduct. These results generally reflected the trends that are emerging across Canada as other jurisdictions also take steps to strengthen responsible conduct. Overall, both the research findings and consultation feedback reinforce that action in various forms is needed under each of the four components of an effective responsible conduct framework.

4. RECOMMENDATIONS

The following section provides context for the WGRC's recommendations to begin the process of strengthening B.C.'s responsible conduct framework. It also sets out recommendations, which are built on the principles and key components of an effective responsible conduct framework discussed in this report, in addition to consultation feedback from UBCM and LGMA members and cross-jurisdictional research.

Context:

- The WGRC has worked to understand the issue of responsible conduct, the challenges that arise from less-than-responsible conduct, and the need to build a shared understanding of what an integrated and effective responsible conduct framework could look like in B.C.
- Consultation by UBCM and LGMA with their respective members confirmed a shared view that responsible conduct is essential to good local and regional governance; that action is needed on less-than-responsible conduct; and that certain tools are essential to further responsible conduct, with some variances in emphasis between the two groups.
- Less-than-responsible conduct covers many different behaviours arising from a wide range of circumstances and with varying impacts; it will take a variety of approaches to build on the strengths of the current responsible conduct framework, to address its gaps and to ensure the most effective tools for addressing less-than-responsible conduct.
- The WGRC has worked collaboratively and respectfully at the UBCM, LGMA, and Ministry staff level to move forward the issue of responsible conduct, undertaking research and policy work and identifying potential next steps. Through the recommendations, the WGRC intends to continue working collaboratively on these important issues.

Recommendations:

Through the Working Group on Responsible Conduct,

- a) As a first priority, articulate foundational principles of responsible conduct (e.g. honesty; integrity), and embed these in relevant education materials available province-wide for general local elections starting in 2018;
- b) Enhance existing guidance materials to illustrate how foundational principles of responsible conduct can be embedded in local government bylaws and policies (e.g. procedure bylaws, oaths of office);
- c) Develop new responsible conduct guidance materials including a model code of conduct and other materials that articulate principles, expectations, and good practices of responsible conduct;
- d) Continue the policy and detailed design work needed to develop information and advice on an integrated and effective responsible conduct framework appropriate to B.C., including:
 - Assess the feasibility of including foundational principles in the “default” oath of office established by regulation (considerations include scope of authority and timing);
 - Develop and make available a list of resources for elected officials who are facing challenging situations due to less-than-responsible conduct;
 - Consider the design components of a model for providing resources that would support fact-finding and assessing challenging relationships/circumstances faced by a council/board due to less-than-responsible conduct and could provide guidance on approaches to help the council/board move forward (considerations include expertise needed, cost, and triggers for involvement);

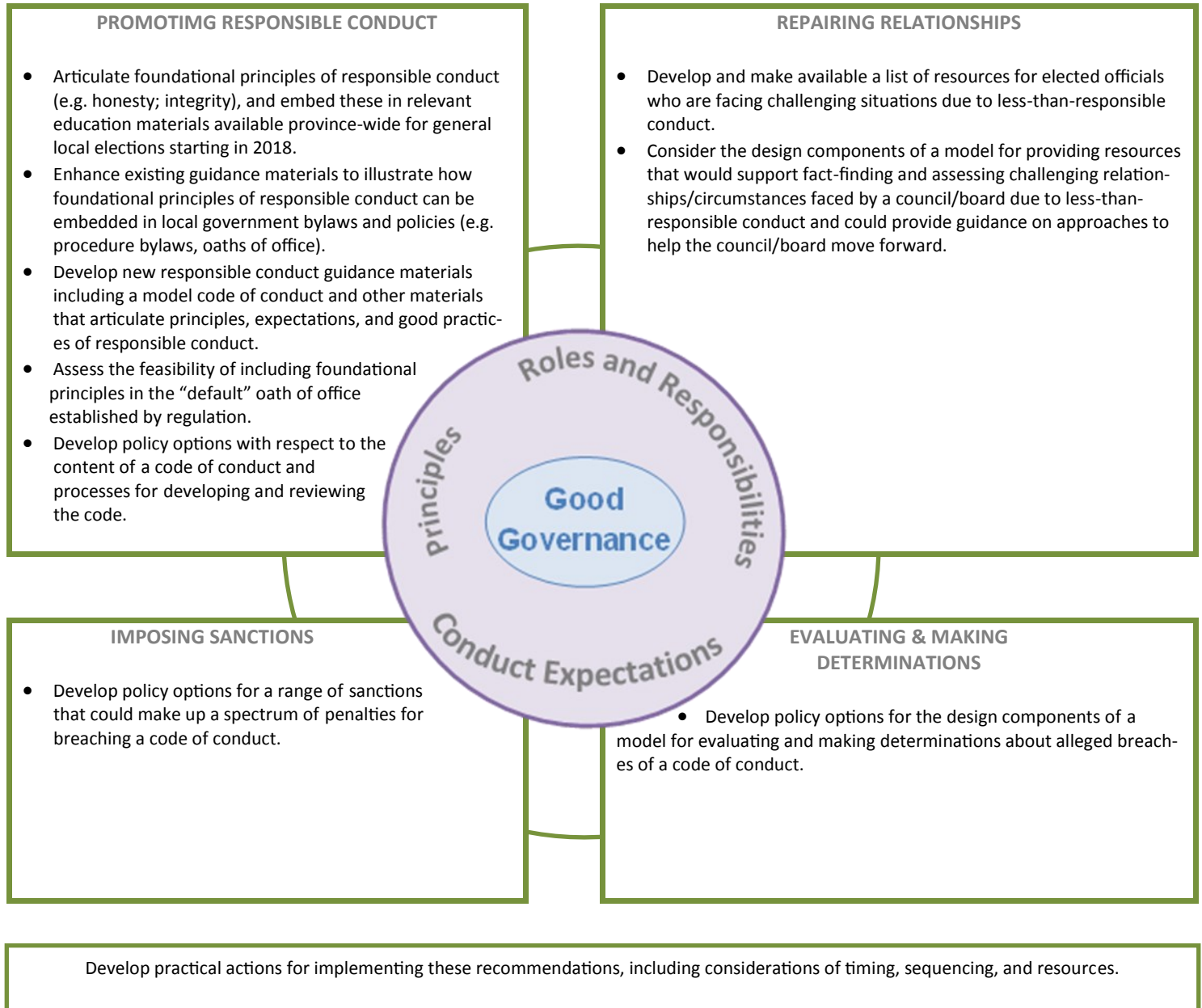
e) Develop policy options related to codes of conduct with respect to:

- o The content of the code of conduct and processes for developing and reviewing the code. Developing the design components will help determine whether a mandatory code of conduct should be considered over a voluntary approach;
- o The design components of a model for evaluating and making determinations about alleged breaches of a code of conduct. The goal is an integrated model with appropriate linkages between establishing and applying conduct standards, and evaluating, investigating and deciding on breaches of the code;
- o A range of sanctions that could make up a spectrum of penalties for breaching a code of conduct. Considerations would include linkages of penalties with establishing/applying standards of conduct and investigating/deciding on breaches; and

f) Develop practical actions for implementing these recommendations, including considerations of timing, sequencing, and resources.

See Figure 3 on the next page for a snapshot of the recommendations organized under the four key components of an effective responsible conduct framework.

Figure 3: Recommendations under each component of an effective responsible conduct framework



APPENDIX A: COMPARISON OF TOOLS IN B.C. AND OTHER CANADIAN JURISDICTIONS

The following table provides an overview of key tools used to support and further responsible conduct in other Canadian jurisdictions and notes any equivalent tools available in B.C.

Tool	Jurisdictions	Key Features	B.C. Comparison
Peer-based advice and mediation programs	Alberta New Brunswick	- Local government elected officials and staff can seek advice and mentorship from experienced peers to help work through issues/ conflicts - Low-cost, informal, typically requires involvement of partner organizations - Framework not established in legislation	- May choose to hire consultant to help facilitate solutions to challenging situations - Informal networks established among elected officials - Not established in legislative framework
Mandatory education	Alberta Québec	- Local government legislation in Québec <u>requires</u> elected officials to participate in a professional development program on municipal ethics and good conduct if they have not previously participated. Legislation in Alberta <u>requires</u> municipalities to offer orientation training for newly elected officials (as of July 2017). - Programs may cover various topics (e.g. role of local governments; elected official responsibilities; municipal ethics) - Legislative requirement	- Voluntary access to education and training resources - Framework not established in legislation
Code of conduct	Alberta Saskatchewan Manitoba Ontario Québec Prince Edward Island Northwest Territories	- Sets out shared standards and expectations to guide conduct of elected officials - Suggested key components of developing a code of conduct include:⁶ - Should be one component of a larger 'ethics' regime; - Elected officials should be involved in developing the code; - Effective process for dealing with complaints is important and enforcement should consider administrative fairness procedures and effective, appropriate sanctions; and - Independent third party should enforce the code (e.g. Integrity Commissioner; contractor with appropriate experience; municipal solicitor). - Framework established in legislation - Legislative requirement in several jurisdictions (Ontario recently passed amendments to require code of conduct)	- Voluntary - Used by a number of local governments - Framework not established in legislation

⁶Clyde K. Wells, Q.C.; "Report to St. John's City Council on Recommended Adjustments to the City's Ethical Conduct Legislation", September 28, 2015.

APPENDIX A: COMPARISON OF TOOLS IN B.C. AND OTHER CANADIAN JURISDICTIONS

Tool	Jurisdictions	Key Features	B.C. Comparison
Mandatory policies that set standards for relationships between elected officials and staff	Ontario <i>Required in code of conduct:</i> Saskatchewan Manitoba Québec	- Ontario recently passed legislative amendments to require local governments to adopt policies respecting the relationship between council members and officers and employees of the municipality - Other jurisdictions explicitly require codes of conduct to include standards and/or values to which elected officials must comply in their dealings with municipal employees - Legislative requirement	- Voluntary - Framework not established in legislation
Integrity Commissioner	Ontario Québec (provincial-level) City of Calgary City of Regina City of Winnipeg	- Main role is to administer and enforce codes of conduct - May also provide advice about meeting code of conduct requirements and education on issues related to ethics, integrity, and personal conduct - There are variations in the approach to Integrity Commissioners or other bodies that carry out similar functions. For example: ◇ <i>Ontario</i>: legislation requires municipalities to provide access to an integrity commissioner (municipalities can appoint their own integrity commissioner or share integrity commissioners). ◇ <i>Québec</i>: legislation requires Commission municipale du Québec (provincial body) to investigate alleged code of conduct breaches ◇ <i>Cities of Calgary, Regina, Winnipeg</i>: Have voluntarily appointed an Integrity Commissioner (or anticipate appointing an Integrity Commissioner) - Framework for Integrity Commissioner (or body that has similar functions) may or may not be established in legislation	- Some local governments (e.g. Vancouver, Whistler) provide for an independent third party to consider alleged code of conduct breaches, which may include recommendations for resolving the situation - Framework not established in legislation
Spectrum of penalties (other than disqualification)	Manitoba Ontario Québec Northwest Territories	- Some jurisdictions establish penalties (other than disqualification), or are interested in establishing penalties, in their legislation for breaching a code of conduct or conflict of interest rules. Examples of penalties include: ◇ Reprimand ◇ Suspension of pay for up to 90 days ◇ Censure motion (for contravening code of conduct) - Framework established in legislation	- Disqualification penalties for breaching ethical standards rules - Censure motions (common law) - Framework for disqualification penalties established in legislation

APPENDIX B: MEMBERS OF THE WORKING GROUP ON RESPONSIBLE CONDUCT

The Working Group on Responsible Conduct consists of the following staff/expert members from the Union of B.C. Municipalities (UBCM), the Local Government Management Association (LGMA), and the Ministry of Municipal Affairs and Housing (the Ministry).

UBCM	LGMA	Ministry
• Gary MacIsaac • Brenda Gibson • Paul Taylor	• Nancy Taylor • Elizabeth Brennan • Allison Habkirk	• Gary Paget • Nicola Marotz • Michelle Dann • Lesley Scowcroft