

**CITY OF NEW WESTMINSTER
ETHICS COMMISSIONER
ANNUAL REPORT
OCTOBER 2025**

I am grateful for the opportunity to provide this report to Council regarding the work of the Office of the Ethics Commissioner since 2024.

Over the past 12 months, there have been a significant number of complaints brought to the Office of the Ethics Commissioner, which are summarized below. Detail of complaints is not provided in order to protect participants' privacy and the integrity of ongoing matters.

Based on the complaints filed and concerns raised over the past year, I have provided certain topics for consideration by Council with respect to potential amendments to the Code of Conduct Bylaw.

Formal Complaints

All of the formal complaints since 2024 have been brought by members of the public and members of Council. The content of those complaints falls almost exclusively into two categories: allegations of conflict of interest and conduct-based allegations such as allegations akin to bullying and harassment.

Under the Code of Conduct, complaints may be dismissed without formal adjudication in appropriate circumstances. I have exercised my discretion to dismiss multiple complaints without formal adjudication, primarily in circumstances where the alleged conduct was not within my jurisdiction or where the alleged conduct was not within the scope of the Bylaw. Examples of such complaints have included complaints about Council decisions or policy, complaints about the actions of City staff, and complaints where the conduct is alleged only to breach the foundational principles of the Code of Conduct.

Although informal resolution or mediation was offered in all complaints between members of Council, that offer was generally declined and did not ever result in the resolution of a complaint.

Informal Complaints and Inquiries

Over the course of my appointment, I have had many conversations with members of Council, members of the public, and City staff regarding concerns that have not resulted in formal complaints.

Although City staff (and representatives of City staff) have, on multiple occasions, raised concerns about the conduct of members of Council and inquired about the complaint process, no members of City staff have made a formal complaint.

Individuals who declined to engage in the formal complaint process have identified a number of reasons for doing so, including:

- Politicization of the process and fear that the complaint and complaint process would be used as a political tool;

- Fear of retaliation;
- Fear of worsening relationships with members of Council;
- Dissatisfaction with potential remedies; and
- The Code of Conduct requirements for making a formal complaint, including:
 - The lack of ability to make an anonymous complaint; and
 - The work associated with collecting evidence to support a complaint.

Issues for Consideration by Council

Arising from these complaints, concerns, and decisions not to engage with the Code of Conduct process, I provide the following issues for Council to consider with respect to potential amendments of the Bylaw.

1. Does Council wish to consider the ability to file anonymous complaints?

As noted, a number of individuals have declined to make formal complaints because they cannot be made anonymously. Accordingly, Council may wish to consider permitting such complaints.

Anonymous complaints can have serious implications for the ability to deliver a fair investigation. In many instances, a respondent, as a matter of fairness, will have a right to know who is making the complaint against them in order fairly respond. In conduct-related complaints, anonymous complaints generally cannot proceed in a fair manner because the allegations cannot be put to the respondent without the respondent knowing who they are alleged to have harmed.

In a limited number of complaints, however, anonymous complaints could potentially proceed on a fair basis. For example, where the complaint is related to an alleged conflict of interest, the facts and issues generally exist separately from the identity person bringing the complaint. There is generally no personal harm to the person who has brought the complaint.

If Council determines that it wishes to allow anonymous complaints, such complaints should only be permitted on a case-by-case basis and anonymity should not be guaranteed. If a fair investigation requires the disclosure of a complainant's identity, potential complainants should understand that there is a risk that their identity will be disclosed.

2. Does Council wish to create a process for third party complaints?

A related issue is the potential for third party complaints, *i.e.* making a complaint on behalf of another individual. The current Code of Conduct does not expressly consider the possibility of third party complaints, but neither does it prohibit such complaints.

Third party complaints can have the effect of reducing barriers to legitimate complaints. It may be, for example, that an individual feels aggrieved by the conduct of a member of Council but does not feel comfortable make a complaint for fear of retaliation or a worsening of relationship.

The risk, however, of third party complaints is that they remove the choice of complainants as to whether they wish to pursue a formal complaint process that may result in a publicly available

report. There may be many reasons why an individual chooses not to pursue a formal complaint that have nothing to do with the merits of the allegations. A trauma-informed approach to investigations encourages supporting the choice of complainants as to whether to file a formal complaint where possible (while acknowledging that there are circumstances in which an investigation must take place even in the absence of a formal complaint).

If Council determines that it will expressly permit third party complaints, it should consider limiting such complaints to circumstances where the affected individual consents to the complaint and adjudication process although they have not made a complaint on their own behalf.

3. Does Council wish to create an amended complaint process to lower barriers?

One of the frequent concerns raised by prospective complainants is that they do not feel that they should be responsible for gathering the evidence to support their complaint when the complaint is not personal to them. This concern has arisen in complaints and concerns relating to alleged conflicts of interest and political materials distributed by members of Council. In these circumstances, complainants are reluctant to expend the energy to bring forward a complaint, including all of the evidence of a breach and submissions regarding the Code of Conduct, when the impugned conduct is not personal. They are also reluctant to identify themselves as complainants in these circumstances, for fear of retaliation. The result is that many such complaints are raised only informally and not pursued through the formal Code of Conduct process.

If Council wishes to offer an amended complaint process to remove the need for complainants, where the complaint is not personal to them, to provide evidence and submissions in support of their complaints, there would need to exist an alternate process for the gathering of that evidence.

It would not be appropriate for the Ethics Commissioner to be both “prosecuting” a complaint and adjudicating it; such a process would not be fair to respondents. In order to alleviate this burden on complainants while ensuring fairness, Council would need to create a separate independent position responsible for gathering evidence to then provide to the Commissioner for adjudication.

4. Does Council wish to make available informal resolution or mediation where the complainant is a member of staff? Or a member of the public?

Under the current Code of Conduct, the information resolution process is only explicitly offered to resolve complaints between members of Council; it is not offered where the complaint is brought by a member of staff or the public.

An informal resolution process available to members of the public and/or staff may have the effect of resolving certain concerns in a more expeditious and confidential manner. It may also have the effect of lowering barriers to legitimate complaints.

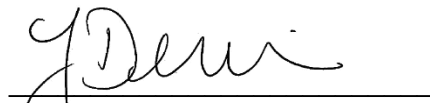
The risk, however, is that the process becomes used as a tool for private access to individual members of Council, which carries with it significant risk of further complaints and perceptions of bias or conflict.

5. **Are there steps that Council wishes to take to decrease the risk of politicization or weaponization of the process?**

Based on the formal and informal complaints filed over the last 12 months, it is apparent that the current process is, at times, being used as a political tool. The complaints process has become a new means of targeting political adversaries or politicians for whom citizens did not vote. This is not to suggest that complaints have been frivolous or vexatious, but rather that it is, at times, being used for political advantage or pressure.

If Council wishes to reduce the ability to politicize the Code of Conduct process, it could consider greater confidentiality over the process. At present, there is no obligation on complainants or respondent to keep confidential the details of a complaint. This lack of confidentiality allows complainants and respondents to use the existence of complaints, before any findings, for public or political means. Although decisions would need to remain public, maintaining confidentiality prior to a decision may discourage complaints from being filed for political purposes.

Thank you for the opportunity to provide this feedback regarding the Code of Conduct and complaints process. I look forward to continuing to work Council, staff, and residents for the term of my appointment.



Jennifer Devins
Ethics Commissioner
City of New Westminster

October 2025