

DISCUSSION PAPER

POTENTIAL FOR CHANGE

Responsible Conduct Framework for Local Government Elected Officials

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A joint Initiative of the Union of British Columbia Municipalities
and the Local Government Management Association of British Columbia

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INTRODUCTION

This *Discussion Paper* is a joint initiative of the Union of British Columbia Municipalities (UBCM) and the Local Government Management Association of British Columbia (LGMA).

The *Paper* explores two specific, inter-related topics in recent discussions on potential changes to British Columbia's responsible conduct framework for local government elected officials:

- The idea of mandatory codes of conduct, in place of voluntary codes, for local governments, and
- The models that exist, or that could be developed, to support the administration and enforcement of responsible conduct standards set out in local government codes of conduct.

Resolutions to UBCM over the past seven years have consistently called for additional tools to promote responsible conduct and enforce responsible conduct standards. Included in the resolutions has been a request for a province-wide integrity or ethics commissioner office for local government. This paper explores the underlying issues that have prompted these calls for action, and identifies key considerations for determining how to best address the issues. The paper aims to broaden and inform discussion; it does not recommend policy.

Consultation for the *Paper* included separate discussions with two focus groups, one of which featured local elected officials, the other a mix of chief administrative officers, corporate officers and other senior staff. Interviews with past and present Integrity Commissioners, local government staff, a Municipal Advisor appointed by the Ministry of Municipal Affairs, and others were also conducted. Research was undertaken to understand responsible conduct frameworks in other provinces, and to assess the range of approaches taken to promote responsible conduct, investigate alleged breaches of codes of conduct, resolve conduct issues, and enforce codes through the application of sanctions.

WORKING GROUP ON RESPONSIBLE CONDUCT

The *Discussion Paper* builds on the efforts to date of the staff-level Working Group on Responsible Conduct for

Local Government Officials in British Columbia. The Group, which includes representatives of the Ministry of Municipal Affairs, UBCM and LGMA, was established in 2016 in response to a UBCM resolution that called on the provincial government to enable local governments to appoint integrity commissioners. In 2017, the Group delivered a policy paper at the UBCM Convention on the key components of an effective framework to support responsible conduct. In subsequent years, resources and tools to strengthen the framework were developed, including a set of foundational principles, a model code of conduct for local government elected officials, a scenario-based online training course, and guidance for local governments on how to prevent conduct issues from arising, and deal with issues that do arise.

DISCUSSION PAPER FORMAT

The *Discussion Paper* is divided into three sections. Section one provides an overview of British Columbia's current responsible conduct framework. Section two outlines a set of resolutions endorsed by the UBCM membership in recent years. This section includes a discussion on the desire for further change to address perceived gaps in the framework that remain. Section three explores the case for mandatory codes of conduct, and considers three different models for code of conduct administration and enforcement. Each of the models is designed to enable the provision of advice and education on responsible conduct, to assist in resolving responsible conduct concerns, to investigate alleged breaches of responsible conduct, and to support the enforcement of codes of conduct in cases of actual breaches.

The full text of the UBCM resolutions noted in section two are provided in *Appendix I*. A preliminary discussion of mandatory education is provided in *Appendix II*. The resources created in recent years by the Working Group are presented in *Appendix III*.

CURRENT FRAMEWORK

This section profiles British Columbia's current responsible conduct framework for local government elected officials. In general, the framework recognizes the autonomy of local governments in British Columbia to select and design tools that local governments themselves feel are important to have in place.

The Province provides the legislative authority that municipalities and regional districts need to take action, and encourages local governing bodies to embrace certain tools, such as codes of conduct. Guidance is also provided (including through the Working Group on Responsible Conduct) to assist local government officials in their efforts to learn about the framework and the expectations inherent in it. This table provides an overview of the existing framework. Individual elements identified in the box are outlined separately in this section.

ELEMENTS OF THE CURRENT FRAMEWORK	
Foundational Principles	Four principles to guide behaviour
Oath or Affirmation of Office	Required under Community Charter, Local Government Act, Vancouver Charter Elected officials who do not take the oath are disqualified from taking office
Codes of Conduct	Cornerstone of framework, but optional Guidance provided by Working Group on best practice codes
Independent Investigators	Ability to retain independent investigators, and to appoint autonomous integrity commissioners
Education	Widely recognized as essential to promotion of responsible conduct Identified in many existing codes as sanctions to correct poor conduct
Broader Legislative Context	Responsible conduct part of a broader legislative framework to address related concerns
Resources on Responsible Conduct	Various resources exist to guide local governments in efforts to promote responsible conduct, and to resolve instances of poor conduct

Foundational Principles

The foundational principles are intended to guide the conduct of individual elected officials and the collective behaviour of the governing body (i.e., the municipal council or regional district board). Four principles underlie the current framework in British Columbia:

- **Integrity** — Elected officials with integrity conduct themselves honestly and ethically. They are open and truthful in their dealings, protective of confidentiality, and work to avoid conflicts of interest and perceived conflicts.
- **Accountability** — Accountable officials accept responsibility for their own behaviour and for decisions they make as individuals. They accept the collective

responsibility of the governing body for decisions made.

- **Respect** — Respect means valuing the perspectives, wishes and rights of others, including other elected officials, staff members and the public.
- **Leadership and Collaboration** — Elected officials need to demonstrate an ability to lead, listen to, and positively influence others. They need to come together to create or achieve collective goals.

These principles are integrated with and reflected in other parts of the framework, including the oath of office, the legislated requirement to consider the adoption or updating of a code of conduct, and the model code of conduct.

Oath of Office

The *Community Charter* (s. 120), *Local Government Act* (s. 210) and *Vancouver Charter* (s. 140), require that every local government elected official in British Columbia take an oath or make an affirmation of office within 45 days following election. Each local government may, by bylaw, establish its own oath. Where no bylaw has been created, officials must use the oath prescribed in BC Reg. 137/2022 (*Local Government Oath of Office Regulation*). The prescribed oath — adjusted in response to a 2021 UBCM resolution

— requires officials to swear that they are qualified to hold office, will abide by the rules set out in legislation on conflicts of interest, will act in accordance with the four foundational principles, and will perform the duties of their office in accordance with the law.

Any elected official who does not take the oath within the prescribed time is disqualified from holding office.

Codes of Conduct

Codes of conduct are documents that set out shared expectations for elected official behaviour. The *Community Charter* (s. 113.1 and 113.2)¹ and *Vancouver Charter* (s. 145.93 and 145.94) require each local governing body to decide, within six months after its first council or board meeting post-election, whether to establish a code of conduct for elected officials, or review an existing code. In making its decision, the council or board must consider the prescribed principles for codes of conduct that are set out in BC Reg. 136/2022 (*Principles for Codes of Conduct Regulation*).²

If a council or board chooses to not establish a code of

conduct, the council or board must make available to the public the reasons for its decision. The council or board must also reconsider its decision before January 1 of the year of the next general election. If the governing body, upon reconsideration, affirms that it will not establish a code of conduct, the body must again make its reasons available to the public.

The Working Group on Responsible Conduct created a Model Code of Conduct and a Companion Guide, along with advice to support informal and formal resolutions on matters of conduct.

Investigators and Commissioners

Local governments have the ability in the current framework to retain independent investigators, and to appoint autonomous integrity commissioners, to receive and investigate complaints, facilitate the informal resolution of conflicts, manage formal resolution processes, and make recommendations to governing bodies on sanctions to apply. In British Columbia, integrity commissioners have been created by the Cities of Surrey (2020), Vancouver (2022), Maple Ridge (2024) and New Westminster (2024).³ Many municipal councils and regional district boards, however, provide for the hiring of independent third-party investigators.

The Working Group has developed guidance materials for local governments on best-practice approaches to the enforcement of codes. These materials identify the hallmarks of sound enforcement, which include the development of a thorough process for vetting and handling complaints on conduct, the identification of a range of sanctions to consider applying in the event of a breach, safeguards to ensure procedural fairness for all parties, and the use of independent third parties to conduct investigations, make determinations and recommend sanctions.

Education

Education is widely recognized as essential to the promotion of responsible conduct, and as a key part of the responsible conduct framework. The Working Group provides an online scenario-based course of the principles that guide responsible conduct. The Local Government

Leadership Academy provides training to elected officials on the factors, including responsible conduct, that enhance a local government's ability to provide good governance to its community. UBCM and LGMA also provide training, for elected officials and staff respectively, on topics related to

¹ These sections of the Community Charter apply to regional district boards.

² The requirements for consideration and reconsideration were introduced by the province in 2022 in response to a 2021 UBCM resolution.

³ In late July 2024, during the writing of this Discussion Paper, Vancouver City Council entertained a motion to suspend the work of the Integrity Commissioner pending an independent review of the Commissioner's scope of duties. On August 6, 2024, however, Council resolved to postpone a vote on the motion until September.

responsible conduct.

Most local governments provide orientation to their governing bodies in the months following the inaugural meeting. Governance principles and responsible conduct are typically included in orientation programs. Some local governments go further and provide regular or periodic

refresher sessions. Education is also identified in many existing codes of conduct as a form of sanction that governing bodies may impose to remedy instances of less-than-responsible conduct. A recommendation that the council or board member attend a specified training course, for example, is a feature of some codes.

Broader Legislative Context

British Columbia's current responsible conduct framework is situated within a broader legislative context that includes provincial and federal statutes designed, among other purposes, to govern elements of elected official conduct. The context includes the *Local Government Act*, *Community Charter* and *Vancouver Charter*, each of which speaks to conflict of interest matters. The context also includes the:

- *Criminal Code of Canada*
- *Ombudsperson Act*

- *Workers Compensation Act*
- *British Columbia Human Rights Code*
- *Freedom of Information and Protection of Privacy Act*

Independent parties with authority under these statutes — the Office of the Ombudsperson and WorkSafe BC are examples — have spheres of jurisdiction that may compel them to act in response to issues that arise, either in place of or in advance of locally-appointed third-party investigators and integrity commissioners.

Resources on Responsible Conduct

Experienced third-party consultants and municipal lawyers are available to assist local governments with drafting codes of conduct bylaws or policies, with orientation and education efforts aimed at explaining the codes and their implications for behaviour, with investigations into complaints, and with enforcement measures. In exceptional circumstances, supported by a request (resolution) from the council or

board, the Ministry of Municipal Affairs has assisted local governments by contracting Municipal Advisors to examine and provide advice address the most egregious incidences of questionable conduct. The Local Government Management Association also maintains an online database of consultants that is available to local governments.

Additional Comments

It is useful to remember that the Framework for Responsible Conduct applies specifically to local government elected officials, not to local government staff. Unlike staff who are accountable to the organizations that employ them, elected officials are accountable to the electors in the communities they serve. The Framework provides tools and resources to promote proper conduct by elected officials, and to

address incidents of poor conduct by officials, between elections. The ability of electors to judge elected officials and remove them from office at the time of election, however, will in some cases be the most effective tool for managing elected official conduct.

DESIRE FOR CHANGE

From 2016 to 2023 the UBCM membership voted on six resolutions related to British Columbia's responsible conduct framework for elected officials. All of the resolutions underscored the growing sense on the part of local governments across the province that incidents of less than responsible conduct among elected officials were becoming more prevalent and intractable. All of the resolutions spoke to a desire for change in the existing framework, and put forward specific ideas to either introduce new tools or strengthen existing ones.

This section summarizes the proposed UBCM resolutions⁴ between 2016 and 2023, along with a proposed 2024 resolution that at the time of writing has not yet been presented to or voted on by the membership. The section ends with commentary on the potential need for further change.

UBCM Resolutions

As noted, the UBCM membership voted on six responsible conduct resolutions between 2016 and 2023. The first resolution, presented in 2016, sought authority for local governments to appoint local integrity commissioners who would provide advice and education to local elected officials on conduct and codes of conduct, investigate alleged breaches to codes of conduct, and enforce codes in cases of actual breaches. This resolution, which was referred to the UBCM Executive, resulted in the creation of the Working Group on Responsible Conduct.

Three resolutions in 2021, 2022 and 2023 called on the Province to establish through legislation one or more integrity commissioner offices to advise local governments and enforce codes of conduct. All three resolutions were endorsed by the membership. A separate resolution in 2022 sought the development of a standard code of conduct that would apply to all local governments in the province. This resolution was not endorsed.

A 2021 special resolution (*SR3: Strengthening Responsible Conduct*) sponsored by the UBCM Executive asked the provincial government to:

- Require all local governments to consider the adoption or updating of a code of conduct at least once in each new term of office,
- Work with UBCM and others to develop a mandatory education model that would support responsible conduct by local elected officials,
- Update the oath of office that is prescribed by provincial regulation to embed the foundational principles of the responsible conduct framework, and
- Provide guidance to assist local governments with their own oath of office bylaws in incorporating the foundational principles into the bylaws.

An additional resolution has been endorsed by UBCM's Resolutions Committee for presentation to the membership in 2024. The resolution calls on the provincial government to establish an Office of the Municipal Government Ethics Commissioner to provide "fair and unbiased guidance" to local governments on responsible conduct matters, code of conduct violations, conflict of interest and bullying. The resolution also calls on the Province to require all new local elected officials to participate in mandatory ethics training.

⁴ The resolutions are presented in full in Appendix I.

Desire for Further Change

Local governments recognize that most elected officials endorse and seek to demonstrate appropriate behaviour. The continuing calls for additional responsible conduct tools, however, underscore the general belief that resources in the current framework are not sufficient for dealing with individuals who show little interest in understanding roles and expectations, who demonstrate little respect for their peers or for local government staff, and who appear to reject the very local government institutions that enable good governance and that they, as elected officials, are responsible for protecting.

There is a concern with the trend towards problematic elected official conduct and its impact on the ability councils and boards to function. Local governments that become mired in internal conflict may experience a loss of legitimacy in their own communities, and may see a related decline at elections in voter turnout, and in the number and diversity of candidates for election. The same local governments may also experience a decline in morale among staff and may observe a reluctance on the part of current managers to seek higher positions in their organizations. Departures of top-performing employees, and significant recruitment challenges, are additional consequences.

Local governments dealing with cases of poor conduct are increasingly calling on the provincial government to introduce new legislative requirements, and/or to provide additional tools to manage conduct matters, including tools that can be applied province-wide by a centralized body. This appeal reflects:

- A sense of frustration with the perceived lack of tools, and the resulting inability of local governing bodies to effectively address egregious examples of poor conduct;
- An awareness that the current reliance on local governments to determine their own approaches to managing conduct issues leads to significant inconsistencies among councils and boards in both the design and administration of codes of conduct;
- The concern that existing approaches to managing elected official conduct too often involve a role for local government staff, and that a reliance on staff to intervene or resolve conflict is both unfair and inappropriate;
- A concern expressed by elected officials and staff — particularly officials and staff from smaller jurisdictions — that local governments lack the resources to properly administer and enforce a responsible conduct framework; and

- A fear that codes of conduct, complete with sanctions that publicly censure elected officials for issues of conduct, can be easily weaponized when administered locally against individuals with minority perspectives.

Not all local governments, it should be emphasized, share these concerns, or believe that there is a strong case for provincial government intervention, either in the form of stronger legislation or additional tools. Some local governments take the view that the existing legislation and tools are sufficient to address matters of conduct, that local governments themselves are responsible for managing conduct issues in their governing bodies, and that cost-sharing

CALL FOR LEGISLATION

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and other collaborative approaches exist to enable local governments to effectively meet their responsibilities.

The UBCM resolutions and the input provided to this *Discussion Paper* by elected officials and senior staff, however, speak to the growing perception that the current responsible conduct framework has shortcomings that prevent local governments from being able to effectively address cases of poor conduct. These shortcomings constitute gaps that UBCM and LGMA seek to understand through the exploration of mandatory codes of conduct and the consideration of different models that may be used for code administration and enforcement.

Across British Columbia and beyond, local governments are seeking effective tools to support responsible conduct. Ideas that are being advanced by some, including ideas that feature a province-wide integrity commissioner, need to be assessed carefully.

CHANGES TO CONSIDER

This section responds to concerns raised by local government elected officials and staff on the existing responsible conduct framework for local government elected officials. The text explores two specific, inter-related topics:

- The idea of mandatory codes of conduct in place of voluntary codes for local governments, and
- The models that exist, or that could be developed, to support the administration and enforcement of responsible conduct standards set out in local government codes of conduct.

The two topics are addressed separately in the section but are dependent on one another. The models for administration and enforcement focus on the standards in the codes of conduct, and therefore require codes of conduct to be in place.

An additional topic concerns responsible conduct education for elected officials. Education on principles and standards of conduct is encouraged in the current responsible conduct framework, but is not required. A change in favour of mandatory education is a point of discussion among elected officials and staff, and is a topic in need of further study. Appendix II introduces and provides an overview of the topic.

Mandatory Codes of Conduct

Codes of conduct are tools created by local governments to help local government officials understand the standards of behaviour and conduct that are expected of them. Codes also exist to set out fair processes for receiving complaints about elected official conduct, investigating alleged breaches of code standards, and reporting on findings. Finally, codes are developed to hold elected officials accountable who, based on investigations, are found guilty of code breaches.

It should be emphasized that codes are not intended to prevent or impede in any way the robust exchange of views that is critical to good local governance. Codes are also not created to eliminate or stifle minority perspectives that need to be heard and taken into consideration in decision making.

When designed and administered properly, codes of

conduct help to promote a positive working environment for local elected officials to collaborate, through their collective governing bodies, in setting priorities and making decisions that benefit their communities. Council and board discussions on the creation of codes allow elected officials to explore values and relationships, roles and responsibilities, and the principles of good governance. Such discussions also help elected officials understand the potential impacts of their actions on the communities they serve. In clearly laying out standards of acceptable behaviour and conduct, codes protect councils and boards from unnecessary conflict and stress. In so doing, codes help to build public confidence in local governments and the broader local government system.

Current Approach

Codes of conduct are a cornerstone of the responsible conduct framework for elected officials in British Columbia. They are widely recognized to be both important and necessary as tools to guide the behaviour of decision-makers and, where required, hold decision-makers accountable between elections for problematic conduct that occurs.

Local governments in British Columbia are strongly encouraged to create codes, and are required to consider creating

them. The requirement for consideration takes the form of legislative amendments (2022) introduced by the Province in response to the UBCM's 2021 special resolution (*Strengthening Responsible Conduct*). These amendments require all councils and boards to consider establishing a code of conduct, or reviewing an existing code, within the first six months after their inaugural meetings. Most local governments in the province have codes of conduct in

place today.⁵

Strong encouragement and the requirement for consideration notwithstanding, codes of conduct are not mandatory for local governments in British Columbia. This approach reflects the long-standing legislative framework for local government in British Columbia which is based, to a

Approaches Elsewhere

Responsible conduct frameworks for local government elected officials in all provinces include and emphasize the importance of codes of conduct. British Columbia's framework is no different in this respect. British Columbia's framework is entirely unique in its treatment of codes as voluntary and at the discretion of individual local governments. In all other provinces, codes of conduct for local government elected officials are mandatory.

Requirements for codes of conduct in other provinces differ in their degree of prescriptiveness. In Alberta, the rules concerning codes of conduct are outlined in the province's *Code of Conduct for Elected Officials Regulation*, created in 2017 pursuant to section 146.1 of the *Municipal Government Act*. The regulation prescribes topics that must

significant degree, on principles of local government autonomy, empowerment and accountability. Ultimately, it is the decision of each municipal council and regional district board to determine whether or not to put a code in place to guide the conduct of its members.

The regulation also requires each council to review and update its code of conduct, along with any bylaws that have been incorporated by reference into the code, at least once every four years.

Saskatchewan's legislation prescribes a set of standards for codes that includes honesty, respect and confidentiality. A complaints process that must be based on principles of fairness, accessibility, responsiveness and efficiency is required. Manitoba is quite prescriptive in its approach to codes. The province prescribes, through its *Council Members' Codes of Conduct Regulation* (2020), the values on which codes must be based, the requirement to review codes every year, the list of specific sanctions to include in codes, and the specific factors that councils must consider when imposing a sanction.

Ontario's local government legislation requires every council to establish a code of conduct for its members, but does not list to any significant degree the topics to include or procedures to follow in administering the codes.⁶ Under section 223.4 (5) of Ontario's *Municipal Act*, however, the Province does prescribe and limit the range of sanctions that may be imposed. This section states that a council may impose one of two sanctions, based on a report by the integrity commissioner that the member has contravened the code of conduct:

- A reprimand, or
- A suspension of remuneration for up to 90 days.

New Brunswick and Nova Scotia have introduced requirements for local governments to implement codes of conduct with some standardized elements. By contrast, the highly prescriptive approach taken by Quebec sets out contents for local government codes, including complaint procedures and sanctions.⁷

VOLUNTARY CODES

British Columbia's framework is entirely unique in its treatment of codes as voluntary and at the discretion of individual local governments. In all other provinces, codes of conduct for local government elected officials are mandatory.

be included — others may be included at the discretion of council — along with a set of sanctions from which councils may choose to impose in cases where a council member fails to adhere to the code. The regulation requires the inclusion of a complaint system to identify who may make a complaint, and how complaints are to be investigated.

⁵ At the time of writing, 70% of local governments have codes of conducts in place. Most of these codes have been established and/or reviewed under the 2022 legislative amendments.

⁶ Ontario does have in place a short regulation titled Codes of Conduct: Prescribed Subject Matters. The regulation identifies four prescribed subject matters that local governments must include in their codes of conduct for local elected officials — gifts, benefits and hospitality; respectful conduct; confidential information; use of local government property.

⁷ Quebec's approach has its origins in the findings of the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry (Charbonneau Commission). This Commission, which ran from 2011 to 2015, exposed significant corruption in municipal government.

EVOLVING FRAMEWORKS

One takeaway from the research conducted for this Discussion Paper is that responsible conduct frameworks in all provinces are evolving. Reviews are underway in many jurisdictions to clarify objectives and incorporate new or amended tools.

Factors to Consider

Over 70% of local governments in British Columbia have established codes of conduct despite the lack of any statutory requirement on the matter. The UBCM's 2021 special resolution (*Strengthening Responsible Conduct*) addressed the need for codes of conduct, and requested the Province to amend local government legislation to require the consideration of codes. UBCM stopped short of calling for change to make codes mandatory.

Focus group participants and individuals interviewed for this *Discussion Paper* expressed support for a change in favour of mandatory codes. The introduction of such a requirement, it was suggested, would send a strong and positive message throughout the local government community and the broader public on the importance of responsible conduct.

When determining how to proceed on the matter of required codes of conduct, implications for local government autonomy, empowerment and accountability may be important to consider. It may be argued that a change in favour of mandatory codes would conflict with the principles of autonomy, empowerment and accountability that underpin British Columbia's local government legislative framework. These principles hold that each local government, irrespective of size, should have the ability to determine for itself whether a code of conduct is needed, and if so, how it should be structured and administered.

In a spirit of collaboration, local governments routinely collaborate with one another directly and through their associations (e.g., UBCM and Area Associations) to share ideas and develop similar approaches to address key matters. Local governments also seek advice and guidance from central bodies, including UBCM, LGMA and the Ministry of Municipal Affairs. Collaboration and guidance aside, however, local governments retain the autonomy to determine whether and how to act in several key areas, including responsible conduct.

A ceding of autonomy over codes of conduct may be perceived as beneficial to some local governments, particularly those in which elected officials may demonstrate less than full support for codes, or even strong resistance to codes. Some local governments may feel the authority to mandate codes of conduct should rest with the Province given the Province's ultimate responsibility for the structure, integrity and proper functioning of the local government system. Decision-makers who take this position may point to the Province's requirement for elected officials to take an oath of office as a parallel situation. Finally, some local governments may highlight the mandatory nature of codes in all

provinces other than British Columbia as suggestive, if not compelling, of the need for change.

If codes were made mandatory, either in response to calls from local governments or at the initiative of the Province, factors related to the structure, content, process for developing, and use of codes would be important to explore.

CONTENT OF CODES

The Working Group has developed a model code of conduct and an accompanying guide to assist local governments in establishing a code.⁸ Several municipalities and regional districts in British Columbia have made use of this resource. Others have relied on municipal lawyers, consultants and senior staff with strong experience in responsible conduct matters to design bespoke codes that speak to local circumstances and needs.

It is possible to identify a set of contents that may be considered "best practice", and that should be considered for inclusion in all codes of conduct whether mandatory or not. The text box on the following page presents these contents. They were identified based on a review of the Working Group materials; well-crafted codes created by local governments that have been forced to combat less than responsible conduct head on; and the requirements in place in other provinces.

STANDARDIZATION OF CODES

In 2021 a municipal council in the Metro Vancouver area sponsored a resolution to UBCM in support of a "Provincial Code of Conduct for Local Government Officials". The resolution advocated the development and application of one single code for all local governments in British Columbia. The resolution was not endorsed by the UBCM membership, but did serve to highlight the attractiveness among some in local government for a common set of rules and processes to deal with responsible conduct matters.

The preference for standardization is shared by some provincial governments in other parts of Canada — and, possibly by some of the local governments in these provinces — that have adopted prescriptive approaches to codes.

There are certain topics that may be considered important for all codes of conduct as best practices. Some of these topics address expectations of behaviour and highlight specific values to guide interactions; others concern the administration of codes, stress the importance of fair process, and identify reasonable sanctions. These best practice contents suggest that there may be topics that should be included in all codes.⁹ There will be other topics, however,

⁸ Companion Guide: Getting Started on a Code of Conduct for Your Council/Board, October 2022.

⁹ The inclusion of key, best practice contents could address the current inconsistency in the quality and completeness of local government codes of conduct in British Columbia. The result of this inconsistency is a patchwork of standards of conduct — a patchwork that makes it difficult to create and enforce a common set of behavioural expectations.

that may hold special importance in only some communities, or that will speak to specific local circumstances or needs.

The process of developing a code provides the opportunity for councils and boards to consider what is most important to their own situations. The process provides the forum in which elected officials can reflect on the value of responsible conduct as an enabler of good governance, the collective responsibility of governing bodies to promote responsible conduct, and the need for governing bodies to both prevent and, where necessary, take action against instances of less than responsible conduct. The process of developing a code is important for local governing bodies to experience. A requirement in favour of mandatory codes of conduct would compel all councils and boards to experience the process and reflect on their own environments and needs. A move towards total standardization of codes, however, would impose prescribed codes on local governments that may be less reflective of local conditions.

IMPLEMENTATION TOOL

Some local governments in British Columbia that present and apply codes of conduct in the form of a policy. Most councils and boards, however, use bylaws. Bylaws, as a type of legislation, give codes of conduct and their contents greater significance and authority.

It may be argued that policies, as non-legislative tools, may be best suited to promote and enable efforts to resolve responsible conduct situations using informal, restorative means. In some local governments with strong cultures of responsible conduct, and with a strong sense within local governing bodies of collective responsibility, policies may indeed promote informal resolution as the answer and make bylaws unnecessary. Best practice codes that are created and applied as bylaws, however, also stress the importance of informal resolution as the first course of action. These bylaws recognize that informal resolution, as important as it is, may not always be enough.

APPLICABILITY

All codes of conduct are designed to apply to the local elected officials who sit on the governing body. Some codes, both in British Columbia and in other parts of Canada, go further to apply to non-elected persons who are appointed to local boards, committees, task forces, commissions and other bodies established by the local government. The value of this broader application is that it spreads the local government's expectations for proper conduct beyond the council or board table to all advisory and delegated decision-making bodies that represent and reflect on the local government. The broader application may also suggest that the standards of conduct expected of elected officials should be the same as, and no higher than, those expected of

non-elected individuals appointed by governing bodies to assist in decision-making.

The roles, powers and sources of legitimacy for elected officials are different from those which apply to non-elected committee and task force members. Non-elected officials are appointed by and serve at the pleasure of the governing body. Elected officials are elected and cannot, except under the most serious of circumstances, be removed from office. Codes of conduct that are exclusive to elected officials help to impress upon such officials and their communities the importance and power of elected officials, and the heightened obligation of individuals who hold office

CODES OF CONDUCT: CONTENTS TO CONSIDER

A review of Working Group resources, existing codes of conduct, and requirements in place in other provinces points to a list of contents that should be considered for inclusion in all codes of conduct. Best practice codes include sections on:

- The foundational principles of responsible conduct
- General conduct, including the need to treat others with respect and dignity
- Interactions with staff and the public
- The collection and handling of information, including information considered confidential
- The use of social media
- Conflict of interest matters
- Gifts and benefits
- Complaint procedures, including the appointment of an independent investigator to receive and/or review complaints
- The informal resolution of complaints
- Formal resolution procedures, including those related to investigation and adjudication
- Reporting on findings and recommendations
- The application of sanctions

to act responsibly in their interactions with others, handling of information, use of resources, and performance of all of their duties.

ACCESSIBILITY

Some codes of conduct in British Columbia are designed to allow complaints concerning elected official conduct to be submitted only by other local elected officials. Other codes allow complaints from staff and volunteers, as well. A few go further to allow complaints from any person, which in practice includes members of the public.

Making the codes broadly accessible may help to emphasize the importance of responsible conduct on the part of elected officials not only in their interactions with other elected officials, but also in their treatment of local government staff and in their dealings with members of the public. Allowing complaints from all of these sources, however, may risk making the process of administering codes unwieldy, or even expose the process to misuse. It should be acknowledged, as well, that the public is served by codes of conduct, even in the absence of an ability to directly submit complaints, that establish and enforce expected standards of conduct.

SCOPE OF SANCTIONS

Best practice codes of conduct emphasize the importance of informal resolution methods, such as discussions, facilitated exchanges and mediation in addressing concerns related to responsible conduct. Informal resolution efforts have the potential to help elected officials understand the impacts of certain behaviours, strengthen relationships, and foster a culture of responsible conduct that can build confidence in the governing body and, by extension, the local government system. Best practice codes also, however, contain sanctions that governing bodies may need to apply to address cases of poor conduct.

In British Columbia and some other provinces, local governments have the ability to select their own sanctions within the limits of their authority as set out in legislation.¹⁰ Most governments select a variety of measures, ranging from less severe penalties — reprimands, and requests or requirements to make apologies, are examples — to more serious remedies. Examples of more serious sanctions include removal from committees, withdrawal of access to civic offices and facilities, and reductions to remuneration. None of the current sanctions available to local governments in British Columbia are established through legislation. As a result, the range of sanctions varies considerably from one local government to the next. In many cases,

councils and boards have struggled with applying the full range of sanctions available.

Sanctions that target elected official remuneration are becoming increasingly popular in local governments across Canada, including in British Columbia. In some cases, the remuneration for elected officials who have been found by an independent investigator to have breached the code of conduct is automatically reduced for a specified period of time. Subsequent breaches trigger further reductions which may be cumulative. Such reductions may also be applied automatically to elected officials who have attempted to “weaponize” the code of conduct by submitting vexatious, frivolous, or bad faith complaints.¹¹ In other cases, suspensions of pay are not automatically triggered but may be applied as separate penalties.

The growing interest in remuneration as a target of sanctions is based on the assumption that elected officials’ pay is meaningful enough to influence behaviour. This assumption may be valid in some cases; it will not, however, be valid in all cases. CAOs and COs who participated in the staff-level focus group commented that in most local governments elected official remuneration levels are simply not high enough to serve as effective levers in establishing deterrents.

All sanctions, including ones that target remuneration, represent a form of public censure. The choice of sanction in any particular case will be based on a variety of factors, such as:¹²

- The nature of the code breach,
- Whether the elected official knowingly breached the code,
- Steps taken by the official to mitigate or remedy the contravention, and
- Whether the breach was the official’s first contravention or a repeat event.

The threat of public censure, irrespective of the exact sanction chosen, will at times serve as an effective disincentive to less than responsible conduct. In cases involving officials who have no interest in protecting local government institutions or the broader system, however, the threat of public censure may not hold great weight in and of itself. Indeed, in some of these cases, officials may use public censure as a weapon to rally supporters who feel unrepresented by the sitting governing body, or shut out of the broader system of democratic government. These same officials may, however, be impacted by sanctions that limited their ability to participate on committees, access local government offices,

¹⁰ The legislation in British Columbia and in other provinces does not give local governments the ability to eject an elected official from office, or disqualify the individual from holding office.

¹¹ The District of Squamish’s responsible conduct framework provides a useful example. The District’s Code of Conduct Bylaw references the Remuneration and Expenses Bylaw, which sets out automatic, successive and cumulative reductions in remuneration of 10%, 15% and 25% for breaches to the Code of Conduct. Each reduction applies for 12 months.

¹² In some responsible conduct frameworks, such as that in place in Manitoba, local governing bodies are required to consider specific factors when determining the appropriate sanctions to impose.

APPROACHES TO SANCTIONS IN SELECT JURISDICTIONS ACROSS CANADA

The range of permitted sanctions that may be imposed by a governing body against one of its members varies by province. British Columbia and Alberta have the broadest ranges — in both provinces, local governments have broad scope to create their own sanctions (other than removal from office). Ontario and Manitoba are examples of provinces with prescribed lists of sanctions, beyond which local governments may not venture.

British Columbia

- Request letter of apology
- Mandatory education, training, coaching, counselling
- Suspension or removal from some or all committees or other bodies
- Letter of reprimand or warning
- Publication (public censure) of reprimand or request for apology, and member's response
- Suspension or removal as deputy/acting mayor or chair
- Restrictions on representing the local government or attending events and conferences
- Limiting travel or expenses
- Limiting access to local government facilities
- Restrictions on provision of information to the member
- Reductions in remuneration (in accordance with bylaw)
- Other sanctions determined by the local government

Alberta

- Letter of reprimand
- Request letter of apology
- Publication of letter and member's response
- Mandatory training
- Suspension or removal as deputy/acting mayor or chair
- Suspension or removal from some or all committees
- Reduction or suspension of remuneration
- Other sanctions determined by the local government

Ontario

- A reprimand
- Suspension of remuneration for up to 90 days

Manitoba

- Censuring the member
- Reprimanding the member
- Requiring a letter of apology
- Mandatory training
- Suspension or removal from specific duties
- Suspension or removal from deputy mayor
- Suspension or removal from committees
- Suspension from carrying out a power, duty or function for 90 days
- Reductions in remuneration
- Imposing a fine of up to \$1,000

connect with staff, and attend events as a local government representative. These types of sanctions, which place limits on officials' ability to act, may serve as more effective deterrents to poor behaviour than the threat of public censure.

The courts have recognized the authority of local governing bodies to impose the range of sanctions featured in most codes, including sanctions that affect remuneration, on elected officials who have been found in violation of the codes. Courts do not support sanctions that aim to disqualify elected officials from office for code of conduct violations. Therefore, codes of conduct and the responsible conduct frameworks in which they rest do not include disqualification from office as a possible sanction. Even Quebec, with its highly prescriptive approach born out of concerns of corruption at the local government level, violators of codes of conduct can be suspended from holding office for a small period of time, but not disqualified. Disqualification across Canada is reserved primarily for criminal matters.¹³

THE COURTS ON SANCTIONS

The courts have recognized the authority of local governing bodies to impose the range of sanctions featured in most codes, including sanctions that affect remuneration, on elected officials who have been found in violation of the codes. Courts do not support sanctions that aim to disqualify elected officials from office for code of conduct violations.

MISUSE OF CODES

Codes are explicitly not intended to prevent or impede the robust exchange of views that is critical for good local governance. Codes are also not created to eliminate or stifle minority perspectives that need to be heard and taken into consideration in decision making. However, codes may be misused or weaponized by individuals who seek to harass or intimidate elected officials with whom they disagree.

The forums in which local governing bodies operate are inherently political. Local governments need to anticipate that attempts will be made in some situations to weaponize codes. Such attempts can be thwarted, or at least frustrated, through the use of independent third parties or integrity commissioners to carefully scrutinize complaints, and to prevent vexatious or frivolous complaints from proceeding to investigations. Provisions in codes that allow appointed third parties or commissioners to recommend sanctions against complainants, and/or to exclude such individuals from the complaints process, are important.

¹³ Conflicts of interest and other concerns are reasons for disqualification in some provinces.

Code Administration and Enforcement

Codes of conduct are a cornerstone of British Columbia's responsible conduct framework for local government elected officials. They are tools created by local governments to help local government officials understand the standards of behaviour and conduct that are expected of them. Their structure and contents are important. So too are the processes outlined within them for receiving complaints about elected official conduct, investigating alleged breaches of code standards, and reporting on findings. Sanctions, applied in cases of actual code contraventions, are in place to hold elected officials accountable between elections for less than responsible conduct.

The approaches taken to administer codes and enforce their provisions are as important to the success of codes as their content and structure.

CURRENT APPROACH

British Columbia's current system of responsible conduct empowers local governments themselves to determine how to administer and enforce their elected official codes of conduct. Across the province, local governments have chosen to use one of three approaches; in some cases, elements of different approaches are combined.

Internal Administration and Enforcement

Some local governments view the oversight of elected official conduct, and the administration of the local government's code of conduct, as responsibilities of the governing body. The council or board in these places is responsible for ensuring that elected officials receive education on and understand the standards of behaviour set out in codes, receive advice as needed on matters of conduct and code interpretation, receive and deal with complaints that may be brought against elected officials through codes, and take corrective action authorized in codes to address more serious cases. The governing body in these places may delegate these responsibilities to a committee of council or the board, and/or may rely on the CAO or CO to assist with administration.

Third-Party Investigators

Many local governments in British Columbia make use of independent, third parties to investigate allegations of code breaches, to assist in resolving conduct concerns through informal, restorative process, and to recommend the application of sanctions to deal with more serious code breaches. Most third parties are lawyers with experience in responsible conduct cases, a strong understanding of the need for fair process in conducting and reporting on investigations and in recommending sanctions for governing bodies to consider. Several local governments require the

use of third-party investigators; others determine the need for investigators on a case-by-case basis, often in response to requests by elected officials or staff.

In some cases, the same third parties who investigate complaints will provide advice to the local governments on the development or amendment of codes. The parties may also provide education or advice to elected officials on conduct matters through orientation programs or in other forums. However, investigators are primarily involved in addressing complaints that are made pursuant to the complaints process set out in codes.

Integrity Commissioners

Integrity commissioners are independent officers appointed by local governing bodies for a fixed period of time. They report and make recommendations to the governing bodies, but are empowered with a considerable degree of autonomy during their time in office. An important part of the integrity commissioner role involves the provision of regular education and ongoing advice to the local government's elected officials on responsible conduct matters and broader principles of good governance. This reliance on commissioners for education and advice is one of the factors that distinguishes integrity commissioners from third-party investigators. Similar to third-party investigators, however, commissioners also receive and investigate complaints of alleged code violations, and work to resolve code breaches through informal processes (preferred) or the recommendation of sanctions to address more serious code breaches.

All local governments in British Columbia have the ability to appoint integrity commissioners. To date, only three municipalities in the province — the City of Surrey, the City of Vancouver and the City of Maple Ridge — have endorsed the model.¹⁴ As noted earlier in the *Paper*, there have been several calls for a province-wide integrity commissioner to deliver the services that are provided today by the locally-appointed commissioners.

APPROACHES ELSEWHERE

There is considerable alignment among provinces in the options permitted and used to administer and enforce codes of conduct. In most provinces, local governments are encouraged or required to make use of independent, third-party resources to receive and investigate complaints and alleged code violations, and to recommend to governing bodies sanctions they may wish to apply in cases of code breaches. Local governments in these provinces are encouraged or required to have specific procedures in place to ensure that complaints are received and investigated with strong regard for fair process. The degree to

¹⁴ As noted earlier, Vancouver City Council entertained in late July 2024 a motion to suspend the work of the Integrity Commissioner pending an independent review of the Commissioner's scope of duties. On August 6, 2024, Council resolved to postpone a vote on the motion until September.

which such procedures are prescribed by provinces varies by jurisdiction.

All local governments outside of Quebec have the ability to appoint their own independent integrity commissioners.¹⁵ In Ontario, this ability was replaced in 2018 by the requirement to appoint. All local governments in Ontario today, therefore, are served by an integrity commissioner who is appointed for a set term (e.g., two years) by the governing body. Most large municipalities in Ontario have their own appointed commissioner. Smaller municipalities take advantage of a provision in the *Ontario Municipal Act* (s. 223.3(1.1)) which allows them to share the services of an integrity commissioner with one or more other municipality.

In Western Canada, integrity commissioners are in place in most large cities and in a number of mid-size local governments, including the Cities of Edmonton, Calgary, Red Deer, Wood Buffalo, Saskatoon, Regina and Winnipeg. Other cities make use of third-party resources, as needed, to assist with the administration and enforcement of codes.

Manitoba's approach, compared to that of several other provinces, is highly prescriptive.¹⁶ Values on which to base codes are spelled out in full. Required processes for receiving complaints, examining complaints, referring complaints to mediation, investigating complaints, and reporting on

investigations are identified. Steps that local governing bodies must take in receiving investigation reports from third-party investigators are listed. Sanctions from which governing bodies must choose are also listed, as are the specific factors that must be considered when imposing a sanction. The Province appoints a Code of Conduct Intake Reviewer for the province as a whole to receive and determine the validity of complaints. If the Province deems that a complaint is valid, local governments must appoint independent third-party investigators to investigate the complaint and take responsibility for the remainder of the investigative process.

It is useful to note that only Quebec has in place a provincial body — the Commission municipale du Québec — to oversee the administration and to undertake the enforcement of local government codes of conduct. Following the conclusion of the *Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry* (Charbonneau Commission) in 2015, and based on the Commission's findings related to corruption and unethical behaviour in local government, the Commission municipale was given strong powers over code administration and enforcement.

¹⁵ In some provinces this ability is provided as an explicit authority granted to local government. In other places, the choice to appoint an integrity commissioner is implied under permissive legislation and is not prohibited.

¹⁶ Manitoba's approach applies to municipalities outside of the City of Winnipeg. Winnipeg has its own Integrity Commissioner with processes and authorities outlined in City bylaws.

MODELS TO CONSIDER IN BRITISH COLUMBIA

The remainder of the *Paper* sets out three models for discussion purposes to allow local governments and stakeholders to compare and contrast core concepts. Within each model, there is a range of potential policy choices, the full assessment of which is beyond the scope of this *Paper*. Frameworks that support responsible conduct are in a state of evolution throughout Canada. Further consultation and policy work would be required to enact changes contemplated under any of the models.

The Working Group on Responsible Conduct supports approaches to the administration of codes of conduct that make use of independent bodies to investigate complaints and recommend sanctions. The Working Group does not support an internal administration and enforcement approach, which relies on local elected officials and — in several cases — local government staff to perform these functions.¹⁷

The internal approach is problematic for a number of reasons, the most important of which concerns administrative fairness. Fair process and the perception of fairness are difficult to achieve when individuals who are not independent of the governing body or the local government are receiving and adjudicating complaints against individual members of the governing body. The internal administration and enforcement approach is not put forward as a model for further consideration.

The *Paper* focuses instead on models that feature bodies which are independent of the local government to investigate complaints and recommend sanctions. One such model can be developed and implemented at the local level by local governments themselves, using the tools and the natural person power authority in the current responsible conduct framework. This model is similar to that which is used today by councils and boards in British Columbia that make use of third-party investigators or local integrity commissioners.

A second model features a province-wide office, established by provincial legislation, to receive and adjudicate complaints, investigate alleged code violations, and deliver

findings and recommendations to local governments for implementation. This model, or a version of it, has been advanced by some in local government as the preferred solution to address shortcomings in the current framework.

INDEPENDENT BODIES

The Working Group on Responsible Conduct supports approaches to the administration of codes of conduct that make use of independent bodies to investigate complaints and recommend sanctions. The Working Group does not support the internal administration and enforcement approach, which relies on local elected officials and — in several cases — local government staff to perform these functions.

A third model represents a new way for administering and enforcing codes of conduct in British Columbia. This model departs from the permissive approach under Model I, while at the same time placing responsibility for administration and enforcement with local governments at a local level. The model relies on the Province to introduce new legislation that would require local governments to adopt codes of conduct, and to appoint independent third parties at a local level to handle code of conduct complaints.

¹⁷ The Working Group on Responsible Conduct, in *Forging the Path to Responsible Conduct*, advises against relying on internal resources to receive and adjudicate complaints, and to enforce codes of conduct. The approach does not allow for the necessary high degree of fair process.

Model I: Local Determination

This model relies on local governments to determine for themselves whether to create and implement a code of conduct to help local government officials understand the standards of behaviour and conduct that are expected of them. Local governments take this decision in accordance with the current legislative provisions which both enable councils and boards to establish codes, and require councils and boards to consider establishing a code of conduct, or reviewing an existing code, within the first six months after their inaugural meetings.

A council or board that establishes a code under this model is responsible for determining the content and the code. The Working Group's model code of conduct and an accompanying guide are available to guide the local governments in this effort; municipal lawyers and consultants with experience in code development are also available. Codes developed under this model reflect best practices brought forward in the reference materials or by experienced advisors. The codes also, however, respond to needs and circumstances that may be specific to the local government and the environment in which it operates.

In keeping with the Working Group's recommended approach outlined in *Forging the Path to Responsible Conduct*, a local government under this model appoints an independent body to:

- Vet all complaints of alleged code violations that are submitted to the local government, pursuant to the complaints process outlined in the code,
- Investigate complaints as deemed necessary,
- Attempt, whenever possible, to resolve complaints through informal, restorative means (e.g., facilitated or mediated discussion involving the parties), and
- Present findings from investigations to the council or board, along with recommendations on sanctions the council or board may consider imposing in an effort to correct behaviour, and/or deter elected officials from demonstrating future similar behaviour.

The independent body may be an integrity commissioner, appointed by the local government to serve a specified period of time. Alternatively, the body may be a third party, experienced municipal lawyer or consultant.

Education and advice to elected officials under the model may be provided through a combination of local government associations (e.g., UBCM), independent consultants, and local government elected official peers. Where appointed, integrity commissioners would play a significant role as a resource for ongoing advice and education.

An additional important point to address with the model — indeed, with all models — concerns cost. All costs required to establish a code of conduct under the model, to administer and enforce the code using an independent third party, and to give local elected officials access to education and advice on matters of conduct, would be the responsibility of the local government. Local governments could collaborate with one another, including through their regional districts, to implement the model at a sub-regional or regional

HIGH LEVEL OF VARIABILITY

Model I aligns most closely with the current context in British Columbia. The model features tools that are available to local governments, and that, if utilized to their full extent, are powerful. It is clear in practice, however, that there is a high level of variability in applying these tools across the sector.

level, in an effort to reduce an individual government's cost. *Model I* aligns most closely with the current context in British Columbia. The model features tools that are available to local governments, and that, if utilized to their full extent, are powerful. It is clear in practice, however, that there is a high level of variability in applying these tools across the sector. This variability has resulted in some cases in some local governments choosing to not adopt a code of conduct. In other cases, codes that are created vary considerably in their extent of thoroughness, the effectiveness of the sanctions adopted, and the degree to which their implementation is resourced and supported. Based on current application, it is not clear that this model would address the existing framework's shortcomings.

Model II: Provincial Requirements for Centralized Administration and Enforcement

Model II responds to call for a province-wide office, created by provincial legislation, to centrally administer and enforce local government codes of conduct for elected officials. Currently in Canada there is no model for such an office.

Such a province-wide office would:

- Receive and vet all complaints submitted to local governments through processes set out in their mandatory, standardized codes of conduct,
- Appoint experienced investigators to investigate alleged code violations as necessary,
- Offer advice aimed at resolving conduct concerns through informal means, and
- Deliver findings from investigations to councils and boards, along with recommendations on sanctions to impose

UNINTENDED CONSEQUENCES

Model II, with its province-wide centralized office, represents an unprecedented approach to the administration and enforcement of codes of conduct, relative to those in place in British Columbia and across Canada today. Given the novelty of such an office, there is a significant potential for unintended consequences, including those related to scope creep in mandate, challenges of cost containment, and the ability to address concerns in a timely matter.

Such an office would also provide advice and resources to local governments on the development of codes, and offer education and advice on responsible conduct and code matters.

Codes of conduct under the model would be mandatory, constructed with a high degree of standardized content to allow for centralized administration and enforcement. Each council and board would be required by provincial legislation to establish a code, and to incorporate into the

code a series of prescribed provisions on standards of behaviour, interactions with staff and the public, fair processes to govern the submission and review of complaints, fair processes for the investigation and adjudication of alleged code violations, a robust set of sanctions, and other elements.

Municipal councils and regional district boards, as under all models, would receive and determine whether to act on findings from investigations and recommended sanctions. Local governments themselves would fund the model entirely. Costs incurred by the province-wide body would be allocated across local governments through an equitable cost-recovery model that took into account factors such as population and assessment base, but also number of complaints and number of investigations (i.e., usage).

One consideration under *Model II* that is not applicable to the other models is that of governance. A province-wide office, established by provincial legislation but operated by and for local governments, would require a governing body to set policy and oversee operations. It is assumed for the purpose of this *Discussion Paper* that the office would be governed by a board of directors, comprised primarily (if not entirely) by local elected officials. The most appropriate method of election or appointment to the Board would be a matter for further consideration.

Model II, with its province-wide centralized office, represents an unprecedented approach to the administration and enforcement of codes of conduct, relative to those in place in British Columbia and across Canada today.¹⁸ Given the novelty of such an office, there is a significant potential for unintended consequences, including those related to scope creep in mandate, challenges of cost containment, and the ability to address concerns in a timely matter. Consideration needs to be given to the scale of this approach relative to that of the current challenge facing local governments. It should also be acknowledged that a decision to establish a province-wide office would not introduce powers that are not already available under *Model I*.

¹⁸ The closest comparison is the current approach in Quebec, which features the Commission municipale du Québec. The Quebec approach, however, removes local governments from code administration and enforcement entirely. Model II, profiled here, assumes that local councils and regional district boards would continue to make final decisions on the application of sanctions. Responsibility for the application of sanctions is standard in all jurisdictions except Quebec.

Model III: Provincial Requirements for Local Administration and Enforcement

This model relies on the Province to introduce prescriptive legislation to address matters of responsible conduct.

Specifically, under this model the Province would introduce legislation to:

- Require all councils and boards to establish and adopt codes of conduct.
- Prescribe elements to embed in all codes, including: principles of conduct, expected standards of behaviour, interactions with staff and the public, fair processes to govern the submission and review of complaints, fair processes for the investigation and adjudication of complaints deemed serious, and a robust set of sanctions local governments may consider to address code violations.
- Require each council and board to appoint an independent third party to vet complaints submitted under the code, investigate alleged code violations as necessary, and submit findings and recommended sanctions (where necessary) to the governing body.

Mandatory codes of conduct, standardized to include key elements, would be a central feature of this model. A reliance on independent third parties with a significant role in code administration and enforcement would be another key feature. Local governments under the model would be responsible for providing access to advice and education, including through the appointed third party. Local governments would also be expected to fund the model. As with *Model I: Local Determination*, local governments could collaborate with one another, including through their regional districts, to manage overall costs.

Model III is similar in many respects to the approaches taken in Manitoba, and to a lesser extent the Province of Ontario. Provincial legislation in these provinces has evolved over time to become more prescriptive in response to shortcomings in, and concerns with the efficacy of, earlier less-prescriptive responsible conduct frameworks. Local governments in these provinces, however, remain responsible for administration and enforcement, as would local governments in British Columbia under *Model III*.

CONSISTENCY AND RIGOUR

Model III would help to overcome the variability that exists in the current system. Greater consistency and rigour in the administration and enforcement of codes across the sector would be the expected result.

Model III presents an approach that highlights the role of local governments in the development and application of codes, and that remains accountable to local government. *Model III* may, however, improve on the approach set out in *Model I* by overcoming the variability that exists in the current system. Greater consistency and rigour in the administration and enforcement of codes across the sector would be the expected result.

Assessment of Models

This table assesses the models against specific factors to consider. The assessment is presented to spark further discussion among local governments and responsible conduct stakeholders, not to identify a single, recommended approach.

MODEL I LOCAL DETERMINATION	MODEL II PROVINCIAL REQUIREMENTS; CENTRAL ACTION	MODEL III PROVINCIAL REQUIREMENTS; LOCAL ACTION
Source of Authority		
Local governments under the model choose to create, administer and enforce codes of conduct using the natural person powers (section 8(1) of the <i>Community Charter</i>).	The province-wide body is established by provincial legislation. Requirements for local governments to establish standardized codes of conduct are also imposed by provincial legislation.	Requirements for mandatory codes of conduct, specific code contents and the use of independent third parties are established through provincial legislation.
Scope of Sanctions		
The scope of sanctions is at the discretion of the local government but may be broad, as at present in British Columbia. Sanctions may not include removal or disqualification from office. Sanctions are recommended by the third-party investigator, as deemed necessary, for the consideration of the council or board. Only the council or board may apply the sanctions; councils and boards are responsible for holding their members to account between elections on matters of responsible conduct.	The scope of sanctions is set out by provincial legislation. It is expected that the scope would be broad, as at present in British Columbia. Sanctions may not include removal or disqualification from office. The province-wide body recommends sanctions based on the outcomes of investigations to council and boards for their consideration. Only councils and boards may apply the sanctions against their members. This authority and responsibility may not be delegated, even to a province-wide office established to administer and enforce codes of conduct.	The scope of sanctions is set out by provincial legislation. It is expected that the scope would be broad, as at present in British Columbia. Sanctions may not include removal or disqualification from office. Sanctions are recommended by the third-party investigator for the consideration of the council or board. Only the council or board may apply the sanctions; councils and boards are responsible for holding their members to account between elections on matters of responsible conduct.
Precedent		
The model is closest to the <i>status quo</i> approach for several local governments in British Columbia that have established and adopted codes of conduct, and that rely on independent third parties to vet complaints, investigate alleged code violations, and present findings and recommendations to governing bodies for consideration.	The model has no precedent in Canada outside of Quebec, which adopted a form of this model in response to corruption exposed by the Charbonneau Commission. Quebec's approach, however, differs from the model in many respects and does not provide a useful precedent.	The model has no precedent in British Columbia but is similar to approaches taken in some other provinces. The reliance on provincial legislation to require codes of conduct, prescribe (to some degree) the contents of codes, and require the use of independent third parties make the model similar, in particular, to models in force in Ontario and Manitoba.

MODEL I LOCAL DETERMINATION	MODEL II PROVINCIAL REQUIREMENTS; CENTRAL ACTION	MODEL III PROVINCIAL REQUIREMENTS; LOCAL ACTION
Local Government Choice		
<p>Local government choice is strong under this model. Provincial involvement is limited to the requirement for councils and boards to consider establishing a code of conduct, or reviewing an existing code, within the first six months after their inaugural meetings.</p> <p>Local governments choose whether to establish a code of conduct. Local governments choose to use independent third parties for code administration and enforcement. Local governments are guided in this choice by best practices.</p> <p>Local governments also determine whether to accept recommendations on what sanctions to apply.</p>	<p>Local government choice is lowest under this model. Provincial requirements limit local government choices related to code establishment and customization. Code administration and enforcement is assigned to a province-wide body, established by provincial legislation.</p> <p>The model does not enable local governments to collaborate on a sub-regional or regional level. Administration and enforcement is undertaken by the province-wide body.</p> <p>Local governments remain responsible for determining whether to accept and impose recommendations on sanctions.</p>	<p>Local government choice is less strong under this model, relative to that in Model I. Provincial requirements limit local government choices related to code establishment and customization, and code administration and enforcement.</p> <p>Local governments may choose to collaborate with one another in use of third parties and to share costs. Local governments appoint their own independent third parties for the purposes of investigation.</p> <p>Local governments remain responsible for determining whether to accept and impose recommendations on sanctions.</p>
Oversight and Accountability		
<p>Local councils and boards provide oversight for the model and its application. Local councils and boards are accountable for the structure, content and effectiveness of their codes of conduct, and for the mandate assigned to third-party investigators.</p> <p>Local councils and boards remain accountable for decisions taken with respect to sanctions, and for creating a culture of governance that encourages responsible conduct.</p>	<p>Oversight is provided by the province-wide agency established to administer and enforce codes of conduct. Local governments are accountable for establishing codes of conduct with prescribed contents. The province-wide body's board of directors is accountable for code administration and enforcement efforts.</p> <p>Local councils and boards are accountable for decisions on sanctions, and for creating a culture of governance that encourages, or discourages, responsible conduct.</p>	<p>Local councils and boards, along with the provincial government, provide oversight for the model and its application. Local governments are accountable to the Province for establishing codes of conduct with prescribed contents, and for engaging independent third parties in code administration and enforcement. Independent third parties are accountable to the local councils and boards that use them.</p> <p>Local councils and boards are accountable for decisions on sanctions, and for creating a culture of governance that encourages, or discourages, responsible conduct.</p>

MODEL I LOCAL DETERMINATION	MODEL II PROVINCIAL REQUIREMENTS; CENTRAL ACTION	MODEL III PROVINCIAL REQUIREMENTS; LOCAL ACTION
Degree of Standardization		
<p>Codes of conduct are developed by local governments in accordance with best practices, and to reflect local needs and circumstances. Some level of standardization exists based on adherence to best practices.</p> <p>At present under this approach, 30% of local governments are without a code of conduct and the quality of codes of conduct, including their enforcement mechanisms, vary widely.</p>	<p>Standardization of codes is similar to Model III to enable centralized administration and enforcement. Centralized administration and enforcement would not be practicable in an environment with non-standardized codes.</p> <p>This approach ensures that codes of conduct and systems of administration and enforcement are in place for every local government.</p>	<p>The Province's decision to prescribe, through legislation, specific provisions and requirements to include in codes of conduct results in a high degree of standardization.</p> <p>This approach ensures that codes of conduct and systems of administration and enforcement are in place for every local government.</p>
Cost Management		
<p>Local governments may manage costs under this model through code design and application, the imposition of budget caps, and the ability to collaborate with one another on the use and funding of independent third parties.</p> <p>It is important to recognize, however, that local governments which make use of the model, and particularly smaller communities, currently cite cost as an issue.</p>	<p>Cost management is most difficult under this model. Standardized codes of conduct, coupled with centralized administration and enforcement, give little ability to local governments to contain costs.</p> <p>Costs under this scenario may also be difficult to manage due to the scope of responsibility across the local government sector.</p> <p>It is uncertain whether the Province would contribute to the operational costs for this model.</p>	<p>Prescriptive provincial legislation makes cost management more difficult under this model. Local governments have less control, relative to Model I, over code design and application. Local governments may collaborate with one another in the use and funding of independent parties.</p> <p>It is uncertain whether the Province would contribute to the operational costs for this model.</p>
Fairness		
<p>Fairness is determined in part through the design of complaint and investigation processes in codes of conduct. Fairness is also determined by the process through which local government receives, considers, applies and publicizes recommended sanctions. A process to allow for appeal to local government, and in some cases to courts, is important.</p> <p>Adherence to best practices, and the use of experienced code designers, enhances the potential for fairness. Due to the variance of approaches, though, this approach poses significant risks to ensuring fair procedures.</p>	<p>Provincially-prescribed contents for codes of conduct, including processes for complaints and investigations, determine fairness of model to a large degree. Fairness is also determined by the process through which local government receives, considers, applies and publicizes recommended sanctions.</p> <p>Process to allow for appeal to province-wide body, and ultimately to courts in some cases, would continue.</p>	<p>Provincially-prescribed contents for codes of conduct, including processes for complaints and investigations, help to establish a high degree of fairness in comparison to Model I. Fairness is also determined by the process through which local government receives, considers, applies and publicizes recommended sanctions.</p> <p>A process to allow for appeal to local government, and in some cases to courts, would continue.</p>

MODEL I LOCAL DETERMINATION	MODEL II PROVINCIAL REQUIREMENTS; CENTRAL ACTION	MODEL III PROVINCIAL REQUIREMENTS; LOCAL ACTION
Effectiveness		
<p>Effectiveness is determined in large part by the governing body's willingness to design a strong code, support the work of independent parties, and apply sanctions against its members.</p> <p>Ability to emphasize informal resolution approaches in the code of conduct may strengthen effectiveness.</p> <p>This approach currently leaves 30% of local governments without a code of conduct, and a high degree of variability in the quality of the codes of conduct that have been implemented.</p>	<p>Provincial requirement for all councils and boards to adopt codes of conduct, and to include specific provisions in codes, would improve efficacy for the local government as sector as a whole relative to Model I.</p> <p>The centralized administration and enforcement under the model may weaken the ability to resolve matters informally. (Informal resolution often relies on a strong local presence and strong relationships with the parties involved in complaints.)</p> <p>The centralized approach under this model comes with a significant risk in timely service delivery. A centralized office also poses a higher risk of scope creep in practice.</p>	<p>Provincial requirement for all councils and boards to adopt codes of conduct, and to include specific provisions in codes would improve effectiveness for local government as sector as a whole relative to Model I.</p> <p>Prescribed emphasis on informal resolution, coupled with robust set of prescribed sanctions, may further strengthen the effectiveness of this option.</p> <p>The decentralized approach to administration of and enforcement will provide more timely interventions relative to Model II.</p>

REQUEST FOR INPUT

British Columbia's responsible conduct framework for local government elected officials is designed to help municipalities, regional district boards and their elected members learn about, promote, and ensure adherence to standards of appropriate conduct. Concerns raised by elected officials and staff with shortcomings in the existing framework prompted UBCM and the LGMA to produce this joint *Discussion Paper*.

The *Paper* has explored the potential for mandatory codes of conduct in all local governments in British Columbia and presented three models to address issues related to the administration and enforcement of codes. The *Paper* does not offer prescriptions, nor does it recommend a specific path forward. It has, however, identified a new option for code of conduct administration and enforcement that exists between the status quo and a centralized province-wide service.

The authors of this paper, UBCM and LGMA, invite local government feedback to inform further action on these considerations by the Working Group on Responsible Conduct, and ultimately, by the Province.

To this end, we are inviting local government councils and boards and individual elected officials or chief administrative officers to provide comment on the following questions:

- Should the province be requested to develop legislation mandating codes of conduct modelled on established best practices for all local governments in BC?
- Are legislated changes needed to support code of conduct administration and enforcement?
- And, if so, what factors do you think are most important to the success of a new approach to code administration and enforcement?

Councils and boards are invited to respond to these questions in writing to UBCM to the attention of Paul Taylor, Director of Communications, UBCM (ptaylor@ubcm.ca).

Chief administrative officers may provide responses to Candace Witkowskyj, Executive Director, LGMA (cwitkowskyj@lgma.ca).

The deadline for providing response to the above questions is **November 1, 2024**.

All feedback will be shared with the Working Group on Responsible Conduct as all parties work together to identify a process the next phase of changes to strengthen BC's responsible conduct framework.

Acknowledgements

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Valued research and advice were also provided by staff at the Ministry of Municipal Affairs.

Oversight for this project was provided by Candace Witkowskyj, LGMA's Executive Director and Paul Taylor, UBCM's Director of Communications.

APPENDIX I

UBCM Resolutions on Responsible Conduct 2016-2024

NUMBER	RESOLUTION TEXT	OUTCOME
<p>2016-B70</p>	<p>Integrity Commissioner for Local Government</p> <p>Sponsor: City of Kelowna</p> <p>Whereas the current legislative tools available to local government in British Columbia regarding matters of questionable conduct and breaches of code of conduct of elected officials result in expensive quasi-judicial processes eroding public confidence, strained internal relationships, and produce limited viable outcomes;</p> <p>And whereas elected officials in local government do not have access to independent advice regarding conflict of interest or other matters related to Codes of Conduct, nor an effective process to objectively resolve contraventions, accusations or public complaints:</p> <p>Therefore be it resolved that UBCM call on the provincial government to enact enabling legislation that would empower local governments with the ability 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.</p>	<p>Referred to the Working Group on Responsible Conduct</p>
<p>2021-NR1</p>	<p>Independent Office of Integrity for Local Government</p> <p>Sponsor: City of Maple Ridge</p> <p>Whereas the UBCM Working Group on Responsible Conduct WGRC has been working extensively to support local government initiatives to address less-than-responsible local government conduct by providing local government council and board members with a set of principles and general standards of conduct that can be used to develop their own code of conduct;</p> <p>And whereas the WGRC continues to work on potential legislative change that focuses on the importance of councils and boards turning their minds to codes of conduct in a standardized and consistent manner:</p> <p>Therefore be it resolved that UBCM request the provincial government to establish an Independent Office of Integrity to serve the public, elected officials and local government officials in an advisory, educational and investigative role in the development, application and enforcement of codes of conduct.</p>	<p>Endorsed</p>

NUMBER	RESOLUTION TEXT	OUTCOME
<p>2021-SR3</p>	<p>Strengthening Responsible Conduct</p> <p>Sponsor: UBCM Executive</p> <p>Whereas responsible conduct of elected officials, both individually and collectively as a Council or Board, is essential to sound and effective governance;</p> <p>And whereas local governments are best served by tools and resources that reflect the legislative framework for local government in British Columbia, which is based on foundational concepts of autonomy, empowerment, accountability and collaboration:</p> <p>Therefore, be it resolved that UBCM ask the provincial government to:</p> <ul style="list-style-type: none"> • Introduce a legislative requirement that all local governments in British Columbia must consider the adoption or updating of a Code of Conduct at least once early in each new term of office; • Work collaboratively with UBCM and others to consider the design of a mandatory educational module that would support responsible conduct by local elected officials; • Update the oath of office prescribed by regulation to embed the foundational principles identified by the Working Group on Responsible Conduct; and • Provide guidance for local governments that have established an oath of office by bylaw so that these oaths may be updated with the same foundational principles for responsible conduct. 	<p>Endorsed</p>
<p>2021-NEB1</p>	<p>Support for a Provincial Code of Conduct for Local Government Elected Officials</p> <p>Sponsor: City of Port Moody</p> <p>Whereas there is no current legislation to hold elected officials, across the province, to a consistent set of standards of accountability for their behavior and actions;</p> <p>And whereas elected officials should have a right to a respectful and safe workplace;</p> <p>Therefore be it resolved that UBCM ask the Province of British Columbia to develop a code of conduct, which is informed by a review of elected official experiences and with input from equity seeking groups, that is overseen by the Province, so that all elected officials have access to a consistent, formal set of standards and process for complaint against other elected officials.</p>	<p><u>NOT</u> Endorsed</p>

NUMBER	RESOLUTION TEXT	OUTCOME
2022-EB77	<p>Ethics Commissioner</p> <p>Sponsor: City of White Rock</p> <p>Whereas Bill 26 2021: Municipal Affairs Statutes Amendment Act No. 2, 2021 does not require a local government to adopt a Code of Conduct for Council members;</p> <p>And whereas many local governments in British Columbia cannot afford or do not have an independent non-partisan Ethics Commissioner to review and resolve allegations of misconduct:</p> <p>Therefore be it resolved that UBCM call upon the provincial government to immediately create an Office of the Municipal Ethics Commissioner within the Ministry of Municipal Affairs that will: 1 respond to allegations of misconduct by an elected official of a municipal government and conduct an inquiry if warranted; 2 review decisions imposed on an elected official of a municipal government and conduct an inquiry if warranted; and 3 require local governments to adopt a code of conduct for council members.</p>	Endorsed
2023-EB69	<p>Shared Ethics Commissioner Office</p> <p>Sponsor: City of Nelson</p> <p>Whereas all local governments are required to decide on the implication of code of conduct within the first 6 months of a new term, which may include the designation of a local ethics commissioner officer;</p> <p>And whereas local governments may often lack the resources or expertise to develop local ethics commissioners role:</p> <p>Therefore be it resolved that UBCM ask the Province to create a shared local government ethics commissioners offices to serve local governments in the efficient and effective implementation of Code of Conduct policies.</p>	Endorsed
Pending	<p>Office of the Municipal Government Ethics Commissioner</p> <p>Sponsor: City of Port Moody</p> <p>Whereas the City of Port Moody strongly supports fair and unbiased resources for local governments;</p> <p>And whereas in support of this principle, the City of Port Moody called upon the Province to establish an “Office of the Municipal Government Ethics Commissioner”, which would provide fair and unbiased guidance to local governments on issues such as legality, conflict, code of conduct violations, and bullying:</p> <p>Therefore be it resolved that UBCM requests the Province establish an Office of the Municipal Government Ethics Commissioner and require mandatory ethics training for all new elected officials.</p>	Pending

APPENDIX II

Mandatory Education

Many local government elected officials come into office without a deep background in or extensive knowledge of British Columbia's local government system. The make up and authority of collective decision making bodies will be new to some, as will the roles, responsibilities and limitations of individual elected officials within the bodies. Principles of responsible conduct and accepted norms of behaviour will be regarded by many elected officials as "common sense". The exercise of proper conduct in, and the importance of such conduct to, effective local government decision-making, however, is critical even for these officials to understand.

The need for a strong grounding in British Columbia's local government system, the roles and responsibilities of elected officials and other parties, and the principles of responsible conduct, must be acquired in order to practice and consistently achieve good governance. Education is the tool to provide this grounding.

Across Canada, expectations and requirements related to the participation of local government elected officials in educational programs vary. The approach taken by provinces such as Saskatchewan, Ontario, Nova Scotia and New Brunswick is similar to that which is taken by British Columbia: encourages but does not require participation. In some of these places, including British Columbia, the approach is rooted in a commitment to local government autonomy. Local governing bodies and their members in autonomous local governments should determine their own approaches to education.

In Alberta, the Province has had a requirement in place for several years for every municipality to offer orientation training to each council member within 90 days of the member having taking the oath of office. Until recently, there was no accompanying requirement for council members to actually attend the training. As a result of a 2024 legislative amendment, however, every municipality is required to offer, and each member is required to attend, orientation on specific topics to be held before or on the same day as the inaugural council meeting.

In Manitoba, section 84.2(1) of the Province's *Municipal Act* requires each municipality to arrange for training for its elected officials on the municipality's code of conduct within the first six months following election. The same section compels every elected official to attend the training, which is developed by the Ministry of Municipal and Northern Relations, and made available through the Municipal Relations Learning Portal. Members who do not

complete the training within the six month timeline cannot continue to serve as a member of council until the training is completed.

Newfoundland and Labrador (NL) takes a similar approach to Manitoba. However, the content of the mandatory training for elected officials in NL extends beyond responsible conduct to include related topics such as roles and responsibilities, meetings and procedures, access to information and protection of privacy, and conflict of interest. Officials who fail to complete the training cannot continue to sit in office until training has been completed.

In 2021, the UBCM Executive embedded in its special resolution (*Strengthening Responsible Conduct*) a call for the development of a mandatory training module for all local government officials in British Columbia. The desire for mandatory training has not subsided in the intervening years. On the contrary, in the focus group sessions and in interviews conducted for the *Discussion Paper*, the desire for mandatory education on matters of responsible conduct was emphasized. The 2024 UBCM resolutions request to the Province to require all new local elected officials to participate in mandatory ethics training adds to the call. For some, the approaches taken in other jurisdictions are considered instructive.

There are several questions to consider in determining whether education on responsible conduct for elected officials in British Columbia should be mandatory.

- Would mandatory education work to produce greater consistency in the conduct of elected officials across the province?
- What topics should be included in mandatory education?
- Should mandatory education be standardized for all local government elected officials?
- Should responsibility for development and delivery be assigned to a single, central body? Or should design and delivery be decentralized and left to individual local governments or consortia of local jurisdictions?
- When and how often should education be provided?
- What types of incentives, disincentives and penalties should be applied to ensure participation? Who should apply them?
- Who should pay the cost of mandatory education?

These questions and the broader topic of mandatory education warrant further consideration.

APPENDIX III

Resources to Support Responsible Conduct

The [Working Group on Responsible Conduct](#) has developed several resources to assist local governments as they develop, implement and administer Codes of Conduct.

FOUNDATIONAL PRINCIPLES FOR RESPONSIBLE CONDUCT

The [foundational principles](#) provide a basis for how local government elected officials fulfill their roles and responsibilities, including in their relationships with each other, with local government staff and with the public.



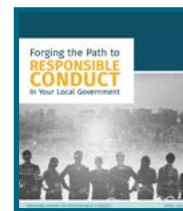
MODEL CODE OF CONDUCT AND COMPANION GUIDE

The [Model](#) provides local government council or board members with a set of principles and general standards that can be used to develop a Code of Conduct. The [companion guide](#) provides discussion questions, tips and resources.



FORGING THE PATH TO RESPONSIBLE CONDUCT

This [resource](#) provides guidance on ways to prevent conduct issues by local elected officials, and how best to deal with them if they do arise. Developed by the Working Group on Responsible Conduct, the guide addresses fostering responsible conduct, maintaining good governance and resolving conduct issues for those who serve on Councils and Boards. It also includes considerations for local governments that wish to establish an enforcement process within a Code of Conduct.



ON DEMAND TRAINING: RESPONSIBLE CONDUCT EVERY DAY

This [online course](#) introduces the principles that support responsible conduct through a series of scenarios that explore conduct choices. Please use the course code VV81-5TFM to access the course.