ANNUAL REPORT
OF THE INTEGRITY COMMISSIONER

Sherri Walsh

January 1, 2021 – December 31, 2021

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ANNUAL REPORT OF THE INTEGRITY COMMISSIONER

JANUARY 1, 2021 – DECEMBER 31, 2021

I. Commissioner's Message

I am pleased to present my Annual Report for the period January 1, 2021 to December 31, 2021.

The *Code of Conduct for Members of Council* (the "*Code*") which this Council put in place in 2018 starts by saying that:

> *Members of Council for the City of Winnipeg recognize that they hold office for the benefit of the public and that their conduct must adhere to the highest ethical standards, exceeding the minimum obligations required by law.*

High ethics standards provide an important foundation for a proper functioning democracy.

In passing this *Code*, and thereby accepting to be governed by its provisions, the Members of Winnipeg's City Council (the "Members") have taken a thorough and professional approach to creating and enforcing ethics standards.

Having an accountability framework which includes the *Code* and an Integrity Commissioner who provides advice about and enforcement of that *Code* allows both the Members of Council and the public to have a clear understanding of what is expected of municipal elected officials when they perform their duties of office.

These are uncertain and trying times. Now more than ever the public needs to feel confident about the work of its elected officials – confident that those officials can be relied on to show leadership, guidance, support and respect.

This is the fifth Annual Report which I have had the privilege to present to Winnipeg's City Council.

For the past five years, this Council has made significant and positive changes to strengthen its accountability framework including appointing the City's first Integrity Commissioner in 2017 and approving a new *Code of Conduct* in 2018.

During the period covered by this Report, the Members of Council frequently engaged with me to discuss issues relating to their ethical obligations under the *Code* both on their own and as a group. Such engagement, in my view, demonstrates the Members' commitment to upholding high ethical standards.

In all my dealings with Members of Council during the period covered by this Report I found them to be respectful and fully co-operative with the work of my office.

I also continued to have what I regard as an excellent working relationship with the Office of the City Clerk and his staff who acknowledge the independent nature of my office and respect the boundaries that ensure that I exercise independent judgment on matters that are properly before me. I continue to be grateful for the relationship of trust and respect that has developed between our offices.

Finally, I wish to acknowledge the invaluable work of my colleagues – Ryan Nerbas, an associate lawyer in my office and Carol Dougan, my assistant. Thank you.

Respectfully submitted,

Sherri Walsh, Integrity Commissioner

II. Mandate and Role of the Integrity Commissioner

The Integrity Commissioner is an impartial, independent and non-partisan role.

The publication of an Annual Report is an integral part of the mandate which Council established for the Integrity Commissioner's role when it created the position.

That mandate is as follows:

Mandate and Duties of Integrity Commissioner

1. ***Advisory:***
   a. *To provide written and oral advice to individual Members of Council on questions under the Code of Conduct, The Municipal Council Conflict of Interest Act and any other by-laws, policies, or Acts governing the behaviour of Council.*
   b. *To provide Council with specific and general opinions and advice on by-laws, policies, protocols or Acts regulating the conduct of Members of Council, and issues of compliance with those by-laws, policies, protocols or Acts.*
2. ***Investigative:***
   a. *To Investigate complaints from members of the public, City staff or other Members of Council involving conflict or by-law matters of Members of Council*
   b. *To conduct inquiries into a request made by Council, a Member of Council, or a member of the public into whether a Member of Council has contravened any applicable by-law, policy, or Act and report to Council on its findings.*
3. ***Educational:***

   To publish an annual report on the work of the office of the Integrity Commissioner including examples in general terms of advice rendered and complaints received and disposed of.
4. ***Other Duties:***

   Oversee the City's Lobbyist Registry, should one be established.

III. Advisory Function

As I have stated on many occasions, the most important aspect of an Integrity Commissioner's work and the one which will have the most impact, is the role's advisory function.

The *Code* is a principles-based document.

By being available to help Members of Council understand how the *Code* applies to a specific set of facts, the Integrity Commissioner helps Members comply with their ethical obligations, on a proactive basis.

In this regard, given the variety of circumstances in which the *Code* may be applied, Members are reminded to seek the guidance of the Integrity Commissioner on a regular basis.

To quote the City of Toronto's first Integrity Commissioner, David Mullen:

> *... the best gauge of the success of the office of Integrity Commissioner is the extent to which Members seek advice in advance of acting on matters that potentially engage the Code of Conduct.*[1]

In the period covered by this report I received **27 requests** from Members of Council, seeking advice on a variety of topics.

My office responded to requests for advice within 24-48 hours unless the matter required further research. Advice was provided by telephone, in writing, in person or by videoconference.

What follows are some anonymized examples of inquiries I received from Members and the advice that I provided in response.

Sample #1 Members' Ability to Promote Private Businesses in their Wards

Request: A Member of Council asked for general advice about their ability to promote local businesses.

Advice provided: I frequently receive requests of this nature, particularly in the last two years, given the impact of the COVID-19 pandemic on local businesses.

The general advice I give Members about their ability to promote private businesses is that, aside from an obvious conflict of interest situation, i.e. where the Member has a private interest in a specific local business, it is acceptable for a Member to promote businesses either generally, or on occasion, even specifically.

In doing so, they must be careful not to be promised or receive anything in exchange for the promotion.

Caution should also be exercised about repeated promotion of a specific business in order to avoid: being perceived to be favouring certain businesses over others; misusing the influence of their office; or giving rise to a concern of an apparent conflict of interest.

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[1] City of Toronto Integrity Commissioner's Annual Report – 2006, at p.11

Sample #2 *Inquiry about Creating a Directory of Local Business*

Request: Along the same line of inquiry as the previous example, one Member sought my advice about whether it would be appropriate for them to create a form of directory or "yellow pages", designed to promote businesses and services in their Ward.

Advice Provided: I confirmed that doing that would be an acceptable use of their influence as a Council Member, so long as they did not accept anything in exchange for creating the directory and so long as they did it in an equitable way – making the opportunity to participate available to businesses generally, in order to avoid the perception that they were improperly promoting the interests of one business over another.

Sample #3 Inquiry about the ability to block emails

Request: A Member asked for advice about their ability to block email communications which were threatening or abusive, having regard to their obligations under the *Code*.

Advice Provided: I approached this question based on the research I had conducted relating to a Member's ability to block a user on social media platforms, although email accounts are not generally considered to be included in the colloquial definition of "social media".

The notion of social media being a "public square" for the purpose of free expression is in its infancy and has not been extended to email communications, to date.

Further, compared to social media platforms, there are relatively limited options available to eliminate unwanted email interactions. Generally, this is limited to simply deleting unwanted emails, or flagging those emails as "spam" with the email provider, rather than being able to block a sender entirely.

I advised that a Member's decision to delete emails or flag emails from other persons as "spam" or "junk" would generally be considered to be a political rather than an ethical consideration and therefore not one which the Integrity Commissioner will regulate unless in deleting the email or engaging with the sender, the Member's conduct otherwise engaged the *Code* such as, for example, the Rule relating to "Respectful Conduct" which requires Members to treat the public, one another and Staff with respect and without abuse, harassment or intimidation.

Sample #4 Use of Influence

Request: A Member of Council asked whether it would be appropriate for them to provide a letter of reference in support of a corporate entity's commercial bid on a matter. The bid was not one which involved the City in any way.

Advice Provided: This inquiry engaged the Rule relating to "Use of Influence" which requires that Members not use the influence of their office for purposes other than the proper exercise of their duties of office. In the Annotated *Code of Conduct*, the commentary to this Rule says that a Member must be careful not to use their influence to improperly benefit the interests of a third party.

In this case I advised that it would not be an appropriate use of the influence of the Member's office to provide a letter of reference to support a third party's commercial interests.

Sample #5 Use of Social Media

Request: A Council Member inquired as to whether it would be permissible for them to use a personal Facebook account to advertise for tenants for a duplex property that they owned. They told me that the account was not one which was paid for by City funds nor which they used in the performance of their duties of office.

Advice Provided: I advised that it would be permissible for them to use the account for that purpose. I reminded them that activity on a social media account, even if the account is not paid for by the City, may engage the *Code* depending on the content of the activity, including whether it related to the Member's performance of their duties.

I also took the opportunity to remind the Member that they should disclose their interest in the real property in the Statement of Assets which they are required to file, pursuant to the *Municipal Council Conflict of Interest Act* RSM 1987 c.M255.

IV. Other Communications with Members of Council

- On February 22, 2021 I met in an informal session with all of the Members of Council to consult about the best way for me to provide guidance on both their use of social media and their election-related activities.

- In July of 2021 I held further consultations on these topics with every Member, on an individual basis.

- These consultations resulted in the Advisory Bulletin which I published on July 14, 2021[2] which is discussed in more detail later in this Report.

  https://www.winnipeg.ca/council/integritycommissioner/pdfs/AdvisoryBulletin-20211019-SocialMediaandCodeofConduct.pdf

[2] Updated, October 10, 2021

- In light of the Federal election, on August 24, 2021, I sent all Members an email to remind them of their obligations under the *Code* with respect to political activity.

  In that email I advised Members that neither they nor their executive Staff are allowed to use the influence of their office for activities, including fundraising activities, in the context of a federal, provincial or municipal election, that are intended to support or oppose a political party or candidate.

  I acknowledged, however, that Members are private citizens and in that capacity are entitled to support a political party or candidate in an election. In doing so, however, they must be careful to clarify that they are doing that as a private individual.

  I ended my letter with the following advice:

  > ***Separate activity***
  > *Please make sure that you have a clear separation between your political activity and your City related activity, in the same way you do during a municipal election when you are running your own campaign.*
  >
  > ***Use of City resources***
  > *Do not use City resources including a City funded social media account, phone, computer, business cards, website, office, or the City logo for example, for political activity to support a party or candidate at another level of government.*
  >
  > ***Use of Social Media***
  > *If you are using a social media account that has not been supported by City resources, but that has your title as a Member of Council on it, in the bio section, or handle, for example, or that has a City logo, you must remove that information if you want to use that account for political activity.*
  >
  > *To be clear, you can not use a social media account which you regularly use in connection with your work as a Member of Council, for political activity.*

- The *Code* requires that Members meet at least once annually with the Integrity Commissioner. Accordingly in November and December of 2021, I met on an individual basis with every Member of Council. During these meetings, among other things, I consulted with each of the Members about changes to the *Code* I was planning to recommend.

- Finally, on December 9, 2021 I met with the members of the Governance Committee in an informal session, to discuss the proposed amendments I was recommending be made to the *Code*.

V. Advisory Bulletins

From time to time I publish Advisory Bulletins to the Members of Council.

In most cases, I am prompted to issue a bulletin in response to specific questions and requests for advice that I have received from Members of Council.

In addition to distributing these bulletins to all Members of Council, I publish them on the Integrity Commissioner's page on the City of Winnipeg's website:

https://www.winnipeg.ca/council/integritycommissioner/reports.stm

The bulletins are an opportunity for me to provide advice and guidance with respect to specific issues that engage the *Code* and to assist Members of Council in understanding how I apply and interpret the *Code*.

In this way the bulletins serve as a useful educational tool for Members of Council. Because they are published, the bulletins also provide education for the public which can guide their expectations about Members' conduct.

In 2021 I published new or updated Advisory Bulletins on the following topics:

- *Conflict of Interest: Exceptions to the General Framework;*
- *Council Members' Election-Related Activity*; and
- *Council Members' Use of Social Media.*

Advisory Bulletin - Council Members' Use of Social Media

The Advisory Bulletin regarding *Council Members' Use of Social Media* was published after significant consultation with all of the Members of Council.

https://www.winnipeg.ca/council/integritycommissioner/pdfs/AdvisoryBulletin-20211019-SocialMediaandCodeofConduct.pdf

The impact of social media is a large contributor to the increasingly challenging environment in which elected officials conduct themselves.

During the past year my office was pleased to work with the Members to consider how they should best address this particular challenge – balancing the need to protect open public dialogue with considerations about Members' own safety and the safety of others – particularly where issues of discrimination and harassment are concerned. These latter issues also present concerns for the

democratic process in general when one thinks, for example, of wanting to encourage a diversity of candidates to run for office.

In order to provide advice on this topic, I spent time researching relevant authorities, consulting with Integrity Commissioners and ethics advisors in other jurisdictions, with the Provincial Ombudsman of Manitoba, and with lawyers in both Canada and the United States who have dealt with issues relating to elected officials' use of social media.

Most importantly, I consulted extensively with the Members of Council both individually and as a group.

I was ultimately of the view that it would be premature for Council to pass a policy or amendments to the *Code* relating to their use of social media, recognizing that the technology of social media is new and evolving as is the political, legal and social landscape, generally.

Plus, because the Rules in the *Code* apply equally to Members' conduct when they use social media as they do at any other time when Members perform their duties of office, I decided it was not necessary for Council to pass a formal policy or amendments to the *Code* in order to regulate their use of social media.

However, knowing that Members had asked for more guidance in this area I decided that the most useful thing for me to do would be to publish an Advisory Bulletin.

While I do not ordinarily place Advisory Bulletins on the agenda for Council's public meetings, I did so with this Bulletin, on July 14, 2021, because the Bulletin was prepared in response to Council's specific request for guidance in this area and to reflect the significant discussions that the Members of Council had been having with me on an area which is of broad public interest.

> https://www.winnipeg.ca/council/integritycommissioner/pdfs/AdvisoryBulletin-SocialMediaandtheCodeofConductMemo.pdf

Along with the Advisory Bulletin I published a memorandum addressed to all Members of Council in which I outlined the nature of the research I conducted in order to provide my advice. In the course of that research I noted that in Canada, governments, public policy forums, and the courts are all taking a closer look at how activity on social media should be regulated from the perspective of both the users and the platforms themselves.

Freedom of Speech

During my dialogue with Members of Council, I frequently heard them express concerns about their need to protect the safety and utility of their social media communications. They were concerned, for example, about being subjected to conduct from members of the public that amounted to abuse and harassment or threats to their wellbeing.

The issue of whether an elected official can block a social media user without violating the user's right to freedom of speech as protected under the *Canadian Charter of Rights and Freedoms*[3] has not yet been decided by a Canadian court. The closest opportunity occurred in 2018, when several individuals sued the Mayor of Ottawa, alleging that he had violated their *Charter* rights by blocking them from his Twitter account, thereby "preventing them from accessing important information, expressing their views on matters of public concern and denying them access to a platform for public debate".[4]

The matter was resolved without a court ruling when the Mayor simply agreed to unblock the individuals.

In Canada, the rights guaranteed by the *Charter of Rights and Freedoms* are subject to reasonable limits.[5] For example, courts have held that the laws which criminalize hate propaganda are a reasonable limit on the right to freedom of expression.[6] However, as I indicated, the issue of what an elected official can legally do to protect themselves on social media when they are acting in their public capacity, has not yet been tested in a Canadian court.

Accordingly, in the Advisory Bulletin, I told Members that when faced with social media content that is offensive for any reason, they should be as minimally restrictive as possible. I encouraged them to use methods such as "muting" or "hiding content" rather than resorting to "blocking". I also said that when Members receive content which amounts to hate speech or discrimination, they should report that speech to the respective social media platform or, where necessary, the police.

In light of the fact that the technology of social media is new and evolving and that questions about how and whether the *Canadian Charter of Rights and Freedoms* applies to any elected official's use of the technology have not been determined by Canadian courts, I anticipate that the guidance and information I provide on this topic will be amended as the legal, political and ethical framework relating to social media, evolves.

VI. Complaints – Receiving, Reviewing and Investigating

In 2021, I received a total of **37 complaints**: **24 informal** and **13 formal.**

Formal complaints are submitted using the form which is prescribed under the *Code* and which must be signed and dated by the complainant.

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[3] *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11, s 91(24), section 2

[4] Ontario Superior Court of Justice file no. CV-18-00078124-0000, *Taman et al v Watson*

[5] *Canadian Charter of Rights and Freedoms, supra,* at section 1

[6] *R. v Keegstra*, [1990] 3 SCR 697 (SCC)

Informal complaints involve concerns which are raised about the conduct of Members of Council but which are not filed using the formal process. Complaints which are initially brought to the Integrity Commissioner's attention on an informal basis can be submitted as formal complaints at any time.

Informal Complaints

Of the **24 informal complaints** I received, 21 came from members of the public; and 3 came from Members of Council.

Of these **24 informal complaints**, 12 were about City workers; 1 was about the police; and 11 were about the conduct of Members of Council.

In terms of subject matter, many of the informal complaints related to matters over which I have no jurisdiction, because they were not complaints about the conduct of Members of Council.

The Integrity Commissioner will only investigate complaints which have been filed pursuant to the formal process, subject to a preliminary assessment described below.

Although the filing of an informal complaint does not require the Integrity Commissioner to conduct an assessment as to whether they will investigate the matter, I nonetheless respond to every informal complainant including to advise that the matter does not fall within my jurisdiction to address, in which case, wherever possible I direct them to the appropriate contact.

One informal complaint turned into a formal complaint.

One informal complaint made by a Member of Council was resolved informally between the Members.

Formal Complaints

All formal complaints were handled in accordance with the *Complaint Procedures* – Appendix B to the *Code.*

The Integrity Commissioner's work to conduct an investigation and prepare a report, whether or not the complaint is substantiated, typically involves a significant use of resources.

Accordingly, whenever a formal complaint is received, the *Complaint Procedures* that form part of the *Code* require that the Integrity Commissioner conduct an initial review to determine whether they will accept the complaint for investigation.

For example, if the complaint is not, on its face, a complaint with respect to compliance with the *Code* or if it relates to matters which are addressed by other legislation or by procedures under another regime, the Integrity Commissioner will not accept it for investigation.

The *Complaint Procedures* say that:

> 7. *If the Integrity Commissioner is of the opinion that:*
>
> a. *the conduct described in the complaint is not within the Integrity Commissioner's jurisdiction to investigate;*
>
> b. *the complaint is frivolous, vexatious or not made in good faith;*
>
> c. *there are no grounds or insufficient grounds for an investigation, or that it is unlikely that the complaint will succeed; or*
>
> d. *an investigation would serve no useful purpose;*
>
> *the Integrity Commissioner shall not conduct an investigation and, where this becomes apparent in the course of an investigation, shall terminate the investigation.*

There are also time limits within which complaints must generally be filed.

Depending on the nature of the complaint, conducting a preliminary assessment can involve reviewing documents, speaking with the parties, reviewing videos of Council meetings and reading communications between the complainant and the Member who is the subject of the complaint.

In every instance where I determine that I will not be investigating a formal complaint and therefore dismiss it at intake, I send the complainant a detailed letter which outlines the review that I have undertaken and my reasons for determining why I will not be conducting an investigation.

The *Complaint Procedures* also require that I provide the Member who is the subject of the complaint with an anonymized copy of the complaint and a copy of my dismissal letter.

The reason for doing this is two-fold: to inform the Member about the nature of a concern which has been raised about their conduct; and for educational purposes to show the Member how I have applied and interpreted the *Code*.

Of the **13 formal complaints**: 12 were made by members of the public; and 1 was made by a member of the Public Service. One of these complaints was not made about a Member of Council and was therefore not within my jurisdiction to receive or consider and was dismissed summarily at intake.

In some cases, the same individual filed more than one complaint about the same Member of Council as well as about other Members of Council.

My preliminary assessment with respect to 2 complaints was not completed by the end of 2021.

Two of the formal complaints I received were dismissed on the basis that I had no jurisdiction over the matter at issue including one complaint which was about the lack of French language services offered by Members of Council.

One of the formal complaints was resolved informally.

The remaining 8 complaints were dismissed at intake. In each case I provided the complainant with a detailed letter in accordance with the process set out above.

The following summaries are examples of how I applied the *Code* in response to formal complaints that I received in 2021.

Example #1

A complaint was filed by a member of City Staff alleging that a Member of Council had breached the Rule in the *Code* regarding Conduct concerning Staff.

The Member had sent an email asking that a specific staff person (the "complainant") not be invited to a meeting with community members. The Member also said they had received complaints from the public about the individual staff member's performance.

The email was sent to a number of individuals, including senior managers and an employee who was being mentored by the complainant. The complainant was not copied on the communication.

The complainant said that they were most concerned about the potential damage to their reputation and that it was embarrassing for them to have a Council Member make disparaging comments about their abilities, especially to senior managers in other departments.

Rule 8 of the *Code – Conduct Concerning Staff* - requires that Members, among other things, at all times show respect for Staff's professional capacities.

When I brought the complaint to the Member's attention, I explained that while they are entitled to express concerns about the performance of Staff, they must be careful to do so in a respectful manner. By expressing criticism of this Staff member to the person's colleagues, one of whom in fact reported to them, in a forum in which the complainant was not able to speak out for themself, the communication injured the individual's reputation in a manner which was not respectful of them as a professional.

Based on my discussions with them, the Member acknowledged they understood why their conduct potentially fell below the standard expected of them by the *Code* and that in the future, if they have a concern about Staff, they should contact the individual's manager or director, on a confidential basis.

Both the complainant and the Member were amenable to having the matter resolved informally.

This was done by the Council Member sending an email to all of the individuals to whom they had sent the initial email, which contained an appropriate apology.

As I have said on many occasions, the purpose of the *Complaint Procedures* in the *Code* is remedial rather than punitive. In this case I was satisfied based on my interactions with the Member that no further steps needed to be taken with respect to the complaint.

Example #2

A member of the public made a complaint about two Members of Council, alleging that they had breached Rule 9 of the *Code.* That Rule requires all Members to treat members of the public, one another and staff with respect and without abuse, harassment or intimidation.

As part of my preliminary assessment of the complaint, I watched the video recording of the delegation the complainant made at the Council meeting.

During the course of the complainant's presentation, they compared how certain members of the public were being treated, to the historical treatment of members of the LGBTQ2S+ community.

At that point, a number of Council Members interjected to raise concerns about the complainant's comments and the Speaker cautioned the complainant that they were speaking in public on livestream and that their words would be recorded as a matter of public record.

The Speaker asked the complainant if they would like to retract their statement and the complainant ultimately apologized if anyone had taken offense.

Following the meeting, the complainant filed a complaint alleging that two Members had engaged in patronizing or condescending behaviour towards them during the course of the Council meeting, in violation of Rule 9 the *Code.*

The Rule reads as follows:

> ***9. Respectful Conduct***
>
> a. *All Members have a duty to treat members of the public, one another, and staff with respect and without abuse, harassment, or intimidation.*
>
> ***Harassment** includes:*
>
> *i. any behaviour, whether a single incident or a course of conduct, that a reasonable person should have known would be unwelcome, and that is inappropriate, demeaning, humiliating, embarrassing, or otherwise offensive, including but not limited to:*

a. verbal or written insults, abuse or threats;
b. racial or ethnic slurs, including racially derogatory nicknames;
c. leering or other offensive gestures;
d. bullying; or
e. patronizing or condescending behaviour; and

ii. objectionable and unwelcome sexual solicitations or advances.

b. *While Members may passionately debate issues and promote ideas, they must maintain proper decorum during meetings of: Council, Committees of Council, and boards, agencies or commissions on which they serve as part of their duties of office.*

The test for determining whether conduct constitutes "harassment" within the meaning of the *Code* is an objective one.

For example, in an arbitration decision which discussed whether or not certain conduct amounted to "harassment", the arbitrator stated[7]:

> *The case law referred to by the parties provides useful guidance as to the meaning of harassment. The test for determining if actions or comments constitute harassment is objective. As Arbitrator Knopf states in the Nunavut case at page 52,*
>
> > *There does not have to be an improper motive or an evil intent in order to harass .... Even good intentions can result in harassment.*
>
> *The respondent in a harassment case cannot refute the allegation by saying that he or she had no intent to harass. The question is whether he or she knew or ought to have known that the course of conduct would be unwelcome.*
>
> ***The objective approach also means that the opinion of the employee alleging harassment that the course of conduct was belittling, patronizing or condescending does not establish that there was harassment. Harassment is not proven simply because an employee takes offense at something that was said or done. There must be evidence that, from an objective standpoint, the alleged harasser knew or ought to have known that the course of comment or conduct was vexatious and would be unwelcome."*** (emphasis added)

Having studied the video of the meeting which was the subject of the complaint, I determined that viewed objectively, the conduct of the two Members simply showed their genuine concern about the statements the complainant was making during a public session. In particular, the Members expressed concerns that the comments would be offensive to members of the LGBTQ2S+ community and the community as a whole.

I found that both respondent Council Members were respectful in their dealings with the complainant.

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[7] *Motor Coils Manufacturing Ltd. v Unifor*, Local 520 [2015] OLAA No.263 (Ont.ARB)

Regardless of how the complainant felt about the Members' conduct, nothing in their behaviour could objectively be construed as vexatious or amounting to harassment, within the meaning of the *Code*.

In the dismissal letter I sent to the complainant I advised that I did not see any evidence that either of the Members' conduct constituted "harassment" within the meaning of the *Code* and, therefore, there were no grounds for conducting an investigation of the matter.

VII. Other Inquiries from the Public

I received **13 inquiries from the public** which were not in the nature of complaints. These inquiries included general questions about: the role of the Integrity Commissioner; the *Code*; and questions about other municipalities.

I am always available to explain the role of Integrity Commissioner and to answer general questions about how the *Code* functions.

I do not, however, respond to questions which are of a hypothetical nature about whether conduct amounts to a breach of the *Code*.

VIII. Other Meetings and Outreach Activities

- Throughout the reporting period I engaged in regular dialogue and consultation with Integrity and Ethics Commissioners from other jurisdictions, both east and west of Manitoba and with the Province of Manitoba's Conflict of Interest Commissioner.

  The ability to consult on a variety of topics with this collegial network of ethics professionals is invaluable.

  I was particularly gratified to see the interest which other municipalities have shown in the work that this Council has done with my office, regarding the use of social media.

- I met with the Ombudsman to provide general information about the role of the Integrity Commissioner.

- I met with the City's Legal Services Department to discuss seeking potential legislative amendments from the Province to strengthen the role and independence of the Integrity Commissioner.

- I am a member of a national committee which meets on a monthly basis to discuss issues related to lobbying and ethics for all levels of government: the Canadian Bar Association's Committee on Ethics and Lobbying.

- I was invited to participate in meetings sponsored by the Municipal Integrity Commissioners of Ontario.

- I was invited to participate and make a presentation to a *Municipal Code of Conduct Symposium* which was sponsored by York University. I was the only presenter at this symposium who was not from Ontario.

- I was invited to give a presentation to the *Course on Ethics, Advocacy and Managing Government Relations* at Seneca College of Applied Arts and Technology School of Media. The title of my presentation was: *Evolution of an Accountability Framework for Elected Municipal Officials – Fostering "Correct" Relations in a Political Environment.*

IX. Financial Statement

For the period January 1 – December 31, 2021, Council established a budget for the Integrity Commissioner's office of $125,000.

The expenditure for this reporting period was as follows:

Budget: $88,386.65 inclusive of taxes

Hours associated with professional services: 480.5

X. Voluntary Lobbyist Registry

Council approved the implementation of a Voluntary Lobbyist Registry on April 26, 2017.

The mandate established for the Integrity Commissioner's role includes having oversight over this registry.

I am available to provide advice to both Members of Council and members of the public with respect to how the registry works.

As noted by a recently published report from the United Kingdom regarding standards in public life:

> *Lobbying is an important and legitimate aspect of public life in a liberal democracy. The right of individuals, businesses and interest groups to make representations to government, and the need for government to discuss policy proposal with those who might be affected, is essential.*[8]

[8] United Kingdom, Committee on Standards in Public Life. *Upholding Standards in Public Life: Final Report of the Standards Matter 2 review*, 1 November 2021

However, lobbying undermines the public's confidence in the integrity of its elected officials and public service when the activity is associated with secrecy and undue influence.

This is the reason why a lobbyist registry, even a voluntary one is an important component of an accountability framework in order to provide the necessary transparency that promotes public confidence in government - showing the public a record of who is lobbying Members of Council and on what subject matters.

In April 2021 when I presented my 2020 Annual Report to the Governance Committee, one of the Members of the Committee advised that they were planning to bring a motion to have the Voluntary Lobbyist Registry made into a Mandatory Lobbyist Registry. The Committee had a brief discussion with me about what that would entail. I followed up with an email to the Committee Members to confirm that implementing a mandatory registry would involve work on the part of my office as well as significant work on the part of the Clerk's Office and that legislative amendments would need to be sought from the Province to implement the registry.

Further to this discussion and as part of my regular duties, throughout 2021, I maintained contact with the registrars from other municipal lobbyist registries. I shared information that I received about the creation of other municipal lobbyist registries with the Clerk and the City's Legal Services Department.

History of Registrations

In the first year following its creation, there were **29 registrations** filed by lobbyists to the Voluntary Lobbyist Registry. From April 1, 2018 to December 31, 2018, an additional **13 lobbyists** registered their activities.

In 2019, an additional **10 lobbyists** registered their lobbying activities.

In 2020, an additional **7 lobbyists** registered their lobbying activities.

In 2021, an addition **5 lobbyists** registered their lobbying activities.

XI. Going forward

The coming year will be an election year for Winnipeg's City Council.

Members are advised to establish a clear and transparent separation between their election-related activities and their activities as elected officials and to avoid any use of City resources to support their election-related activities. For clarity, Members are encouraged to consult the Advisory Bulletin I published on election-related activity:

https://www.winnipeg.ca/council/integritycommissioner/pdfs/AdvisoryBulletinElectionRelatedActivity.pdf

The Integrity Commissioner is available as a confidential source of advice. Members are encouraged to seek advice about how to separate their work as a Member of Council from their activities as candidates.

Members are also reminded that during the election they are still required to comply with all of their obligations under the *Code*.

XII. Conclusion

As I said at the outset of this report, these are trying and uncertain times. Members of Council are charged with the responsibility to make decisions that affect the most fundamental aspects of daily life for the City's inhabitants. The ethical issues that arise in the performance of Council Members' duties, can be challenging.

It has been my privilege to serve the public interest by providing advice to Members about their ethical obligations under the *Code* and addressing concerns about their conduct, whether from the Members themselves, Staff or the public.

All of which is respectfully submitted.



Sherri Walsh
February 28, 2022