



## **Municipal Election Compliance Audit**

### **Committee RULES OF PROCEDURE**

If this information is required in an alternate format, please contact [elections@london.ca](mailto:elections@london.ca)

#### **1. Background**

- 1.1 At its meeting of March 6, 2018, the Municipal Council of The Corporation of the City of London passed By-law E-186-81, thereby establishing the 2018 Municipal Election Compliance Audit Committee in accordance with section 88.37 of the Act for the 2018-2022 Term.
- 1.2 The Terms of Reference for the Committee are attached hereto as Schedule "1".

#### **2.0 Authority**

- 2.1 Subsection 88.37(6) of the Act provides that the clerk of the municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee.
- 2.2 These Rules are thereby established pursuant to subsection 88.37(6) of the Act, by the Clerk to ensure that the 2018 Municipal Election Compliance Audit Committee may fulfill its duties and responsibilities in accordance with the Act.

#### **3.0 Definitions**

In these Rules,

"Act" means the *Municipal Elections Act, 1996* as amended;

"Applicant" means an elector as defined under subsection 17(2) of the Act who applies for a compliance audit of campaign finances;

"Application" means an application accepted by the City Clerk pursuant to section 88.33 and 88.35 of the Act;

"Candidate" means a person who is nominated under section 33 of the Act and whose election campaign finances are the subject of an Application or Clerk's Contribution Report;

"Chair" means the Compliance Audit Committee Chair selected under section 9 of these Rules;

"City" means The Corporation of the City of London;

"Clerk" means the City Clerk of the City or their designate

"Clerk's Contribution Report" means a report prepared by the City Clerk pursuant to section 88.34 or 88.36 of the Act.

"Contributor" means a contributor identified in the Clerk's Contribution Report.

"Committee" means the Compliance Audit Committee of the City of London.

"Electronic Meeting Participation" shall mean the participation of a Compliance Audit Committee Member, Candidate, Contributor, Registered Third Party, Applicant, Auditor or Agent via electronic means, who shall have the same rights and responsibilities as if they were in physical attendance.

“Registered Third Party” means an individual, corporation or trade union that is registered with the City of London under s. 88.6 of the *Municipal Elections Act, 1996* whose campaign finances are the subject of an Application or Clerk’s Contribution Report.

“Rules” means these Rules of Procedure.

“Secretary” means the Clerk or their designate.

#### **4.0 Rules**

The Rules shall be observed in all meetings of the Committee.

#### **5.0 Matters not dealt with in the Rules**

If these Rules do not provide for a matter of procedure that arises during a Committee meeting, the practice shall be determined by the Committee and the Committee may do whatever is necessary and permitted by law to enable the Committee to effectively and completely adjudicate on the matter before it.

#### **6.0 Delegation by Clerk or Secretary**

The Clerk or Secretary may delegate administrative responsibilities as deemed necessary.

#### **7.0 Receipt of Application**

Applications and related information shall be available in the City Clerk’s Office and on the City’s website. Within ten (10) days of receipt of an Application, the Secretary shall send the Application by email to all members of the Committee requesting their availability to meet within the thirty (30) days following the Committee’s receipt of the Application.

#### **8.0 Meetings**

8.1 The Committee shall meet at the request of the Secretary.

8.2 The Secretary shall summon a meeting of the Committee when the Clerk considers it necessary, when required by the Act, or when requested to do so in writing by a majority of the Committee members.

8.3 Meetings of the Committee shall be held at London City Hall or other such location as the Secretary deems appropriate.

8.4 Committee meetings shall commence at the time and date set by the Secretary and shall be adjourned on a vote of the Committee.

8.5 Meetings of the Committee shall be open to the public, however, deliberations of the Committee may be held in private in pursuant to subsections 88.33(5.1), 88.34(9.1) and 88.36(6.1) of the Act.

8.6 Where the Committee desires to deliberate in closed session, they shall do so only by resolution.

8.7 Minutes of a closed session of the Committee shall be recorded by the Secretary.

8.8 Upon rising from closed session, the Chair shall report on any procedural resolutions passed in closed session.

8.9 Attendance of all Committee members constitutes quorum at meetings of the Committee.

8.10 Committee members shall disclose a pecuniary interest in accordance with the *Municipal Conflict of Interest Act, 1990* to the Secretary and absent themselves from meetings for the duration of the consideration of the Application, discussion, and voting with respect to the matter.

8.11 The first matter of business on each agenda shall be the declaration of any pecuniary interest in accordance with section 8.10 of these Rules.

8.12 The Applicant, Candidate, Registered Third Party, Contributor, and where applicable, their Agents shall be given an opportunity to address the Committee. Any auditor appointed by the Committee shall be given the opportunity to address the Committee.

8.13 Any person other than those indicated in section 8.12 wishing to appear before the Committee as a delegation, shall submit a written request to the Clerk by 9:00 a.m. three (3) business days prior to the Committee meeting. The Clerk shall forward same request to the Committee as soon as is practicable.

8.14 Delegations to the Committee referred to in section 8.13 of these Rules shall be no more than five (5) minutes in length.

#### 8.15 Meetings – Electronic Participation

The Committee meeting may include electronic participation at the discretion of the Secretary. This provision includes meetings of the Committee in closed session. The following shall apply:

1. The administration of electronic participation shall be at the discretion of the Secretary, recognizing that technology and requirements will vary from time-to-time. This shall include the means by which Members shall vote.
2. Individual rules of debate and conduct at meetings, as included in Section 13 and 14 of this Procedure, may be modified as required, to facilitate electronic participation in for meetings.

### 9.0 Committee Chair

9.1 At the first meeting of the Committee, the Secretary shall call the meeting to order and the first order of business after any declarations under section 8.10 of these Rules shall be the selection of the Chair. The Committee shall select a Chair from among its membership.

9.2 If the Chair of the Committee resigns as Chair, the Committee shall appoint another member as Chair from among its membership for the balance of the term of committee.

9.3 The Chair is the liaison between the members and the Secretary on matters of policy and process.

9.4 The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings of the Committee.

### 10. Notice

#### Notice of meeting to Applicant, Candidate, Registered Third Party

10.1 Where an Application will be considered at a meeting of the Committee, the Secretary shall provide notice and a copy of the Application to the Applicant and Candidate or Registered Third Party by email or mail indicating:

1. The purpose, location and time of the meeting;
2. The fact that if either party fails to attend the meeting, the Committee may proceed in the party's absence without further notice; and
3. The ability for the Applicant and the Candidate or Registered Third Party to provide written submissions to be included in the meeting agenda within the timeframe established by the Secretary.

## Notice of meeting to Contributor

10.2 Where the Clerks Contribution Report will be considered at a meeting of the Committee, the Secretary shall provide notice and a copy of the Report to the Contributor and the applicable Candidate or Registered Third Party by email or mail indicating:

1. The purpose, location and time of the meeting;
2. The fact that if either party fails to attend the meeting, the Committee may proceed in the party's absence without further notice; and
3. The ability for the Contributor and the applicable Candidate or Registered Third Party to provide written submissions to be included in the meeting agenda within the timeframe established by the Secretary

## Notice of meeting to the Public

10.3 Public notice of a Committee meeting shall be provided on the City's website at least seven (7) days prior to the meeting by posting the agenda, any Applications, Clerks Contribution Reports, and subject to the *Municipal Freedom of Information and Protection of Privacy Act, 1990* and *Municipal Act, 2001*, any relevant documentation.

10.4 Despite section 10.3 of the Rules, abridged or redacted versions of written submissions included with an agenda may be published to the City's website at the Secretary's discretion and subject to the *Municipal Freedom of Information and Protection of Privacy Act, 1990*, provided the Committee, the Applicant, and the Candidate or Registered Third Party are provided with the submission as originally submitted.

## Notice of meeting – Auditor's Report

10.5 Where the purpose of the meeting is to consider an auditor's report prepared in respect of an Application previously considered, notice of this meeting shall be provided to the Auditor, Applicant, and Candidate or Registered Third Party.

## **11. Agenda**

11.1 Before each meeting the Secretary shall provide an agenda to each member of the Committee.

11.2 The agenda shall include:

- i. a copy of the Application;
- ii. a copy of any written submissions made by the Applicant, Candidate, Registered Third Party, or Auditor, where applicable;
- iii. a copy of any reports by the Clerk regarding over contributions to a Candidate or Registered Third Party, where applicable; and
- iv. any written submissions made by the Contributor.

11.3 A copy of the agenda shall be published on the City's website.

## **12. Lack of Quorum**

If no quorum is present thirty minutes after the time fixed for a meeting of the Committee, or the resumption of a meeting after an adjournment, or should a quorum at a meeting be lost for a period of thirty consecutive minutes, the Secretary shall record the names of the members present and the meeting shall stand adjourned until the next regular meeting day scheduled by the Secretary.

## **13. Committee Procedures**

### Order of Business

13.1 The Order of Business for the agenda shall be as

follows: Meeting Called to Order  
Disclosures of Pecuniary Interest  
Appoint a Chair (if required)  
Adoption of Minutes  
Consent Items  
Items for Discussion  
    Delegation – Auditor (where applicable)  
    Delegation – Applicant or Agent  
    Delegation – Candidate, Registered Third Party, Contributor, or Agent  
    Delegation – any approved persons under section 8.13 of these Rules  
Committee Deliberation  
Adjournment

13.2 Where the agenda includes consideration of more than one Application or Clerks Contribution Report, each Application or Report shall be dealt with by the Committee in its entirety before consideration of the next Application or Report.

13.3 Following the Call to Order and before considering the substance of agenda items, the Committee members may make preliminary motions, including motions to change the order of business or to defer an agenda item, with respect to any business properly before the Committee.

Questions to Delegation

13.4 The Committee may, through the Chair, ask questions of the Applicant, Candidate, Registered Third Party, Contributor or, where applicable, their Agents and any other delegation addressing the Committee under these Rules.

## **14. Rules of Debate**

Order of Speaking

14.1 When two or more Committee members wish to speak, the Chair shall designate the member who first requested to speak as the member who speaks first.

Questions

14.2 A Committee member may ask a question only:

- a) of a member who has already spoken on the matter under discussion;
- b) of the Chair;
- c) of an official of the City of London; or
- d) of any person addressing the Committee pursuant to these Rules.

14.3 A Committee member may ask a question only for the purpose of obtaining information relating to the matter then under discussion.

Voting

14.4 Every Committee member present at a meeting of the Committee when a question is put shall vote on the question, unless prohibited by law, in which case the fact of the prohibition shall be recorded in the minutes of the meeting.

14.5 The matter put to a vote shall be in the form of a motion addressing the matter then under consideration.

14.6 In the case of a tie-vote, the motion or question shall be deemed to have been lost.

## Motions

- 14.7 All motions must be introduced by a mover and a seconder before the Chair may put the question or motion on the floor for consideration.
- 14.8 Any Committee member may propose a motion on the matter then under consideration and the Secretary shall record the motion in writing.
- 14.9 After a motion is properly moved and seconded it shall be deemed to be in the possession of the Committee, but may be withdrawn by the mover at any time before the decision.

## 15. Committee Decisions

### Applications

- 15.1 Within thirty (30) days of receipt of the Application by the Committee, the Committee will decide whether to grant or reject the Application.
- 15.2 The Committee's decision to grant or reject the Application will include brief written reasons for the decision and shall be forwarded by the Secretary to the Candidate or Registered Third Party, the Clerk, and the Applicant.
- 15.3 If the Committee decides to grant the Application, it shall, by resolution, appoint an auditor licensed under the *Public Accounting Act, 2004*, to conduct a compliance audit of the Candidate's or Registered Third Party's campaign finances.
- 15.4 At the request of the Committee, the Clerk may assist the Committee in locating and contacting available auditors to undertake the audit.
- 15.5 Within thirty (30) days of receipt of an auditor's report by the Committee, if the report concludes that the Candidate or Registered Third Party appears to have contravened a provision of the Act relating to campaign finances, the Committee shall decide whether to commence a legal proceeding against the Candidate or Registered Third Party for the apparent contravention.
- 15.6 The decision of the Committee following consideration of the Auditor's report, shall be made in writing, including brief written reasons for the decision, and shall be forwarded by the Secretary to the Clerk, the Candidate or Registered Third Party and the Applicant.

### Clerk's Reports

- 15.7 Within thirty (30) days of receipt of the Clerk's Contribution Report by the Committee, the Committee will decide whether to commence a legal proceeding against a Contributor for an apparent contravention.
- 15.8 The decision of the Committee to commence a legal proceeding against a Contributor shall include brief written reasons and shall be forwarded by the Secretary to the Contributor and the Clerk.

## 16. Grant Exceptions from Procedures

Subject to the timelines and requirements set out in the Act, the Committee may waive any rule of procedure in these Rules, as it considers appropriate to ensure that the real questions at issue are determined in a just manner.

## 17. Minutes

- 17.1 The Secretary shall prepare minutes of each meeting of the Committee and shall provide all members with a copy of the minutes, as soon as the minutes are available.
- 17.2 The Committee members shall review and sign the minutes, to confirm that the minutes reflect the Committee's actions.
- 17.3 The approved minutes will be posted on the City's website.

## Schedule 1

### TERMS OF REFERENCE

#### 2018 MUNICIPAL ELECTION COMPLIANCE AUDIT COMMITTEE

##### Name

The name of the Committee is the “2018 Municipal Election Compliance Audit Committee”.

##### Term of the Committee

The term of the Committee shall be from December 1, 2018 to November 15, 2022.

##### Meetings

The Committee will meet as needed, with meetings to be scheduled by the City Clerk or their designate when a compliance audit application is received.

##### Mandate

The Committee is required to act in accordance with the powers and obligations set out in the *Municipal Elections Act, 1996*, as amended (*MEA*). The Committee will be required to:

- consider a compliance audit application received from an elector that a candidate or a registered third party has contravened provisions of the *MEA* relating to election campaign finances and determine whether it should be granted or rejected;
- if the application is granted, the committee shall appoint an auditor to conduct a compliance audit;
- receive the auditor’s report;
- consider the auditor’s report and if the report concludes that the candidate or registered third party appear to have contravened a provision of the *MEA* relating to election campaign finances, the committee may commence legal proceedings against the candidate or third party for the apparent contravention; and,
- consider the report(s) of the clerk identifying each contributor to a candidate for office on a council or a registered third party who appears to have contravened any of the contribution limits under section 88.9 or 88.13 of the *MEA* and decide whether to commence a legal proceeding against a contributor for an apparent contravention.

##### Composition

The Committee will be composed of three (3) members, with membership drawn from the following stakeholder groups:

- a) accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
- b) academic – college or university professors with expertise in political science or local government administration;
- c) legal profession with experience in municipal law, municipal election law or administrative law;
- d) professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and,
- e) other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*, as amended.

Members of Council, employees or officers of the municipality or local board, any persons who are registered third parties in the municipality in the election for which the committee is established or any persons who are candidates in the election for which the Committee is established are not eligible to be appointed to the Committee, pursuant to clause 88.37(2) of the *Municipal Elections Act, 1996*, as amended.

Further, an individual shall be deemed ineligible to be a member of the Committee if they prepare the financial statements of any candidate running for office on Municipal Council during the term for which the Committee has been established.

### **Appointment Process**

All applicants will be required to submit a summary outlining their qualifications and experience. A Nomination Committee consisting of the Managing Director, Corporate Services and Chief Financial Officer/City Treasurer, the City Clerk and the Deputy City Clerk will submit a short list of candidates to Council through the Corporate Services Committee. Any vacancies which arise after December 1, 2018 shall be nominated by the Nomination Committee to Council, through the Corporate Services Committee.

Members will be selected on the basis of the following:

- a) demonstrated knowledge and understanding of municipal election campaign financing rules and knowledge of the MEA and related regulations;
- b) proven analytical and decision-making skills;
- c) experience working on a committee, administrative tribunal, task force or similar setting;
- d) availability and willingness to attend meetings; and,
- e) excellent oral and written communication skills;

Members will be appointed by Municipal Council.

### **Compensation**

Members shall receive an honorarium of \$100.00 per meeting, to be funded from the Election Reserve. Administrative costs for such items as printing and mailing will be absorbed within the City Clerk's Operating Budget.

### **Staff Support**

The City Clerk shall establish administrative practices and procedures for the Committee and shall carry out any other duties required under this *Act* to implement the Committee's decisions.

### **Funding**

Costs related to the retention of an auditor will be funded from the Election Reserve.

Costs incurred as a result of a decision of the Committee being challenged to the Superior Court of Justice shall be funded from the Election Reserve.