

Election Compliance Audit Committee Terms of Reference

In accordance with the Municipal Elections Act, 1996, as amended (“the Act”), the Municipality of Leamington is required to have an Election Compliance Audit Committee to consider compliance audit Applications with regards to municipal Candidates and Third Party Advertisers financial statements filed under Section 88.33 of the Act.

The Terms of Reference have been established by the Clerk, and approved by the Council of the Corporation of the Municipality of Leamington ensuring that the duties and responsibilities of the Election Compliance Audit Committee are fulfilled in a fair, open and responsible manner, in accordance with Section 88.33(4). The Terms of Reference for the Election Compliance Audit Committee may be amended by the Clerk as required.

The Committee shall be known as the Election Compliance Audit Committee (the “Committee”). The Committee is established pursuant to the requirements of section 88.37 of the Municipal Elections Act, 1996, S.O., 1996, c. 32, as amended (“MEA”) for the Municipality of Leamington.

Purpose

The Committee receives and makes decisions on Applications for compliance audits of campaign finances for Council Candidates and Third Party Advertisers in a municipal election or by-election. (Any compliance audit requests against a school board trustee candidate must be submitted to the appropriate school board).

The Committee performs functions relating to the Application process as outlined in the MEA.

These functions include:

- considering whether an Application for a compliance audit filed by an Elector should be granted or rejected;
- appointing an Auditor, if the Application is granted;
- receiving and considering the Auditor’s report and deciding whether legal proceedings should be commenced.

The Committee is also responsible for considering reports from the Clerk identifying contributors who appear to have contravened election contribution limits and deciding whether legal proceedings should be commenced.

Powers

The powers and functions of the Committee are set out in Section 88.33 to 88.37 of the Act.

Definitions

The following terms shall have the meanings indicated:

“Applicant” shall mean an Elector who makes an Application pursuant to s.88.33 of the Municipal Elections Act, 1996.

“Application” shall mean an application properly completed and submitted to the Clerk pursuant to s. 88.33(2) of the Municipal Elections Act, 1996.

“Auditor” means a person appointed by the Committee, licensed under the Public Accounting Act, 2004, to conduct a compliance audit of a candidate or Registered Third Party financial statements.

“Candidate” shall mean the Candidate whose election campaign finances are the subject of an Application for a compliance audit.

“Clerk” shall mean the Municipal Clerk or their authorized designate.

“Elector” shall mean a person eligible to vote in the municipal election of the Municipality of Leamington, in accordance with the Municipal Elections Act, 1996.

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

“Third Party Advertiser” means a Registered Third Party Advertiser whose election campaign finances are the subject of an Application for a compliance audit.

Membership

The Committee will be composed of four (4) Members, one (1) of which is to be designated as an alternate. Membership shall be limited to individuals with the following qualifications:

- a) be at least 18 years of age;
- b) a Canadian Citizen;
- c) demonstrated knowledge and understanding of municipal elections, including campaign finance rules;
- d) proven analytical and decision-making skills;
- e) have a financial or legal background and experience including retired municipal professionals;
- f) previous experience on a committee, task force or tribunal would be an asset.

Members of the Committee shall not be employees or officers of the Municipality, members of Council, registered third parties or candidates in the election for which the Committee is established or family members or employees of same, or any person connected to a candidate or registered third party through employment, contractual, business or partnership relationship, or any person who intends to volunteer or seek employment to assist any candidate or registered third party in the election for which the Committee is established.

Membership Selection

All applicants will be required to submit a completed application form outlining their qualifications and experience to the Clerk. The Clerk, in consultation with the Manager of Human Resources and Director of Finance and Business Services shall appoint Members of the Committee. No appointments to the Committee will be made by members of Council.

Term of Membership

The term of the Committee is the same as the term of office for Council.

Meeting Procedures

Committee meetings will be conducted in accordance with the administrative practices and procedures developed by the Clerk.

Meetings

The Committee shall meet as required to process an Application for a compliance audit that has been filed in accordance with the MEA to the Clerk.

A meeting of the Committee shall be held within thirty (30) days of the Committee receiving a report from the Clerk under Section 88.34 and 88.36 of the MEA, in order to consider the report which will note apparent instances of over-contribution to municipal campaigns.

Additional meetings may be called. The date and time of the meetings will be determined by the Clerk and communicated directly to the Committee Members.

All time frames outlined in the MEA regulations will be followed.

Administrative support including the preparation/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.

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

Remuneration

Committee Members will receive remuneration on a per diem basis in the amount of \$135.00 per meeting.

Conflict of Interest

Legislated requirements as set out in the Municipal Conflict of Interest Act shall apply to all Committee Members.

It is the responsibility of each Member to disclose any pecuniary interest prior to discussion of a particular matter.

In order to avoid possible conflicts of interest, any auditor or accountant appointed to the Committee will be required to declare in writing, not to undertake the audits or preparation of financial statements of any Candidate or registered Third Party in the Municipality of Leamington. Contravention of this requirement shall result in expulsion from the Committee.

In order to avoid possible conflicts of interest, any lawyer or other legal professional appointed to the Committee will be required to declare in writing, not to provide legal advice to any Candidates seeking election to Council or to any Candidates or registered Third Party in the Municipality of Leamington during the term of the Committee. Contravention of this requirement shall result in expulsion from the Committee.

Auditor Selection

Should the Municipality of Leamington 2018 Election Compliance Audit Committee direct that a compliance audit be conducted in response to a request, the services of an external auditor will be required. In anticipation of that requirement, the Clerk shall:

1. Research those individuals and firms which are qualified to perform such audits;
2. Solicit proposals from them to provide compliance audits, if necessary;
3. Solicit proposals in a reasonable, fair and public manner;
4. Conduct a fair and transparent evaluation process;
5. Report the results of the evaluation process to the Compliance Audit Committee for consideration; and
6. Negotiate and execute agreements necessary to retain an external auditor based upon the direction of the Compliance Audit Committee.

Costs

The Municipality of Leamington is responsible for the following costs:

- general costs associated with the Committee's operations and activities;
- cost of the Auditor for any audit that takes place; and
- cost of external legal counsel for the Committee (if necessary)

Role of Clerk

The Clerk will act as the main contact between the Committee, Applicant, Candidate and Registered Third Party.

In accordance with section 88.37 (6) of the MEA, the Clerk shall carry out any duties required under the MEA to implement the Committee's decisions.

The Clerk has been provided with the delegated authority to make administrative changes to these Terms of Reference that may be required from time to time due to legislative changes, or if, in the opinion of the Clerk, the amendments do not change the intent of the Terms of Reference.