



Council Policy

Policy Name	Policy for Compliance with Duties of Members of Council Reporting and investigating allegations of non-compliance with the duties of members of Council as outlined in OAA's by-laws and policies
Issue Date	November 5, 2020
Revision Dates	December 6, 2024

Overview

It is the responsibility of each member of Council to hold themselves accountable for complying with the duties outlined in OAA's by-laws, applicable policies, and any applicable workplace laws, such as the Occupational Health and Safety Act and Ontario Human Rights Code ("Duties"). Members of Council also have a responsibility to hold each other accountable when they observe that another member of Council is not complying with their Duties.

The President or Chief Operating Officer may be consulted for advice by members of the Council concerning compliance with their Duties.

1. Reporting non-compliance with Duties

A person who has information suggesting that a member of Council has not complied or is not complying with their Duties may report the information in writing to the Chief Operating Officer or President of Council (the "Recipient").

If the information concerns the President of Council's non-compliance with their Duties, then the information may be referred to the Chief Operating Officer. This substitution applies to all of the responsibilities under this policy.

2. Responsibilities of the Recipient

The Recipient may take no further action with respect to a report received under this policy where the Recipient assesses that the report does not allege any failure of a Council member to comply with their Duties, or where the Recipient assesses that the report is frivolous, vexatious, made for an improper purpose, or otherwise an abuse of the processes set out in this policy. When the Recipient takes no further action under this paragraph, the Recipient may, but is not required to, notify the subject member of the receipt of the report and the decision to take no further action.

Where the Recipient does not decide to take no further action under the paragraph above, the Recipient shall notify the member of Council who is the subject of the issue disclosed in the report ("the subject member") and provide them with a summary of the relevant information relating to the subject member's compliance with their Duties. The Recipient has



the discretion to refuse to disclose the identity of the person who made the report or of other involved individuals where it appears desirable to do so. The subject member shall be given an opportunity to provide a written response to the issue to the Recipient.

Upon receipt of the response from the subject member, or if no response is provided, the Recipient shall review the information provided and determine the appropriate action to be taken. The appropriate actions taken by the Recipient may include any one or more of the following:

- a) take no action;
- b) conduct such informal investigation as may be appropriate to the circumstances of the matter;
- c) caution the subject member about the issue;
- d) require an apology from the subject member to those affected by conduct related to the issue;
- e) accept an undertaking from the subject member with respect to their conduct, such as providing additional information, or attending a meeting, training session or workshop;
- f) advise the subject member on any other steps to be taken to remedy or resolve the issue; and/or
- g) refer the issue to an independent third-party investigator for review and investigation with appropriate terms of engagement for the investigation.

The Recipient shall give the person who made the report a written summary of the Recipient's decision made under this section where that decision disposes of the report, including a brief summary of the Recipient's reasons for such disposition.

3. Investigation Process

Investigations conducted under this Policy may be formal or informal.

Informal investigations

Informal investigations may be conducted by the Recipient or another person delegated by the Recipient. Informal investigations may consist of such steps as appear reasonable and appropriate to identifying and gathering information relevant to the report.

Informal resolutions

The Recipient or another person delegated by the Recipient, and/or the person who made the report and/or the subject member, may explore the possibility of informal resolution of an issue giving rise to a report under this policy. When attempting to resolve a matter informally, the interested parties are encouraged to communicate with each other directly, and respectfully, to discuss their concerns and how they may be addressed. Where an interested party does not feel that they can communicate directly with another, the Recipient or another person delegated by the Recipient may explore options such as facilitated dialog or mediation.

Formal investigations

Formal investigations conducted under this Policy will be timely, fair and objective. They shall not be based on presumptions about guilt or innocence of any party. The investigator will be objective and trained to conduct investigations involving the subject matter of the information provided to the Recipient. All parties involved in the investigation, including the person who made the report to the Recipient, will be informed of their rights and responsibilities as well as possible options to access support.

The Executive Committee shall be notified when a formal investigation is initiated. Once a formal investigation is initiated, the subject member will be informed of the commencement of the investigation and its subject matter in writing. At this stage, it may be necessary to implement interim measures to preserve the health and safety of those who are involved in the investigation, and the integrity of the OAA. These measures may include separating the subject member from any party whom the subject member has affected.



Before the subject member is asked to provide their response to any inquiries by the investigator, they will be given a summary of the allegations, in writing.

Information relating to a complaint or investigation, including identifying information about the individuals involved, will be kept confidential except to the extent that it must be disclosed to investigate the allegations, to take corrective action, or as otherwise required by law. All individuals who participate in an investigation are expected to maintain confidentiality throughout the process.

The investigation procedure will be established on a case-by-case basis, based on the nature and circumstances of the subject matter of the investigation.

Following the conclusion of the investigation, the investigator will submit a written report to the Recipient, who shall forthwith provide a copy to the Executive Committee. The investigator's report will typically include:

- a) a summary of the allegations raised;
- b) an overview of the steps taken during the investigation;
- c) a summary of the evidence provided by all parties to the investigation;
- d) findings of fact (i.e. a finding of whether the allegations are substantiated or unsubstantiated);
- e) a conclusion about whether the subject member failed to fulfil their Duties was found; and
- f) recommendations to prevent the incident from recurring, where appropriate.

The Recipient shall give the subject member and the person who made the report a summary of the conclusions reached in the investigator's report, and may provide those parties with summaries of further elements of the investigator's report, or with a redacted or unredacted copy of the investigator's report, in the Recipient's discretion.

Based on the investigator's report, the Executive Committee may:

- a) conclude the review of the matter and advise the parties involved accordingly in writing; or
- b) determine that the issue should be referred to the Council for the purpose of selecting an appropriate remedy.

4. Referral to Council

The Executive Committee may refer the matter to Council for a determination of whether the subject member of Council has failed to fulfill their Duties and a determination of an appropriate remedy. The referral shall be in writing and the issue shall be considered and determined by at least a quorum of Council, and in the absence of the public/in camera.

After considering the issue, Council shall determine whether or not the subject member has failed to fulfil their Duties and shall provide written reasons for its decision. Following the preparation of its decision and reasons, Council shall provide the decision and reasons to the subject member.

Where Council determines that the subject member has failed to fulfil their Duties, the Council may:

- a) reprimand the subject member, and/or
- b) suspend for a period of time certain rights and privileges of the subject member.

The decision of Council under this part of this policy is final. Council may report publicly on the issue once it has been concluded, but shall maintain confidentiality regarding the individuals involved in the investigation, with the exception of the subject member, to the extent possible and desirable.

