

Township of Cavan Monaghan Compliance Audit Committee Terms of Reference

Mission:

The Township of Cavan Monaghan Compliance Audit Committee has full delegation of the authority in the Municipal Elections Act, 1996, as amended, to address applications requesting an audit of a candidate's or third-party advertiser's campaign finances. This authority includes, but is not limited to, the following:

- Review applications and grant or reject audit requests.
- Where an audit is granted, to appoint an auditor, licensed under the Public Accounting Act, and review the audit report.
- Where indicated, decide whether legal proceedings shall be commenced.
- Consider reports submitted by the Clerk regarding apparent contraventions of contribution limits and make decisions with regard to such reports.

Background:

The Municipal Elections Act, 1996, as amended, requires Council, before October 1st of an election year to appoint a Compliance Audit Committee to consider applications made by an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate or third-party advertiser has contravened a provision of the Municipal Elections Act, 1996, as amended, relating to election campaign finances.

Objectives:

To ensure that the provisions of the Municipal Elections Act, 1996, as amended, Section 88 are not contravened and to follow the necessary steps to ensure compliance as noted in Section 88. The Committee will abide by any terms and conditions which may be set out by the Municipality's Solicitor, Auditor and/or Insurer for any activities relating to Committee business.

Composition:

The Committee shall be comprised of a minimum of three (3) to a maximum of seven (7) members for the purposes of a hearing. The Clerk has delegated authority to select the members when a compliance audit request or a report of the Clerk is received. The Clerk shall contact the roster of committee members and arrange for a minimum of three (3), and not more than seven (7), committee members to sit as the Compliance Audit Committee. The selected members sitting as a Compliance Audit Committee shall be required to participate in all meetings and any other proceedings pertaining to the request or report of the Clerk.

Ideally, Committee members will have a financial/accounting/legal background and be familiar with the Municipal Elections Act, 1996, as amended.

At the first Compliance Audit Committee meeting, the Committee shall appoint such executive positions as it deems necessary and shall, as a minimum, appoint a Chair and Vice-Chair. The Clerk shall act as Secretary to this Committee.

In accordance with the Municipal Elections Act, 1996, as amended, members of Council or local Boards, municipal employees or officers of the Municipality, candidates, and third-party advertisers are prohibited from being appointed to the Committee. Careful deliberation should be made before considering appointing a member of the public affiliated with any candidate's campaign. The intent of the Committee is to be 'arm's length' and transparent.

Term of Appointment:

The term of office of the Committee is the same as the term of office of the Council or local board that takes office following the next regular election, and the term of office of the members of the Committee is the same as the term of the Committee to which they have been appointed.

Resources:

The Clerk's Department will act as a resource to the Committee. The Clerk and/or their designate shall act as the secretary to the Committee.

Timing of Meetings:

The first meeting will be called by the Clerk upon receipt of an application to conduct a compliance audit. The date and time of the meeting will be determined by the Clerk and communicated directly to the Committee members. Subsequent meetings will be held at the call of the Chair, in consultation with the Clerk. All time frames established in the Municipal Elections Act, 1996, as amended, and regulations shall be adhered to.

- Applications for an audit shall be made in writing, with reasons, to the Clerk.
- Application deadlines must be met in accordance with *Section 88.33 (3)*.
- Applications must be forwarded to the Committee within 10 days upon receipt of an application.
- The Committee has 30 days to grant or reject the application.
- An appeal of the Committee's decision to the Ontario Court of Justice must be made within 15 days after the decision is made.

Meetings Procedures:

Committee activity shall be determined primarily by the number and complexity of

applications for compliance audits that may be received. The frequency and duration of Committee meetings will be determined by the Committee, in consultation with the Clerk.

A minimum of three (3) members to a maximum of seven (7) shall meet to consider an application. Quorum for meetings shall consist of a majority of the members of the Committee who meet to consider an application.

The Chair shall cause notice of the meetings to be posted, including the agenda for the meetings. The agenda will be provided to members of the Committee a minimum of three (3) business days prior to the date of each meeting.

Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

Meetings of the Committee shall be governed by the Township's Procedural By-law, the Municipal Elections Act, Robert's Rules of Order and applicable legislation.

Meetings of the Committee shall be open to the public; however, the Committee may deliberate to consider matters in closed session (private), the Committee will follow the provisions of the Municipal Act, as amended, Section 239.

Reports:

The Committee will conduct the compliance audit in accordance with the Municipal Elections Act, 1996, as amended. The Clerk will act as the main contact between the Committee and Council and will report on Committee activity as required to the appropriate individuals and Council.

Applications shall be reviewed in accordance with the Municipal Elections Act, 1996, as amended:

- Within 30 days of receiving an application requesting a compliance audit, review and determine whether or not it should be granted or rejected;
- If the application is granted, appoint an auditor licensed under the Public Accounting Act, 2004 or other prescribed person eligible to conduct a compliance audit. The Committee shall appoint an auditor by way of Resolution specifically naming the auditor (not just the name of the firm);
- If the auditor's report concludes that a candidate appears to have contravened a provision of the Municipal Elections Act, 1996, as amended, relating to election campaign finances, consider whether legal proceedings should be commenced;
- If a decision is made to commence legal proceedings against a candidate, retain external legal counsel to act on its behalf.
- If the auditor's report concludes that a candidate does not appear to have contravened a provision of the Municipal Elections Act, 1996, as amended, relating to election campaign finances, determine whether there were reasonable grounds for the application;

- If the auditor's report indicates that there was no apparent contravention of a provision of the Municipal Elections Act, 1996, as amended, and the committee finds that there were no reasonable grounds for the application, advise Council that it is entitled to recover the auditor's costs from the applicant.

Administration:

Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with the Municipal Elections Act, 1996, as amended.

Conflicts of Interest:

Members shall abide by the rules outlined within the Municipal Conflict of Interest Act and shall disclose the pecuniary interest to the Secretary and absent themselves from meetings for the duration of the discussion and voting (if any) with respect to that matter.

Errors/Omissions:

The accidental omission to give notice of any meeting of the Committee to its members, or the non-receipt of any notice by any member, or any error in any notice that does not affect its substance, does not invalidate any Resolution passed or any proceedings taken at the meeting. Any member of the Committee may at any time waive notice of any meeting.

Immunity:

No action or other proceeding for damages shall be instituted against an auditor for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith.

Meeting Attendance:

Any member of the Committee who misses three consecutive meetings, without being excused by the Committee, may be removed from the Committee. The Committee must make recommendations by a report to Council for the removal of any member.

Location of meetings:

The location of the meetings will be established by the Committee.

Purchasing Policy:

All Committees that have purchasing responsibilities shall follow the Procurement Policy of the Township unless another purchasing policy has been endorsed by Council.

Budget:

The expenses of this Committee shall be the responsibility of the Clerk under the Election Budget.

Remuneration:

Members of the Committee shall be paid \$90.00 per meeting (3 hour minimum). For meetings that are more than 3 hours, \$30.00 per hour will be paid for each additional hour. Mileage will be paid in accordance with the Township's approved mileage rate.

Expulsion of member:

The Committee and/or Clerk may recommend to Council the expulsion of a Committee member for reasons as listed, but not limited to, the member being in contravention of the Municipal Act, the Municipal Freedom of Information and Protection of Privacy Act, the Provincial Offences Act, the Municipal Conflict of Interest Act and the Municipal Elections Act, as amended; disrupting the work of the Committee or other legal issues.