

Committee of the Whole (1) Report

DATE: Tuesday, February 7, 2023

WARD(S): ALL

TITLE: BILL 5 - THE STOPPING HARASSMENT AND ABUSE BY
LOCAL LEADERS ACT - A BRIEF SUMMARY

FROM:

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor
Suzanne Craig, Integrity Commissioner & Lobbyist Registrar

ACTION: FOR INFORMATION

Purpose

To provide a brief summary of Bill 5, the *Stopping Harassment and Abuse by Local Leaders Act, 2022*.

Report Highlights

- Bill 5, the *Stopping Harassment and Abuse by Local Leaders Act, 2022*, seeks to expand the application of municipal policies related to workplace harassment and violence to Members of Council. The City's *Code of Ethical Conduct for Members of Council* already includes this requirement.
- The proposed Bill would further permit the municipality to direct the Integrity Commissioner to seek a determination from the Court with respect to whether a Member of Council has contravened the City's workplace harassment and violence policies.
- If such a finding is made, the Court may vacate the Member's seat on Council and the Member would be ineligible for re-election (or to sit on a local board) in the municipality for a further period of two complete terms of Council.
- This Bill was carried on first reading but has not yet reached second reading.

Recommendation

1. That this report be received for information.

Background

On August 10, 2022, MPP Stephen Blais re-introduced Private Member's Bill 5, the *Stopping Harassment and Abuse by Local Leaders Act, 2022*, which was initially tabled during the last provincial government. This Bill was carried on first reading but has not yet reached second reading.

At the Committee of the Whole meeting on January 17, 2023, a member of the public made a deputation seeking Council's support for Bill 5. As a result, Council directed that Legal Services and the Integrity Commissioner provide a report on Bill 5 at a future meeting for their information.

Analysis

When he introduced the Bill to the Legislature, MPP Blais explained that the Bill "...creates an integrity commissioner and judicial process to remove [Members of Council] from office for egregious acts of sexual, emotional and psychological misconduct."

The Bill seeks to amend both the *Municipal Act, 2001* and the *City of Toronto Act* to require that municipal Codes of Conduct for Members of Council include compliance with the municipality's adopted policies regarding workplace violence or harassment. The City's *Code of Ethical Conduct for Members of Council* already requires compliance with the City's Respectful Workplace Policy and prohibits harassment by a Member of Council of other Members of Council, staff or members of the public.

The Bill then empowers the municipality to direct their Integrity Commissioner to seek a determination by the Court as to whether a Member of Council has contravened the municipality's policies related to workplace violence or harassment. If the Court so finds, the Court may declare the Member's seat vacant. If vacated, the Member would be ineligible to run in any subsequent election or be appointed to local boards within the subject Municipality until after two subsequent complete terms of Council.

Integrity Commissioner Comments

Codes of conduct are not intended to act as an impediment to Members of Council protecting and acting in the best interests of their communities' social, financial, environmental and sustainable well-being. However, in fulfilling their representative, decision-making and oversight roles, Members must not denigrate or harass staff and must allow them to carry out their duties based on political neutrality and without undue influence.

Not all codes of conduct have a clear process or a suite of rules to determine whether there is concurrent jurisdiction on matters relating to workplace or sexual harassment, or regarding how a complaint, which involves a Council Member, would be addressed under the municipality's workplace and Integrity Commissioner procedures. The Integrity Commissioner of the City of Vaughan, in consultation with the Deputy City Manager, Administrative Services and Legal Services & City Solicitor, and the Chief Human Resources Officer, has clarified roles and responsibilities in matters that allege workplace sexual harassment by a Member of Council.

The two penalties currently in force under the *Municipal Act* Accountability and Transparency regime, are adequate for most of the types of code of conduct breaches that occur. However, there are circumstances where a Member's actions towards staff, other councillors, or members of the public (workplace or sexual harassment) are so egregious that additional penalties may be warranted.

The proposed changes would function in a way similar to the process currently in place by virtue of amendments to the *Municipal Act* brought in by *Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017* ("Bill 68"). Bill 68 amended the *Municipal Act, 2001*, the *City of Toronto Act, 2006* and the *Municipal Conflict of Interest Act*. Bill 68 expanded the list of responsibilities of the Integrity Commissioner to include receipt and review of complaints concerning an alleged contravention of sections 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*. Upon completion of the investigation, the Integrity Commissioner may make an application to a judge for a determination by the court if there has been a violation of the Act. If passed, Bill 5 proposes for more serious workplace and sexual harassment offences, that municipalities empower the Integrity Commissioner with referral powers to refer the matter to court for a judge, to determine if the Member should be removed from office.

Conclusion

This report is provided for Council's information as a brief summary of Bill 5.

Prepared by

Louise Vrebosch, Deputy City Solicitor, Litigation & Municipal Law.
Suzanne Craig, Integrity Commissioner & Lobbyist Registrar.

Approved by



Wendy Law,
Deputy City Manager, Legal and
Administrative Services & City Solicitor



Suzanne Craig,
Integrity Commissioner &
Lobbyist Registrar

Reviewed by



Nick Spensieri,
City Manager