

OFFICE OF THE AUDITOR GENERAL - ADVISORY ACTIVITY REPORT

TYPE OF REQUEST: Advisory to Regional Council via Executive Standing Committee

DATE: July - October 2011

SYNOPSIS: Review and provide comments on the proposed Council Code of Conduct Complaint Process. The Auditor General accepted the request as it was felt to be in the best interests of Halifax Regional Municipality.

CHRONOLOGY:

- reviewed the draft Staff Report as presented by the Municipal Clerk
- met with the Municipal Clerk (July 13th, September 8th, October 3rd)
- met with a Councillor and Mayor Kelly (both on September 12th, Councillor on September 22nd)
- created a flowchart to clarify the process as proposed
- modified the process to deal with complaints
- met with the Executive Committee to present the AG's revised process and flowchart (September 26th)
- made slight modifications after meeting with the Executive Committee
- met again with the Executive Committee to present the revised documents as well as the Auditor General's recommendation around implementation (October 4th)
- attended Regional Council for presentation of the Supplementary Report, provided further information and clarification at the request of Council (October 25th)
- no further action is contemplated on this file (October 26th)

NOTES:

The observations and the accompanying recommendation made by the Auditor General defined the resources and legislative changes required to bring the Code of Conduct and Complaint Process to fruition. Particular resources defined included the makeup and chair of the Investigative Panel and External Third Party resources, as well as stressing the underlying need for confidentiality to a certain point in the process. The Auditor General's observations also speak to the need for presentation of the revised report and the OAG's revised complaint process flowchart to the Province of Nova Scotia, Service Nova Scotia and Municipal Relations. The Province of Nova Scotia should be asked to address changes required to the HRM Charter to allow for the sanctioning of members of Council and other related matters.

The recommendation of the Auditor General for the Code of Conduct is as follows:

RECOMMENDATION: Following adoption by Regional Council of the Complaint Process with respect to the Council Code of Conduct, the Office of the Auditor General would recommend deferring implementation of the process until discussions are held with the Province of Nova Scotia relating to implementation of sanctions and other required changes to the HRM Charter.

The combined time of the Auditor General and his staff required in this advisory capacity are estimated at 75 hours.

Office of the Auditor General, October 12, 2011

Notes regarding the Proposed Implementation of HRM Complaint Process – Council Code of Conduct

For any code of conduct and complaint process to be effective, the ability of the governing body to determine and enforce sanctions is of critical importance. Without the authority to determine outcomes for breaches of the code, any complaint process likely becomes nothing more than a frustrating experience for participants and a potentially costly undertaking for the organization with no measurable outcomes.

Recommendation: Following adoption by Regional Council of the Complaint Process with respect to the Council Code of Conduct, the Office of the Auditor General would recommend deferring implementation of the process until discussions are held with the Province of Nova Scotia relating to implementation of sanctions and other required changes to the HRM Charter.

Legislative Changes: Inherent in the complaint process is the overriding requirement for legislative changes to the HRM Charter. Amendments would be required to entrench the power of HRM Regional Council to determine and enforce sanctions as a result of the Complaint Process. Additionally, a process for appeal to the Province via the Minister of Service Nova Scotia Municipal Relations would be required.

Investigative Panel and Chair of Panel: members of this panel must be independent and external to the organization, particularly the Chair. A list of potential participants would be compiled. Members' skill sets must include conflict resolution, facilitation, ethics, etc. Examples of members could include professionals from the Employee Assistance Program (EAP) Human Solutions, senior Human Resource specialists, retired lawyers/jurists and educators. The Chair of the Investigative Panel would be named and would be the first point of contact for lodging a complaint. Once a formal written complaint is submitted, the Municipal Solicitor would also be copied. This would ensure a confidential and official formal document of the Municipality is maintained. The formal complaint would be personally held and kept confidential by the Solicitor.

We would foresee the only paid position being that of the Chair of the Panel. The remaining two positions would be of a volunteer nature. This point can be revisited once frequency and time commitments around complaints are better known.

The number of complaints which may be received will likely be highest upon implementation, therefore HRM may wish to contract with an individual for a fixed fee to 'establish the office' and initial processes, and then revert to a per diem rate. From an effectiveness and efficiency perspective, should a publicly spirited individual with the required expertise to act as the Chair be available and wish to serve for no fee, this would of course be desirable.

Internal Resources: professionals within the organization including senior HR personnel, any of a number of trained facilitators or conflict resolution specialists. Assignment of these resources would be at the request of the Investigative Panel. Since these resources are the resources of the Administration

who have ongoing daily responsibilities, their participation would be based upon availability and the agreement of the CAO. As part of its recommendations to Council, the Investigative Panel may also recommend the use of other HRM resources including EAP or HRM training programs (Dispute Resolution, Diversity Awareness, Anger Management, Workplace Rights, Substance Abuse Policy, etc.).

External 3rd Party Resources: these 3rd party resources would be chosen from a compiled list for use by the Investigative Panel, with the same skill set requirements as those of the internal group, including being independent and external to the organization. Resource persons would be invited by the Investigative Panel to assist with a particular issue. Skill sets would include conflict resolution, facilitation, ethics, etc. Examples of members could include professionals from the Employee Assistance Program (EAP), external senior Human Resource specialists, retired lawyers/jurists and educators. These individuals may be called upon in a variety of circumstances. These may include situations where internal resources are either not available or do not have appropriate skill sets. Also, given a particularly sensitive issue, the use of an external third party resource may be preferred by the Investigative Panel. It would be anticipated these resources would be paid a per diem for their assistance.

Confidentiality: All steps in the process would be confidential up to and including the Findings and Recommendations. When the Findings and Recommendations are brought to Regional Council, Council will decide on actions to be taken at an In camera session, with subsequent ratification of the action in an open session of Regional Council.

Outline for Possible Implementation of HRM Complaint Process Council Code of Conduct

Office of the Auditor General October 4, 2011

