



## Staff Report

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<b>Report To:</b>	<b>General Government Committee</b>		
<b>Date of Meeting:</b>	January 10, 2022	<b>Report Number:</b>	LGS-001-22
<b>Submitted By:</b>	Rob Maciver, Director of Legislative Services		
<b>Reviewed By:</b>	Andrew C. Allison, CAO	<b>Resolution#:</b>	
<b>File Number:</b>		<b>By-law Number:</b>	
<b>Report Subject:</b>	2022 Municipal Elections – Compliance Audit Committee Terms of Reference		

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### Recommendations:

1. That LGS-001-22, and any related communication items, be received;
2. That the By-law appended as Attachment 1 to LGS-001-22, to update the Terms of Reference for the Municipality of Clarington's Compliance Audit Committee, be approved; and
3. That all interested parties listed in LGS-001-22 and any delegations be advised of Council's decision.

## Report Overview

This report outlines the recommended changes to the Terms of Reference and provides the updated Rules of Procedure for the Compliance Audit Committee arising out of Staff's review. As well, the current term of Clarington's existing Compliance Audit Committee will end October 1, 2022.

### 1. Background

- 1.1 [Section 88.37](#) of the [Municipal Elections Act, 1996, as amended](#), (MEA) requires that every municipality appoint a compliance audit committee prior to October 1 of an election year.
- 1.2 The Committee has the full authority, provided by Sections 88.33 to 88.37 of the MEA, to address applications requesting an audit of a candidate's or third party advertiser's election campaign finances and to consider reports from the Clerk citing apparent instances of over-contribution to municipal campaigns. In accordance with the MEA, this authority includes, but is not limited to, the following:
  - review applications for a compliance audit and grant or reject audit requests within 30 days of receipt;
  - where an audit is granted, appoint an auditor and review the audit report;
  - following the audit, decide whether legal proceedings shall be commenced; and
  - within 30 days after receiving a report from the Clerk, under Sections 88.34 and 88.36 (dealing with apparent campaign contributions in excess of permitted limits), the Compliance Audit Committee shall meet to consider the report and decide whether to commence a legal proceeding against a contributor for an apparent contravention, if applicable.
- 1.3 The current Terms of Reference were adopted by [By-law 2018-024](#), arising out of [Report CLD-009-18](#), and the changes were mostly as a result of changes to the MEA.

## 2. Changes

### Terms of Reference

- 2.1 Clerk's Division Staff have had several meetings with other Durham Area Clerk's and worked on a common Terms of Reference and Rules of Procedure, which forms the basis of the proposed Clarington documents (attached).
- 2.2 Although the layout of the terms of reference has changed substantially, the main points remain the same, including the remuneration.
- 2.3 One thing that has changed is that Staff is recommending appointing four members, three of which will be the main members, with one as an alternate. The alternate member will attend all of the meetings, but will not be a voting member until they are required. This covers off a concern about "losing a member" in case they have a conflict or they are unable to fulfill their duties. With the previous appointment of only three members – if a member is lost after the new term of Council starts, it would put the new Council in a position of appointing a new member to oversee a case where potentially a Member of Council was involved. This change will result in an increased cost as we will need to pay for the extra training and attendance at each meeting, but it is felt that is a better approach than coming back to Council to fill a vacancy.

### Rules of Procedure

- 2.4 The MEA requires that the Municipal Clerk establish administrative practices and procedures for the Committee to carry out their duties. Council does not approve these procedures, the updated procedure is provided as Attachment 2, for information purposes.

## 3. Current Committee

- 3.1 After the Terms of Reference were updated in 2018, arising out of [Report CLD-013-18](#), Council appointed the current Committee for the 2018 Municipal Elections.
- 3.2 The [current Committee](#) consists of three appointed members: Paul Jones, Ryan Frost, and JoAnne Swaine.
- 3.3 As of the writing of this report, the 2018-2022 Committee [has only met once](#).

## 4. Financial Implications

- 4.1 The Municipality is responsible for any costs resulting from the review of the applications submitted to the Clarington Municipal Election Compliance Audit Committee. These costs include:
- Committee members' retainer (\$400/member) including an initial training session,
  - Committee members' per diem of \$350 for each meeting,
  - Committee member mileage (recommended rate as per Municipality's prevailing standard rate),
  - Auditor's costs to perform an audit,
  - Costs related to the Committee's operations and activities (i.e. copying, postage, etc.),
  - legal costs related to an appeal to the Ontario Court of Justice with respect to a decision of the Committee, and
  - legal costs to undertake legal action against the candidate for violations of the elections finance provisions of the MEA.
  - Staff time to make arrangements for meetings; attend meeting to take minutes; distribute necessary correspondence following the meeting; possible actions related to arrangements of auditor or legal action.
- 4.2 Costs for advertising the vacancies will be included as part of the normal advertisement process.
- 4.3 Any costs incurred for a compliance audit during the Term of Council would be charged to the Municipal Election reserve. These costs are difficult to estimate because they depend entirely on the unforeseen volume of applications/cases.

## 5. Formation of Next Committee

- 5.1 Following the adoption of a new Terms of Reference, Staff will begin recruitment for the appointment of the next Committee for the 2022 Municipal Elections. Staff will advertise in the local paper, and on the municipal website, detailing the selection criteria. Additionally, staff will contact the Institution of Chartered Accountants of Ontario; the Law Society of Upper Canada; Durham Regional Police Services; and UOIT, and former applicants.
- 5.2 The following selection criteria are recommended:
- a) Demonstrated knowledge and understanding of municipal election campaign financing rules;
  - c) Proven analytical and decision- making skills;
  - d) Experience working on committees boards, adjudicative bodies, task forces or similar settings;
  - b) Experience in accounting and audit, law, law enforcement, academics, or municipal administration from related fields;
  - e) Demonstrated knowledge of quasi-judicial proceedings;
  - f) Availability and willingness to attend meetings; and
  - g) Excellent oral and written communication skills
- 5.3 At the close of the application period, in accordance with appointment protocol, all applications be forwarded to Council for consideration, selection, and appointment effective October 1, 2022 to October 1, 2026 or until such time the applicable Committee has disposed of any remaining matters in accordance with the Act, whichever is later.

## 6. Concurrence

Not Applicable.

## **7. Conclusion**

It is respectfully recommended that, to fulfill the requirements of the MEA, the proposed changes to the Terms of Reference be approved, and that the draft by-law be approved by Council.

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Staff Contact: June Gallagher, Municipal Clerk, 905-623-3379 ext. 2102 or [jgallagher@clarington.net](mailto:jgallagher@clarington.net).

Attachments:

Attachment 1 – Draft By-law to update the Terms of Reference

Attachment 2 – Updated Clerk's Rules of Procedure

Interested Parties:

There are no interested parties to be notified of Council's decision.