

Town of Essex
Municipal Elections Compliance Audit Committee

Terms of Reference

Revised August 2018

Pursuant to Section 88.37(1) of the Municipal Elections Act, 1996, as amended, municipalities are required, prior to October 1 in a regular election year, to establish a Compliance Audit Committee (CAC). The purpose of the CAC is to consider applications for compliance audits of candidates' or registered third parties' campaign finances and determine if audits are required. The Terms of Reference have been established to ensure that the duties and responsibilities of the CAC are fulfilled in a fair, open and responsible manner.

1. Name

The name of the committee shall be the "Town of Essex Municipal Elections Compliance Audit Committee."

2. Definitions

"Act" means the Municipal Elections Act, 1996, S.O. 1996, Chapter 32, as amended.

"Applicant" means an Elector who makes an application pursuant to Section 88.33 of the Municipal Elections Act, 1996.

"Application" means an application properly completed and submitted to the Clerk pursuant to Section 88.33(2) of the Municipal Elections Act, 1996.

"Auditor" means a person licensed under the Public Accounting Act, 2004, who is appointed by the Committee to conduct a Compliance Audit of a Candidate's or Third Party Advertiser's election campaign finances.

"Auditor's Report" means a report prepared by an Auditor for the Committee pursuant to Section 88.33(12) of the Act.

"Candidate" means the registered candidate whose election campaign finances are the subject of an application for a Compliance Audit.

"Chair" means the Member selected by the Members of the Compliance Audit Committee to preside over its meetings.

"Clerk" means the Clerk for the Town of Essex or authorized designate.



“Committee” means the Town of Essex Municipal Elections Compliance Audit Committee established pursuant to Section 88.37(1) of the Act.

“Compliance Audit” means an audit of a Candidate’s or Third Party Advertiser’s election campaign finances conducted by an Auditor appointed by the Committee.

“Family Member” means a parent, spouse, or child of a Committee Member, as defined in the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50, as amended, and shall also include a grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece, whether related by blood, marriage or adoption.

“Meeting” means a meeting of the Committee.

“Member” means a person appointed to the Compliance Audit Committee.

“Procedures” means the administrative practices and procedures outlined in the Terms of Reference.

“Selection Committee” means the Town of Essex staff that will choose the Members of the Committee.

“Third Party Advertiser” means a Registered Third Party Advertiser whose election campaign finances are the subject of an application for a Compliance Audit.

“Town” means the Town of Essex.

3. Mandate

The Committee shall operate in accordance with the powers and functions established by Sections 88.33 to 88.37 of the Act, provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, and the Town of Essex Procedural By-law.

The powers and functions established by Sections 88.33 to 88.37 of the Act include but are not limited to the following:

- a) Within thirty (30) days of receiving the Clerk’s report on apparent contraventions to the contribution limits, the Committee shall consider it and decide whether to commence a legal proceeding against a contributor.
- b) Within thirty (30) days of receiving an Application for a Compliance Audit submitted by an eligible elector, the Committee shall review the application and determine whether a Compliance Audit is warranted.



- c) If the Committee determines that an audit is warranted, it shall appoint an Auditor licensed under the Public Accounting Act, 2004 to conduct a Compliance Audit (see Section 11 – Appointment of an Auditor).
- d) If the Auditor concludes that a Candidate or Third Party Advertiser appears to be in contravention of the Act, the Committee shall decide whether or not to initiate legal proceedings against the Candidate or Third Party Advertiser.
- e) If the Auditor concludes that the Candidate or Third Party Advertiser does not appear to be in contravention of the Act related to election campaign finances, the Committee shall make a decision on whether there were reasonable grounds for the application.
- f) If the Committee determines there were no reasonable grounds for an application, the Town of Essex is entitled to recover the Auditor's costs from the applicant.

4. 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 or Third Party Advertisers;
- b) Academia: college or university professors with expertise in political science or local government administration;
- c) Legal: lawyers and other legal professionals; and
- d) Other individuals with knowledge of the campaign financing rules of the Municipal Elections Act, 1996.

5. Qualifications

Members shall be at least 18 years of age, a Canadian citizen, and have a background outlined in Section 4 of these Terms of Reference. Previous experience on a committee, task force or tribunal would be an asset.

The following individuals are excluded from membership on the Committee:

- a) Employees or officers of the Town of Essex or a school board;
- b) Members of the Town of Essex Council;



- c) Any persons who are Candidates in the election for which the Committee is established or Family Members or employees of same, or any person connected to a Candidate through an employment, contractual, business or partnership relationship;
- d) Any persons who are Third Party Advertisers in the election for which the Committee is established or Family Members of employees of same, or any person connected to a Third Party Advertiser through an employment, contractual, business or partnership relationship;
- e) Any persons who are contributors or providers of any election-related services to a Candidate or Third Party Advertiser in the election for which the Committee is established including but not limited to accounting, legal, auditing, marketing or campaign services;
- f) Any person who is or intends to volunteer or seek employment to assist any Candidate in the election for which the Committee is established; or
- g) A current elected member of a municipal council, or of a provincial or federal legislature.

Should an appointed Member accept employment with the municipality or register as a Candidate with the municipality, that Member's appointment shall be terminated.

6. Membership Selection

The Clerk is responsible for the recruitment of applicants.

Information relating to the Committee, including the Terms of Reference, will be posted on the Town's website.

All applicants will be required to submit a letter of application outlining their qualifications and experience. After the specified deadline for applications has passed, the Selection Committee will meet to review the applications and select suitable Committee members based on the stakeholder groups identified in Section 4 of the Terms of Reference, along with the following criteria:

- a) Demonstrated knowledge and understanding of municipal election campaign finance rules;
- b) Proven analytical and decision-making skills;
- c) Experience working on committees, task forces or similar working groups;
- d) Availability and willingness to attend meetings; and

e) Excellent oral and written communication skills.

To avoid possible conflicts of interest, any auditor or accountant appointed to the Committee must agree in writing that they have not undertaken and shall not undertake the audits or preparation of financial statements of any Candidates seeking election to Council or registered Third Party Advertisers in the Town of Essex during the term of the Committee.

In addition, any lawyer or other legal professional appointed to the Committee must agree in writing that they have not provided and will not provide legal advice to any Candidates seeking election to Council or to any registered Third Party Advertisers or Contributors to Candidates and Third Party Advertisers in the election in the Town of Essex during the term of the Committee.

Council of the Town of Essex will confirm all appointments to the Compliance Audit Committee by by-law.

7. Term of Membership

The term of appointment is concurrent with the term of Council. Upon the term's expiry, Committee members may reapply to the Selection Committee to serve additional terms.

8. Selection of the Chair

The Committee will select a Chair from among its members at its first meeting and the Chair may rotate on an annual basis or as deemed necessary by the Committee Members.

9. Duties of the Chair

The Chair shall:

- a) Call Committee Meetings to order when there is a quorum, preside over Committee discussions, facilitate Committee business, follow meeting procedures, identify the order of proceedings and speakers, and rule on points of order;
- b) Participate as an active member, including voting on all matters; and
- c) Encourage participation by all members.

If the Chair is not present within the first ten (10) minutes of a Committee meeting or is absent through illness or otherwise, the Committee shall select another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.



10. Duties of Committee Members

Committee Members shall:

- a) Carry out all statutory obligations of the Committee in accordance with the Act.
- b) Attend all Committee meetings, sending regrets otherwise.
- c) Understand their role, the Committee's mandate, and meeting procedures.
- d) Declare any pecuniary interest in any matter prior to consideration by the Committee and refrain from discussion and voting on the matter. If the declaration relates to a matter being discussed during a closed portion of the Meeting, the Member must leave the Meeting during all discussion on the matter.
- e) Where the pecuniary interest of a Member has not been disclosed by reason of the Member's absence from the Meeting, the Member shall disclose the pecuniary interest and otherwise comply with subsection (d) at the first Meeting of the Committee attended by the Member after the Meeting referred to in subsection (d).
- f) Participate as an active and voting member, asking questions and seeking clarification through the Chair.
- g) Assist in drafting the reasons for a decision, as applicable.
- h) Develop and maintain a climate of mutual support, trust, courtesy and respect.
- i) Work together to use the knowledge, expertise and talents of all members.
- j) Respect the decisions of the Committee and that such decisions reflect the majority view.

11. Meetings

The Committee shall meet as required to review Applications for Compliance Audits filed with the Clerk.

The date and time of Meetings will be determined by the Clerk and communicated directly to Committee Members. All time frames outlined in the Act will be followed.

Committee Meetings shall be open to the public. In accordance with Section 88.33(5.1) of the Act, the Committee may, upon affirmative vote of the majority of its Members present at a Meeting, determine to hold any Meeting or part of a Meeting as a closed session in order to deliberate in private.



Notices, agendas and minutes will be published on the Town website and made available in alternate formats upon request.

Administrative support, including the preparation and distribution of meeting materials, shall be provided by the Clerk or designate. Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

12. Appointment of an Auditor

If the Committee decides a Compliance Audit is required, it will select from a roster of auditors to be provided by the Clerk. The Clerk, in consultation with the Director, Corporate Services, and Manager, Finance and Business Services, will establish criteria for the appointment of an Auditor. The selection of an Auditor shall be conducted in accordance with the Town's Procurement Policy.

13. Duties and Powers of the Auditor

The Auditor shall promptly conduct an audit of the Candidate's or Third Party Advertiser's election campaign finances to determine whether there has been compliance with the provisions of the Act.

The Auditor shall prepare a report outlining the findings, including any apparent contravention of the Act by the Candidate or Third Party Advertiser.

For the purposes of the audit, the Auditor:

- a) will be provided access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
- b) has the powers of a commission under Part II of the Public Inquiries Act, which part applies to the audit as if it were an inquiry under the Act.

14. Remuneration

Each Member who participates in a Meeting to consider applications for Compliance Audit shall be paid an honorarium of \$150 per meeting.

15. Costs

The Town of Essex is responsible for the following costs:

- a) General costs associated with the Committee's operations and activities;
- b) The cost of the Auditor for any Compliance Audit that takes place; and



c) The cost of external legal counsel for the Committee, if necessary.

16. Administrative Practices and Procedures

The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. In accordance with Section 88.37(6) of the Act, the Clerk may at any time establish additional administrative practices and procedures for the Committee and shall carry out any other duties required under the Act to implement the Committee's decisions.