

# Principles *Integrity*

## Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillor Robinson December 10, 2024

### **Executive Summary**

- [1] This report results from a complaint against Councillor Lisa Robinson for her conduct as a Councillor of the City of Pickering in regard to statements made in a publication about the City's CAO.
- [2] The complaint alleges that her statement is a breach of the Councillor's obligations under the Code of Conduct to work with staff in a conscientious and respectful manner, to treat others including staff with dignity and without abuse, bullying or intimidation, and to not act in a manner that would undermine public confidence in the City of Pickering.
- [3] We find that the Councillor's statements constitute a breach of the Code of Conduct.

### **Process**

- [4] In conducting this investigation, Principles *Integrity* applied the principles of procedural fairness and was guided by the complaint process set out under the Code.
- [5] This fair and balanced process includes the following elements:
  - a. Reviewing the complaint to determine whether it is within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the complaint should be restated or narrowed, where this better reflects the public interest;
  - b. Notifying the Respondent, and providing her with the opportunity to respond in full to the allegations;
  - c. Reviewing the Code and other relevant documentation and interviewing relevant witnesses as necessary; and,
  - d. Providing the Respondent with the opportunity to review and provide comments to the Integrity Commissioner's Preliminary Findings Report and taking those comments into consideration prior to finalizing and submitting a Recommendation Report.

# Principles Integrity

## **Code Provisions**

[6] Some of the relevant provisions of the Code are set out below:

### **Policy Objective:**

2. Attaining an elected position within one's community is a privilege which carries significant responsibilities and obligations. Members of Council are held to a high standard as leaders of the community and are expected to become well informed on all aspects of municipal governance, administration, planning and operations. They are also expected to carry out their duties in a fair, impartial, transparent, professional, and respectful manner.

3. All Members of the Council of the City of Pickering are committed to protecting and promoting the well-being and best interests of the citizens of the City with the highest standards of integrity and ethical conduct. This Code is an affirmation of this commitment It recognizes and is based on the following key statements of principle:

- (a) Members are committed to performing their duties of office, and arranging private affairs, in a manner that promotes public confidence in the integrity of Member and respect for Council as a whole.
- (b) Members are committed to acting and being seen to act with integrity and impartiality that will bear the closest scrutiny.
- (c) Members are committed to serving their constituents in a conscientious and diligent manner.
- (d) Members are committed to working with City officials and staff in a conscientious and respectful manner.

[...]

### **05 Interaction with the Public, Other Members, and Council/Staff Relations**

**05.01** Members have a duty to treat members of the public, one another, and staff, with respect and dignity and without abuse, bullying, or intimidation.

[...]

**5.09** Notwithstanding the provisions noted above, Members shall have regard for the following City Policies that outline further parameters pertaining to Council/Staff relations including..... Respect in the Workplace.

[...]

**26.04** Every Member shall comply with the requirements of this Code of Conduct, and shall act in accordance with its spirit and intent, in all matters pertaining to the performance of his or her duties as a Member.

## **The Complaint**

[7] This complaint results from Councillor Robinson's statements made during an interview with "The Truth Trumpet", subsequently published on rumble.com, and

## Principles Integrity

entitled “Maintaining Integrity in a Cesspool of Municipal Corruption.”<sup>1</sup> The interview is lengthy, but the Councillor makes the following statement at 1:51:15 in reference to a question about what she would do as Mayor:

*And the first thing I would do is, um, I would, honestly, I'd get rid of our CAO because, you know, the corruption's at the top. Get rid of the CAO. Get rid of, like, you know, the City Solicitor, get rid of a bunch of the directors, especially you know the ones like you know were... were in cahoots...”*

[8] The complaint alleges that this statement is a breach of the Councillor’s obligations under the Code to work with staff in a conscientious and respectful manner, to treat others including staff with dignity and without abuse, bullying or intimidation, and to not act in a manner that would undermine public confidence in the City of Pickering.

[9] We have reviewed the complaint, and we find it to be sustained for the reasons outlined below.

### **Analysis and Findings**

[10] When presented with the complaint, the Councillor did not deny her statements and instead argued that they did not constitute a breach of the Code. She based this on the freedom of expression provisions of the Charter of Rights and Freedoms (the “Charter”), the statutory defences to the tort of defamation, and her general obligation as a Councillor to participate in the oversight of the management of the City.

### **Freedom of Expression**

[11] It is the Councillor’s position that her right to make the statement is protected by section 2 of the Charter. Freedom of expression, while a fundamental freedom, is not unrestricted; indeed section 1 of the Charter qualifies its guarantee of rights and freedoms and specifically recognizes that the right to free expression is “subject to such reasonable limits prescribed by law as can be demonstrably justified in free and democratic society.” Laws against defamation in all its forms are a clear example of such a limitation.

[12] City Council adopted a Code of Conduct to guide and demand a level of integrity, respect, ethics, and decorum necessary to allow efficient and effective governance and citizen representation. The Councillor has voluntarily taken on this role; she is subject to the Code and is required to conform to the standards of behaviour required by Council. Her position conflates the freedom to express herself with the freedom to violate the Code of Conduct without consequence.

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<sup>1</sup> <https://rumble.com/v4s7vqb-maintaining-integrity-in-a-cesspool-of-municipal-corruption-with-lisa-robin.html>

# Principles

## Integrity

### Justification

- [13] In her submission to us, the Councillor raised several statutory defences for defamation in justifying her comments.
- [14] This is not a defamation hearing. It is not our role to assess whether or not the Councillor defamed the CAO or other staff members at law; we are simply tasked to determine whether her comments were in breach of the Code's requirements. Nonetheless, it is important to note that the Councillor raised the defence of truth and fair comment in her response. The Councillor has not provided any evidence to support the truth of her statements regarding the corruption of the CAO or the staff she leads, other than her own personal feelings. Opinion is not a substitute for fact. Without facts, there is no basis for fair comment.
- [15] Words are not simply words – they can be tools or they can be weapons and they can provoke a significant response. Choosing to use the word “corrupt” implies serious moral culpability on the part of the target. Courts reserve serious sanctions for those who make accusations of corruption or fraud and then fail to prove them. This demonstrates the general social intent to deter reckless statements that could do serious and long-term harm to a person's reputation.
- [16] The Councillor also included the following statement in her submission to us:

*I would like to express my sincere apologies if my comments in the recent interview caused any hurt or discomfort to the CAO. My intention was not to personally attack or offend, but rather to engage in an open discussion about matters I believe are of public concern. I deeply respect the roles and contributions of all City staff, and I regret if my words were perceived as otherwise*

- [17] The Councillor expresses regret that her words may have caused “hurt or discomfort” and further indicates that she did not intend to “personally attack or offend”, but she stops short of withdrawing her statements or indicating that they are not true. This statement, which was not available to the public at large in the same manner as the original comments, does not constitute a true apology. The Councillor focuses on the belief and perceptions of others as the cause of the complaint rather than taking responsibility for the statements she made and their impact on the reputation of the CAO and all staff.

### Duty to Hold Accountable

- [18] The Councillor states that she has a duty to “hold others in power accountable”. There is a measure of truth in this, though to state it properly it is Council that holds

## Principles *Integrity*

the duty, not individual Councillors. As a member of Council, part of her role is to be diligent in assessing program performance, and to persuade her colleagues on Council to agree with her conclusions.

[19] The success of any governance system relies on important checks and balances. We do not, however, agree that this duty is best carried out by making unfounded harmful public statements against public actors. The Councillor's obligation to carry out her duties can be successfully met in a way that does not violate the Code.

[20] The Councillor also states that the Code does not prevent her from making statements that are critical or negative. This is true, but again, we find that the use of the term "corrupt" is beyond simply negative or critical language. It is a baseless allegation of criminal behaviour. While the Councillor states that she did not intend to bully or harass the CAO in using this language, she stated on a public platform that she feels the CAO is the head of a corrupt organization and then went on to list other members of administration she felt should be terminated. It is unreasonable to expect that this would not be considered to be bullying. The statement amounts to abuse and mistreatment by someone in a position of power.

[21] Finally, the Councillor disagrees that her statements would in any way undermine the public's trust in Council. The segment is entitled "Maintaining Integrity in a Cesspool of Municipal Corruption" and the impugned statement refers to "the corruption [...] at the top." It is not reasonable to believe that a Councillor's allegations of corruption will not have a negative impact on the public's view of the City of Pickering.

[22] Given all the foregoing, we find that the Councillor's statements breach the fundamental principles enumerated in the Code to protect and promote the well-being and best interests of the citizens of the City with the highest standards of integrity and ethical conduct, and a breach of the specific duty set out at 5.01 to treat members of staff with respect and dignity and without abuse, bullying, or intimidation.

### **Conclusion and Recommendations**

[23] An Integrity Commissioner's investigation report is not simply the conclusion of a technical exercise to determine whether there has been a breach of codified standards of behaviour. Our role is more than simply the task of bringing adjudication to grievances between individuals. As noted below, we see as our highest objective in concluding an investigation to be the making of recommendations that serve the public interest.

[24] One of the most important functions of an integrity commissioner is to provide training, advice and guidance to members to help sort out ethical grey areas or to confirm activities that support compliance. The integrity commissioner's role is as

## Principles *Integrity*

much about education as it is about adjudication, so that municipal government can function better, and that members of the public are able to confidently conclude that members of their municipal council are acting with integrity.

- [25] Sometimes we are able to resolve complaints on the basis of course correction by the Member. Where the Member acknowledges inappropriate conduct and commits to meaningful change, a public report may not be necessary. In such cases, only the complainant and Respondent are made aware of the disposition of the matter.
- [26] However, where a breach is substantiated, and it is important to daylight the concern, the integrity commissioner, following procedural fairness, submits a public report.
- [27] As detailed above, we are of the view that the Respondent's conduct represents a significant breach of the provisions of the Code of Conduct.
- [28] In appropriate circumstances, it may be that a Member of Council is able to correct their behaviour. In those circumstances, it is fair to give the Member the benefit of the doubt.
- [29] However, where a pattern of behaviour is observed, or informal resolution is not in the public interest, it is necessary to consider a sanction.
- [30] In our view, a significant change in behaviour is necessary. As such, we believe that a significant sanction is warranted.
- [31] Under the Municipal Act, upon receipt of a recommendation report from the integrity commissioner, Council may impose a reprimand or a suspension of pay for a period of up to 90 days. Unfortunately, unlike Ontario school boards in similar circumstances, municipal councils lack the authority to suspend members from attending a meeting.
- [32] While a suspension of pay does not affect the Councillor's ability to attend meetings, it does take away a portion of their salary, as a penalty for violation of the Code.
- [33] As in criminal sentencing, an important factor to be taken into consideration in determining a penalty is deterrence.
- [34] We note that this is the third time that we have had to report publicly in regard to complaints made against Councillor Robinson regarding her conduct, and that on each occasion, a further suspension of pay has been imposed.

## Principles *Integrity*

[35] In our view, the most significant monetary penalty is now warranted, to make the point that such misconduct is not acceptable and will not be tolerated.

[36] We are recommending that Councillor Robinson's pay be suspended for a period of 90 days.

[37] We therefore recommend:

1. That the remuneration paid to Councillor Robinson be suspended for a period of 90 days;

[38] We wish to conclude by publicly thanking all those who participated in our investigation.

[39] We will be available to introduce this report and respond to questions during the Council meeting at which this report is considered.

# Principles *Integrity*

## About Principles *Integrity* and the Complaint Process

Principles *Integrity* was appointed the Integrity Commissioner for the City of Pickering on November 15, 2022. We are also privileged to serve as Integrity Commissioner for a number of other Ontario municipalities. The operating philosophy which guides us in our work with all of our client municipalities is this:

*The perception that a community's elected representatives are operating with integrity is the glue which sustains local democracy. We live in a time when citizens are skeptical of their elected representatives at all levels. The overarching objective in appointing an integrity commissioner is to ensure the existence of robust and effective policies, procedures, and mechanisms that enhance the citizen's perception that their Council (and local boards) meet established ethical standards and where they do not, there exists a review mechanism that serves the public interest.*

The City has as part of its ethical framework a Code of Conduct which is the policy touchstone underlying the assessments conducted in this report. It represents the standard of conduct against which all members of Council are to be measured when there is an allegation of breach of the ethical responsibilities established under the Code of Conduct. The review mechanism contemplated by the Code, one which is required in all Ontario municipalities, is an inquiry/complaints process administered by an integrity commissioner.

Integrity commissioners carry out a range of functions for municipalities (and their local boards). They assist in the development of the ethical framework, for example by suggesting content or commentary for codes of conduct. They conduct education and training for members of council and outreach for members of the community. One of the most important functions is the provision of advice and guidance to members to help sort out ethical grey areas or to confirm activities that support compliance. And finally, but not principally, they investigate allegations that a person has fallen short of compliance with the municipality's ethical framework and where appropriate they submit public reports on their findings, and make recommendations, including recommending sanctions, that council for the municipality may consider imposing in giving consideration to that report.

It is important that this broad range of functions be mentioned in this investigation report. Our goal, as stated in our operating philosophy, is to help members of the Pickering community, indeed the broader municipal sector and the public, to appreciate that elected and appointed representatives generally carry out their functions with integrity. In cases where they do not, there is a proper process in place to fairly assess the facts and, if necessary, recommend appropriate sanctions. In every case, including this one, the highest objective is to make recommendations that serve the public interest, if there are recommendations to be made.

Our role differs from other 'adjudicators' whose responsibilities generally focus, to state it colloquially, on making findings of fact and fault. While that is a necessary component when allegations are made, it is not the only component.

Our operating philosophy dictates the format of this report. The tenets of procedural fairness require us to provide reasons for our conclusions and recommendations, and we have done that. Procedural fairness also requires us to conduct a process where parties can participate in the review and resolution of a complaint.