



Staff Report

Report To: Dan Best, Chief Administrative Officer
From: **Rebekah Msuya-Collison, Municipal Clerk**
Date: September 17 2018
Report: 26-2018
Subject: Establishment of an Election Compliance Audit Committee for the 2018 Municipal Election

Recommendations:

That South Huron Council receive the report from R. Msuya-Collison, Clerk, re: Establishment of an Election Compliance Audit Committee for the 2018 Municipal Election and authorize the Clerk to proceed with the establishment of an Election Compliance Audit Committee in accordance with the *Municipal Elections Act, 1996*; and

That a By-Law be passed for the establishment of an Election Compliance Audit Committee for The Corporation of the South Huron and to adopt the Terms of Reference.

Purpose:

This report provides the background for the establishment of an Election Compliance audit committee.

Background and Analysis:

Subsection 88.37 (1) of the Municipal Elections Act, 1996 (the "MEA") states that every Council, before October 1 of an election year, shall establish an Election Compliance Audit Committee for the purposes of reviewing and hearing complaints regarding election campaign financing.

It was proposed following a meeting of the Huron County Election Working Group that a Joint Election Compliance Audit Committee be established to serve all member municipalities within the County of Huron as was done in the past two Elections. The Election Compliance Audit Committee would serve the needs throughout the County should an application for compliance audit or apparent contribution contravention report be made.

Committee per diems and normal expenses would be paid by the host Municipality where an application for audit or apparent contravention contribution is made, and host municipal staff would provide administrative support to the Committee. The term of the Committee is 4 years and will include any applications derived from the 2018 Municipal Election and any subsequent by-elections during the 2018-2022 term.

The powers and functions of the Committee are set out in the MEA and include:

- Consider any application from an elector for compliance audit of a candidate's or registered third party's election campaign finances and decide whether it should be granted or rejected;
- If the application is granted, appoint an auditor;
- Receive the auditor's report; and
- Consider the auditor's report and if the report concludes that there are any apparent contraventions of the MEA relating to election campaign finances, may decide to commence legal proceedings (and if so, take all steps necessary).

For Reports from the Clerk about apparent contribution limit contraventions:

- Receive such reports and may decide to commence legal proceedings against the contributor (and if so, take all steps necessary).

In carrying out the above described functions, the Committee shall hold its meetings open to the public but in accordance with the MEA may deliberate in private. When considering requests for compliance audit and when deciding whether or not to commence legal proceedings the committee shall, in accordance with the MEA, give brief written reasons for its decisions.

In accordance with section 88.37 of the MEA, the Committee members cannot be municipal employees or officers, members of council, candidates in the 2018 municipal election or registered third parties in the 2018 municipal election.

Rationale for Establishing an Election Compliance Audit Committee:

All Candidates and Third Party Advertisers are required to file provincially prescribed financial statements with the Clerk detailing their campaign contributions and expenses. An eligible elector who believes on reasonable

grounds that a candidate/third party advertiser has contravened the MEA relating to campaign finances may apply for a compliance audit of the candidate's/third party advertiser's election campaign finances. The application must be made in writing to the Clerk, including the reasons for the elector's belief that the candidate/third party advertiser has contravened the MEA and must be made within 90 days after the filing date of the candidate's financial statements.

Election Compliance Audit Committee Composition:

Election Compliance Audit Committee members must possess an in-depth knowledge of the campaign finance rules of the MEA so they can make independent decisions on the merits of the applications. As the committee will operate as a quasi-judicial committee, prior experience on a committee, task force or tribunal is an asset.

The Committee shall be comprised of three members and one alternate member. Committee members will be appointed by Council in accordance with the establishing By-Law and Terms of Reference. Once it is established, the Committee shall appoint such executive positions as it deems necessary to ensure its operations but shall include a Chair. The Clerk of the applicable municipality shall act as Secretary to this Committee.

Please refer to Schedule A of By-Law 79-2018 for the Election Compliance Audit Committee Terms of Reference.

Operational Considerations:

The Committee's operating budget and meeting management support is provided through the Clerk's department.

South Huron's Strategic Plan:

The establishment of a Joint Municipal Election Compliance Audit Committee is legislated under Subsection 88.37 (1) of the MEA and has no direct relationship to the strategic plan.

Financial Impact:

88.37 (7) of the MEA states the council shall pay all costs in relation to the committee's operation and activities. Costs are only incurred in the case of an application being submitted for a compliance audit to be conducted.

Legal Impact:

As a committee of Council, the South Huron Compliance Audit Committee members will be covered by the municipality's errors and omissions and

general liability policies to protect and defend against claims from third parties while performing duties outlined in the Terms of Reference for their position as a Committee member.

Staffing Impact:

The Committee meetings are scheduled as needed when a compliance audit application or report is received.

Policies/Legislation:

Municipal Elections Act

Consultation:

Huron County ClerksAd Hoc Compliance Audit Working Group Committee

Related Documents:

By-Law – 79-2018

Respectfully submitted,

Rebekah Msuya-Collison, Municipal Clerk