

Working Group on Responsible Conduct

Terms of Reference

Mandate and Membership:

- At the 2016 Union of BC Municipalities Convention, a resolution on the issue of local government integrity commissioners was referred for further exploration, enabling consideration of the topic of responsible conduct of local government elected officials more broadly.
- Staff from the Union of BC Municipalities (UBCM), the Local Government Management Association (LGMA), and the Ministry of Community, Sport and Cultural Development (MCSCD) have formed a Working Group on Responsible Conduct (the WGRC) to undertake research and policy work on the framework and approaches related to responsible conduct.
- Responsible conduct broadly refers to issues respecting the conduct of local government elected officials between themselves, with staff, and with the public. It includes conflict among local government elected officials on municipal council and regional district boards, inappropriate behaviour towards staff, questionable behaviour at council/board meetings or in interactions with the public, conflict of interest violations, and alleged breaches of other procedures/rules such as open meetings and duty to respect confidentiality.
- The WGRC comprises staff members from UBCM, LGMA and MCSCD.

Background and Issue:

- There is a growing concern/debate and interest across Canada about the issue of responsible conduct of local government elected officials. Concerns have received media attention and cover a range of behaviours, such as breach of protection of privacy legislation by release of confidential information and inappropriate use of the press or social media.

In BC, UBCM, LGMA, and MCSCD are aware of a diversity of challenges in communities around the province relating to situations respecting the conduct of some local government elected officials. BC's local government system has a wide range of tools to address these issues, which range from formal processes embedded in the legal framework (such as conflict of interest provisions in the *Community Charter*) to informal processes such as professional consultants and providing advice to education; at the same time, there is not a fulsome understanding of the range of tools available, the behaviours to which those tools are directed and whether there may be opportunities for additional tools that could be used to further responsible conduct.

Objectives:

- The WGRC will undertake research and policy work and consult with members of UBCM and LGMA to advance understanding of issues related to responsible conduct and to analyze potential policy approaches to address these issues.

- As part of this work, the WGRC will develop:
 - o (a) policy papers on specific topics for potential dissemination;
 - o (b) a Summary Report of research and policy findings for consultation; and
 - o (c) a Final Report that analyzes potential policy approaches related to responsible conduct.

Scope of Work:

- The WGRC will take the following phased approach to achieve its objectives:

Phase 1: Identifying the issue and undertaking research

- Defining the ‘problem’: WGRC members will develop a problem statement that defines the main issue(s) to be addressed by the research and policy work.
- Undertaking research: The WGRC will undertake research on the following topics to understand the tools that may be used to address issues related to responsible conduct in BC and other jurisdictions (e.g. other provinces):
 - o Existing legislative tools (e.g. conflict of interest rules, oath of office, attendance at meetings, roles and responsibilities etc.);
 - o Censure motions;
 - o Role of third parties (e.g. Inspector of Municipalities, Ombudsperson, Office of Information and Privacy Commissioner);
 - o Tools to address harassment (e.g. WorkSafe BC,)
 - o Codes of conduct;
 - o Integrity Commissioners;
 - o Unique tools used in other jurisdictions (e.g. mandatory education programs; peer mediation; recall; whistleblower protection); and
 - o Education approaches for prospective local elected officials.

Policy papers will be developed on these topics; additional topics may be included as research is conducted.

The WGRC may consult experts when and as needed.

- Summary Report: The WGRC will develop a Summary Report to be used as part of the consultation process. The Summary Report that describes the nature of the problem, provides an overview of tools that are used to address issues related to responsible conduct in BC and other jurisdictions, identifies emerging themes from the research, and poses questions for consideration will assist in informing the consultation process.

Phase 2: Undertaking consultation and gathering feedback

- Consultation will be undertaken with members of UBCM and LGMA, and potentially other interested parties, to obtain their views on the matter.

Consultation may be undertaken through meetings (e.g. at UBCM area association meetings), surveys, or other approaches.

- Research and policy work will continue as feedback is received.

Phase 3: Conducting analysis and reporting back

- Feedback received from Phase 2 and the research and policy work undertaken throughout the process will be analyzed to consider potential approaches that may be used to address issues related to responsible conduct.

As part of this process, analysis may focus on various components related to approaches for furthering responsible conduct, including:

- o Reviewing legal frameworks related to local government elected official accountable behaviour (e.g. legislative frameworks for codes of conduct, etc.);
- o Reviewing education approaches taken to ensure local government elected officials are aware of their roles and responsibilities and conduct required to carry out those duties; and
- o Considering problem-solving frameworks for addressing specific conflicts.
- The WGRC will develop a Final Report that will analyze potential policy approaches related to responsible conduct.

Principles:

- The WGRC's consideration of approaches to further responsible conduct will be guided by the following principles:
 - o *Local issues should be resolved locally* – This aim would be consistent with the *Community Charter*, in particular, the principles of local autonomy and recognition of local government as an “order of government”.

- o *Problem and solution should be aligned* – There should be alignment between the problem and the tool used to address it. For example, the most severe tools in the legislative framework (e.g. disqualification from office) should be reserved for the most severe offences.
- o *Vigorous discourse is part of the democratic process*– In a democracy, the wishes of the voters must be respected. Voters have elected candidates to represent them and candidates will have different ways that they express passionate political views. There is often a gray line between strong partisan views and disrespectful behaviour (as there is between a minority council member being perceived as a “rogue” or as a “champion of the underdog”).
- o *Need to build lasting solutions* – Resilience is crucial because local elected officials, staff, and the public all need to work together and develop a functional relationship over the term of office.
- o *Approaches should be thoughtful, prudent, fair and transparent*– Prudence is essential, given the sensitivities of democratic societies. It is often difficult to get the complete facts in any specific situation; therefore, it is important that there be sufficient checks and balances in the system to avoid simply reacting to one situation at one point in time, and to ensure the approach is fair to those affected by it.

Milestones:

The following milestones will guide the timeline for the WGRC to meet its objectives:

Task	Timing
Complete additional research	November – December 2016
Finalize policy papers’ content	January 2017
Policy papers completed	Beginning of February 2017
Summary Report to member organizations	End of February 2017
Consultation	March – beginning of May 2017
Draft of Final Report	Middle of June 2017
Consideration of next steps (each member organization)	July 2017
Confirm next steps	August/beginning of September 2017

Protocol and support:

- Collaboration between UBCM, LGMA, and MCSCD is a key component to developing solutions to address issues. As such, it is expected that the WGRC will take a collaborative approach to undertake its activities and that WGRC members will recognize the unique needs and circumstances of each organization.
- WGRC members may take on various tasks. Depending on the particular aspects of work that a group member is taking on, that member's organization may need to provide the support required for that member's work.
- Every attempt will be made to circulate agenda material electronically to the members of the WGRC at least three business days in advance of the meeting.
- Guests and subject matter experts will be invited to the meetings as appropriate.

Communications:

WGRC members agree that communications around this project will follow these key messages:

- At the 2016 Union of BC Municipalities Convention, a resolution on the issue of responsible conduct of local government elected officials was referred for further exploration.
- As a result, staff of UBCM, LGMA, and MCSCD are undertaking collaborative research and policy work to explore issues related to responsible conduct more broadly.
- The aim of the work is to gain a more complete understanding of the benefits and challenges of various approaches to furthering responsible conduct.