

Joint Leeds & Grenville Election Compliance Audit Committee

Terms of Reference	
1	<p><u>Name</u></p> <p>The name of the Committee is the “Joint Leeds & Grenville Election Compliance Audit Committee” consisting of the following participating municipalities:</p> <ul style="list-style-type: none"> Township of Athens Township of Augusta City of Brockville Township of Edwardsburgh Cardinal Township of Elizabethtown-Kitley Township of Front of Yonge Town of Gananoque Township of Leeds and the Thousand Islands Village of Merrickville-Wolford Municipality of North Grenville Town of Prescott Township of Rideau Lakes Village of Westport <p>The County Clerk of the United Counties of Leeds and Grenville will provide administrative support to the Compliance Audit Committee.</p>
2	<p><u>Duration</u></p> <p>The term of office is from December 1, 2018 to November 14, 2022 to deal with applications from the 2018 Election and any by-elections during this term.</p>
3	<p><u>Mandate</u></p> <p>The powers and functions of the Committee are set out in Sections 88.33 to 88.37 of the <i>Municipal Elections Act, 1996</i> (included as Appendix “A”). The Committee shall have the authority to:</p> <ul style="list-style-type: none"> a) Grant or reject a compliance audit application received from an eligible elector with respect to apparent election campaign finance contraventions; b) Grant or reject a report received from the Clerk with respect to apparent contribution contraventions; c) Appoint an auditor to conduct an audit where the application is granted and to receive the results; and d) Commence legal proceedings against the candidate or contributor for any apparent contravention.

4	<p><u>Membership</u></p> <p>The Committee shall be composed of three (3) voting members, with three (3) alternate members that would assume all the rights and privileges of a voting member if called upon to replace a voting member.</p> <p>Membership will be comprised of individuals with legal, election administration, public administration, auditing and/or accounting experience, professionals who are required to adhere to codes of standards of their profession and those with in-depth knowledge of the campaign financing rules of the <i>Municipal Elections Act, 1996</i>.</p> <p>Pursuant to subsection 88.37(2) of the <i>Municipal Elections Act, 1996</i> applicants cannot be candidates or registered third party advertisers in the 2018 Municipal Election, or any by-election during the 2018-2022 Council term, nor can they have committed to providing professional accounting advice to any person running for office in any of the participating municipalities. Municipal employees and members of Council are also ineligible.</p> <p>Members will be required to take Accessible Customer Service training as a condition of appointment.</p>
5	<p><u>Membership Selection</u></p> <p>The terms of reference and application form will be posted on the municipal websites of the participating municipalities. Clerks of the participating municipalities may also contact and solicit individuals with experience as set out under section 4 of the Terms of Reference. In addition, advertisements will be placed in a local paper.</p> <p>All applicants will be required to complete an application form outlining their qualifications and experience. Clerks of the participating municipalities may interview eligible applicants who meet the selection criteria. A list of recommended candidates will be submitted to the Council of each participating municipality for consideration.</p> <p>The selection process will be based upon the following criteria:</p> <ol style="list-style-type: none"> a. demonstrated knowledge and understanding of municipal election campaign financing rules; b. proven analytical and decision-making skills; c. experience working on a committee, task force or similar setting; d. availability and willingness to attend meetings; and e. possession of excellent oral and written communication skills.

6	<p><u>Conflict of Interest</u></p> <p>Pursuant to subsection 88.37(2) of the <i>Municipal Elections Act, 1996</i> applicants cannot be candidates or registered third party advertisers in the 2018 Municipal Election, or any by-election during the 2018-2022 Council term, nor can they have committed to providing professional advice to any person running for office in any of the participating municipalities. Municipal employees and members of Council are also ineligible.</p> <p>Failure to adhere to these requirements will result in the individual being removed from the Committee.</p>
7	<p><u>Compensation</u></p> <p>Voting and Alternate Members will be provided with an annual retainer of \$100 at the end of each year of the term. The County Clerk will issue payment to each member in good standing on behalf of participating municipalities who will divide the costs evenly amongst themselves.</p>
8	<p><u>Chair</u></p> <p>The Committee will select a Chair from amongst its members at its first meeting upon receipt of each compliance audit application or Clerk's report.</p> <p>The Chair is the liaison between the members and the Secretary of the Committee on matters of policy and process.</p> <p>The Chair shall enforce the observance of order and decorum among the Committee members and those present at all meetings.</p> <p>When the Chair is absent, the Committee may appoint another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.</p>
9	<p><u>Staffing and Funding</u></p> <p>The County Clerk or designate shall act as the Secretary to the Committee.</p> <p>The participating municipality requiring the services of the Committee shall be responsible for all associated expenses, in addition to a portion of the retainer fee referred to above in Section 7.</p>
10	<p><u>Meetings</u></p> <p>While meetings of the Committee will be open to the public, Sections 88.33 (5.1), 88.34 (9.1) and 88.35 (6.1) of the <i>Municipal Elections Act, 1996</i> state that the Committee may choose to deliberate in private</p>

Timing of Meetings

Applications shall be forwarded to the Clerk of the municipality where the audit is being requested and he/she shall then forward the application to the County Clerk. Upon receipt of an application, the first meeting will be called by the County Clerk or designate. The date and time of the meeting will be determined by the County Clerk or designate and communicated directly to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the County Clerk or designate.

Committee activity shall be determined primarily by the number and complexity of applications for compliance audits that may be received. The frequency and duration of meetings will be determined by the Committee in consultation with the County Clerk or designate.

Meeting Location

The Committee shall meet at the location determined by the County Clerk.

Members

An alternate member shall be used in the following circumstances:

- a committee member is an eligible elector in the municipality requiring the audit;
- a committee member has a personal or business relationship with the subject of the audit; and/or
- a committee member is unavailable for the duration of the audit.

The County Clerk or designate will confirm the committee membership.

Meeting Notices, Agendas & Minutes

Reasonable notice of the meetings of the Committee shall be given to the candidate, the applicant, the contributor, and/or the registered third party, depending on the type of application being considered, the Clerk of the municipality where the application was requested and the public.

The County Clerk or designate shall cause notice of the meeting(s) to be provided to members of the Committee a minimum of two (2) business days prior to the date of each meeting. The agendas and minutes of meetings shall be posted on the municipal website of the United Counties of Leeds and Grenville and on the website of the municipality requesting the services of the Compliance Audit Committee.

Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

The Committee must provide brief written reasons for decisions made with respect to acceptance or rejection of the application, and whether legal proceedings will be commenced following the receipt of an auditor's report. These written reasons must be provided to the candidate, the County Clerk, the Clerk for the municipality where the candidate filed his or her nomination, the applicant, the contributor, and/or the registered third party, depending on the type of application being considered.

Agenda Format

1. Call to Order
2. Appoint Chair (first meeting only)
3. Disclosure of Pecuniary Interest and General Nature Thereof
4. Consideration of Compliance Audit Application or Auditor's Report
5. Adjournment

Quorum

Quorum for meetings shall consist of a majority of the members of the Committee.

If no quorum is present thirty (30) minutes after the time appointed for a meeting, the County Clerk or designate shall record the names of the members present and the meeting shall stand adjourned until the date of the next meeting, as determined by the County Clerk or designate, or the Chair, if appointed.

Meeting Attendance

Any member of the Committee who is absent from two (2) consecutive meetings without excusal by the Committee may be removed from the Committee at the discretion of the County Clerk or designate in consultation with the Clerks of the participating municipalities.

Motions & Voting

A motion shall only need to be formally moved before the Chair can put the question or a motion can be recorded in the minutes.

Every Member present shall be deemed to vote against the motion if they decline or abstain from voting, unless disqualified from voting by reason of a declared pecuniary interest.

In the case of a tie vote, the motion shall be considered to have been lost.

The manner of determining the vote on a motion shall be by show of hands.

The Chair shall announce the result of every vote.

11

Administrative Practices and Procedures

The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Section 88.33 to 88.37 of the *Municipal Elections Act, 1996*.

The County Clerk or designate has the right to develop additional administrative practices and procedures.

Municipal Elections Act, 1996

S.O. 1996, CHAPTER 32
SCHEDULE

Compliance Audits and Reviews of Contributions

Compliance audit of candidates' campaign finances

Application by elector

88.33 (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances, even if the candidate has not filed a financial statement under section 88.25. 2016, c. 15, s. 63.

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office, and it shall be in writing and shall set out the reasons for the elector's belief. 2016, c. 15, s. 63.

Deadline for applications

(3) The application must be made within 90 days after the latest of the following dates:

1. The filing date under section 88.30.
2. The date the candidate filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.
3. The candidate's supplementary filing date, if any, under section 88.30.
4. The date on which the candidate's extension, if any, under subsection 88.23 (6) expires. 2016, c. 15, s. 63.

Compliance audit committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee. 2016, c. 15, s. 63.

Notice of meetings

(5) Reasonable notice of the meetings of the committee under this section shall be given to the candidate, the applicant and the public. 2017, c. 20, Sched. 10, s. 1.

Open meetings

(5.1) The meetings of the committee under this section shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 1.

Same

(6) Subsection (5.1) applies despite sections 207 and 208.1 of the *Education Act*. 2017, c. 20, Sched. 10, s. 1.

Decision of committee

(7) Within 30 days after the committee has received the application, the committee shall consider the application and decide whether it should be granted or rejected. 2016, c. 15, s. 63.

Same

(8) The decision of the committee to grant or reject the application, and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Appeal

(9) The decision of the committee under subsection (7) may be appealed to the Superior Court of Justice within 15 days after the decision is made, and the court may make any decision the committee could have made. 2016, c. 15, s. 63.

Appointment of auditor

(10) If the committee decides under subsection (7) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2016, c. 15, s. 63.

Same

(11) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (10). 2016, c. 15, s. 63.

Duty of auditor

(12) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2016, c. 15, s. 63.

Who receives report

(13) The auditor shall submit the report to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Report to be forwarded to committee

(14) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2016, c. 15, s. 63.

Powers of auditor

(15) For the purpose of the audit, the auditor,

(a) is entitled to have 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 set out in section 33 of the *Public Inquiries Act, 2009* and section 33 applies to the audit. 2016, c. 15, s. 63.

Costs

(16) The municipality or local board shall pay the auditor's costs of performing the audit. 2016, c. 15, s. 63.

Decision

(17) The committee shall consider the report within 30 days after receiving it and, if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, the committee shall decide whether to commence a legal proceeding against the candidate for the apparent contravention. 2016, c. 15, s. 63.

Notice of decision, reasons

(18) The decision of the committee under subsection (17), and brief written reasons for the decision, shall be given to the candidate, the clerk with whom the candidate filed his or her nomination, the secretary of the local board, if applicable, and the applicant. 2016, c. 15, s. 63.

Immunity

(19) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (10) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2016, c. 15, s. 63.

Saving provision

(20) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2016, c. 15, s. 63.

Section Amendments with date in force (d/m/y)

Review of contributions to candidates

88.34 (1) The clerk shall review the contributions reported on the financial statements submitted by a candidate under section 88.25 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Report, contributions to candidates for council

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a council who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same council appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same council. 2016, c. 15, s. 64.

Same

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Same

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 64.

Report, contributions to candidates for a local board

(5) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30, the clerk shall prepare a report identifying each contributor to a candidate for office on a local board who appears to have contravened any of the contribution limits under section 88.9 and,

(a) if the contributor's total contributions to a candidate for office on a local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to the candidate; and

(b) if the contributor's total contributions to two or more candidates for office on the same local board appear to exceed the limit under section 88.9, the report shall set out the contributions made by that contributor to all candidates for office on the same local board. 2016, c. 15, s. 64.

Same

(6) The clerk shall prepare a separate report under subsection (5) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.9. 2016, c. 15, s. 64.

Same

(7) The clerk shall forward each report prepared under subsection (5) to the secretary of the local board for which the candidate was nominated for office and, within 10 days after receiving the report, the secretary of the local board shall forward it to the compliance audit committee. 2016, c. 15, s. 64.

Decision of compliance audit committee

(8) Within 30 days after receiving a report under subsection (4) or (7), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 64.

Notice of meetings

(9) Reasonable notice of the meetings of the committee under subsection (8) shall be given to the contributor, the applicable candidate and the public. 2017, c. 20, Sched. 10, s. 2.

Open meetings

(9.1) The meetings of the committee under subsection (8) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 2.

Same

(10) Subsection (9.1) applies despite sections 207 and 208.1 of the *Education Act*. 2017, c. 20, Sched. 10, s. 2.

Notice of decision, reasons

(11) The decision of the committee under subsection (8), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality or the secretary of the local board, as the case may be. 2016, c. 15, s. 64.

Saving provision

(12) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to contribution limits. 2016, c. 15, s. 64.

Section Amendments with date in force (d/m/y)

Compliance audit of registered third parties

Application by elector

88.35 (1) An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement under section 88.29. 2016, c. 15, s. 65.

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality in which the registered third party was registered, and it shall be made in writing and shall set out the reasons for the elector's belief. 2016, c. 15, s. 65.

Deadline

(3) The application must be made within 90 days after the latest of the following dates:

1. The filing date under section 88.30.
2. The date the registered third party filed a financial statement, if the statement was filed within 30 days after the applicable filing date under section 88.30.
3. The supplementary filing date, if any, for the registered third party under section 88.30.
4. The date on which the registered third party's extension, if any, under subsection 88.27 (3) expires. 2016, c. 15, s. 65.

Application of s. 88.33 (4) to (20)

(4) Subsections 88.33 (4) to (20) apply to a compliance audit under this section, with the following modifications:

1. A reference to a candidate shall be read as a reference to the registered third party.
2. A reference to the clerk with whom the candidate filed his or her nomination shall be read as a reference to the clerk of the municipality in which the registered third party is registered.
3. A reference to election campaign finances shall be read as a reference to the campaign finances of the registered third party in relation to third party advertisements that appear during an election in the municipality. 2016, c. 15, s. 65.

Section Amendments with date in force (d/m/y)

Review of contributions to registered third parties

88.36 (1) The clerk shall review the contributions reported on the financial statements submitted by a registered third party under section 88.29 to determine whether any contributor appears to have exceeded any of the contribution limits under section 88.13. 2016, c. 15, s. 65.

Report by the clerk

(2) As soon as possible following the day that is 30 days after the filing date or supplementary filing date, as the case may be, under section 88.30 for a registered third party, the clerk shall prepare a report identifying each contributor to the registered third party who appears to have contravened any of the contribution limits under section 88.13 and,

(a) if the contributor's total contributions to a registered third party that is registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to the registered third party in relation to third party advertisements; and

(b) if the contributor's total contributions to two or more registered third parties that are registered in the municipality appear to exceed the limit under section 88.13, the report shall set out the contributions made by that contributor to all registered third parties in the municipality in relation to third party advertisements. 2016, c. 15, s. 65.

Same

(3) The clerk shall prepare a separate report under subsection (2) in respect of each contributor who appears to have contravened any of the contribution limits under section 88.13. 2016, c. 15, s. 65.

Same

(4) The clerk shall forward each report prepared under subsection (2) to the compliance audit committee. 2016, c. 15, s. 65.

Decision of compliance audit committee

(5) Within 30 days after receiving a report under subsection (4), the compliance audit committee shall consider it and decide whether to commence a legal proceeding against a contributor for an apparent contravention. 2016, c. 15, s. 65.

Notice of meetings

(6) Reasonable notice of the meetings of the committee under subsection (5) shall be given to the contributor, the registered third party and the public. 2017, c. 20, Sched. 10, s. 3.

Open meetings

(6.1) The meetings of the committee under subsection (5) shall be open to the public, but the committee may deliberate in private. 2017, c. 20, Sched. 10, s. 3.

Notice of decision, reasons

(7) The decision of the committee under subsection (5), and brief written reasons for the decision, shall be given to the contributor and to the clerk of the municipality. 2016, c. 15, s. 65.

Saving provision

(8) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to contribution limits. 2016, c. 15, s. 65.

Section Amendments with date in force (d/m/y)

Compliance audit committee

88.37 (1) A council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66.

Composition

(2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,

(a) employees or officers of the municipality or local board;

(b) members of the council or local board;

(c) any persons who are candidates in the election for which the committee is established; or

(d) any persons who are registered third parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66.

Eligibility for appointment

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c. 15, s. 66.

Same

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66.

Term of office

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66.

Role of clerk or secretary

(6) 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 and shall carry out any other duties required under this Act to implement the committee's decisions. 2016, c. 15, s. 66.

Costs

(7) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2016, c. 15, s. 66.

Section Amendments with date in force (d/m/y)

