

Strengthening Responsible Conduct



UBCM CONVENTION CLINICS
STRENGTHENING RESPONSIBLE CONDUCT

September 17, 2024



PRESENTATION

- ▶ Why the *Discussion Paper* and Why Now
- ▶ Current Responsible Conduct Framework
- ▶ Concerns with the Framework
- ▶ Mandatory Codes of Conduct
- ▶ Models for Administration and Enforcement
- ▶ Key Takeaways



WHY AND WHY NOW

- ▶ Conduct of local government elected officials is topic of growing interest across BC and Canada
 - implications of poor conduct can be profound for local governance, local government operations, and retention and recruitment of staff
- ▶ Existing framework to support responsible conduct between elections needs strengthening
- ▶ *Discussion Paper* speaks to need; focuses on mandatory codes of conduct, and new models of code administration and enforcement



CURRENT FRAMEWORK

- Resources, legislation and tools to support elected official responsible conduct
- All provinces have own framework in place
 - current framework in British Columbia relies in large part on local governments to select and apply tools

Responsible Conduct Framework: Discussion Paper CURRENT FRAMEWORK

CURRENT FRAMEWORK

This section profiles British Columbia's current responsible conduct framework for local government elected officials. In general, the framework recognizes the autonomy of local governments in British Columbia to select and design tools that local governments themselves feel are important to have in place.

The Province provides the legislative authority that municipalities and regional districts need to take action, and encourages local governing bodies to embrace certain tools, such as codes of conduct. Guidance is also provided (including through the Working Group on Responsible Conduct) to assist local government officials in their efforts to learn about the framework and the expectations inherent in it. This table provides an overview of the existing framework. Individual elements identified in the box are outlined separately in this section.

ELEMENTS OF THE CURRENT FRAMEWORK	
Foundational Principles	Four principles to guide behaviour
Oath or Affirmation of Office	Required under Community Charter, Local Government Act, Vancouver Charter Elected officials who do not take the oath are disqualified from taking office
Codes of Conduct	Cornerstone of framework, but optional Guidance provided by Working Group on best practice codes
Independent Investigators	Ability to retain independent investigators, and to appoint autonomous integrity commissioners
Education	Widely recognized as essential to promotion of responsible conduct Identified in many existing codes as sanctions to correct poor conduct
Broader Legislative Context	Responsible conduct part of a broader legislative framework to address related concerns
Resources on Responsible Conduct	Various resources exist to guide local governments in efforts to promote responsible conduct, and to resolve instances of poor conduct

Foundational Principles

The foundational principles are intended to guide the conduct of individual elected officials and the collective behaviour of the governing body (i.e., the municipal council or regional district board). Four principles underlie the current framework in British Columbia:

- **Integrity** — Elected officials with integrity conduct themselves honestly and ethically. They are open and truthful in their dealings, protective of confidentiality, and work to avoid conflicts of interest and perceived conflicts.
- **Accountability** — Accountable officials accept responsibility for their own behaviour and for decisions they make as individuals. They accept the collective responsibility of the governing body for decisions made.
- **Respect** — Respect means valuing the perspectives, wishes and rights of others, including other elected officials, staff members and the public.
- **Leadership and Collaboration** — Elected officials need to demonstrate an ability to lead, listen to, and positively influence others. They need to come together to create or achieve collective goals.

These principles are integrated with and reflected in other parts of the framework, including the oath of office, the legislated requirement to consider the adoption or updating of a code of conduct, and the model code of conduct.

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CONCERNS

- ▶ Growing sense in recent years – in BC and across Canada – that incidents of less-than-responsible conduct more prevalent and intractable
- ▶ Since 2016, seven resolutions to UBCM aimed at introducing new tools or strengthening existing ones; additional resolution coming forward this year



CONCERNS

- ▶ Local governments increasingly calling on province for new legislation and tools to manage conduct matters
- ▶ Calls include appeal for province-wide approach through centralized body



CONCERNS

► Calls reflect:

- perceived lack of tools, and resulting inability to manage egregious cases
- concern that reliance on local action results in inconsistencies across sector
- concern that too many councils and boards rely on staff to intervene and resolve conflict
- concerns with costs required to administer and enforce the framework
- fears of weaponized codes and their sanctions



MANDATORY CODES

- ▶ Codes are tools to help officials understand standards of conduct expected of them
- ▶ Codes set out fair processes for receiving and addressing complaints, and reporting on findings
- ▶ Codes hold elected officials accountable when guilty of code breaches



MANDATORY CODES

- ▶ BC is the only province in which codes of conduct are optional, at discretion of local governments
- ▶ Growing sense that mandatory codes needed; important to consider factors related to structure, content, development, use
- ▶ Sanctions particularly important to consider:
 - scope of sanctions available
 - choice of sanctions to apply in any one case
 - responsibility of governing bodies to impose



MODELS TO CONSIDER

- ▶ Starting point is support for use of independent bodies to investigate complaints and recommend sanctions



MODELS TO CONSIDER

MODEL I LOCAL DETERMINATION

- local governments determine whether to create code, and what code should contain
- local governments appoint independent body to vet and investigate complaints, resolve informally, recommend sanctions as necessary
- education provided by local government with assistance from others; commissioners can also provide (where appointed)
- funded by local governments
- represents *status quo* in some places



MODELS TO CONSIDER

MODEL II PROVINCIAL REQUIREMENTS FOR CENTRAL ADMINISTRATION & ENFORCEMENT

- province-wide office, created by legislation, to centrally administer and enforce codes
- would receive and investigate complaints (appoint investigators), advise on informal resolution, report findings and recommended sanction as necessary
- mandatory codes of conduct with high degree of standardization



MODELS TO CONSIDER

MODEL II PROVINCIAL REQUIREMENTS FOR CENTRAL ADMINISTRATION & ENFORCEMENT

- funded by local governments through equitable cost-sharing model
- central body governed by Board of Directors
- represents unprecedented (and untested) model; significant potential for unintended consequences



MODELS TO CONSIDER

MODEL III PROVINCIAL REQUIREMENTS FOR LOCAL ADMINISTRATION & ENFORCEMENT

- relies on province to introduce prescriptive legislation to address conduct matters
- local governments required to create and adopt codes of conduct with prescribed elements
- councils and boards required to appoint third parties to receive, vet and investigate complaints, report findings and recommend sanctions



MODELS TO CONSIDER

MODEL III PROVINCIAL REQUIREMENTS FOR LOCAL ADMINISTRATION & ENFORCEMENT

- funded by local governments; potential for cost-sharing with others
- model similar in many respects to approaches in Manitoba and, to a lesser extent, Ontario



TAKEAWAYS

- ▶ *Discussion Paper* assesses the models against a set of factors, including oversight and accountability, degree of standardization, cost, and effectiveness
- ▶ Key takeaways emerge from assessment, but also from input provided by stakeholders, and research conducted for the *Paper*



TAKEAWAYS

- Responsible conduct frameworks under review, and evolving, across the country in response to trends
- Local governments calling on province for new requirements, tools, and approaches to code administration and enforcement
 - idea of centralized, province-wide office popular with several
- Cautionary statements from others about consequences for local government autonomy



TAKEAWAYS

- ▶ Legislated models of administration and enforcement require mandatory codes of conduct with standardized elements



TAKEAWAYS

- ▶ Scope of sanctions may be broad, but is not without limits
 - Courts have been clear that elected officials cannot be disqualified from office for code violations
- ▶ Sanctions recommended by investigators, but may only be imposed by the governing body
 - responsibility of council/board in all models; same across Canada



TAKEAWAYS

- ▶ Cannot assume that costs of new approaches would be borne by provincial government
 - province provides legislative framework, as it does to address other matters; but responsible conduct part of local governance
 - funded locally in all provinces except Quebec
 - mitigate costs by creating strong culture and by dealing with concerns through informal means
 - mitigate further (Models I and III) through shared approaches with other local governments



REQUEST FOR INPUT

- Should the province be requested to develop legislation mandating codes of conduct modelled on established best practices?
- Are legislated changes needed to support code of conduct administration and enforcement?
- If changes are needed, what factors are most important to the success of a new approach to code administration and enforcement?





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Big Brothers Big Sisters of Canada

In appreciation of our speakers today and with thanks for your contribution, UBCM has made a donation to the Big Brothers Big Sisters of Canada. Big Brothers Big Sisters of Canada has been championing the health and wellbeing of youth. They provide direct service to children by matching volunteers with youths in quality mentoring relationships to overcome adversities, helping them to do better in life.