

September 21, 2024

Mayor and Members of Council
City of Pickering
One The Esplanade
Pickering, Ontario
Canada L1V 6K7

Sent by email

Errata – Item 8.1, Council Meeting of September 23, 2024
Integrity Commissioner’s Recommendation Report
Regarding Complaints Against Councillor Robinson

It has come to our attention that there are errors in the report Council has before it under Item 8.1 of its agenda for the Council meeting of September 23, 2024.

We inadvertently provided the Clerk with a PDF of the penultimate and incorrect version of our final report. In it, we included the word ‘paid’ or phrase ‘pay to’ in reference to an editorial taken out by Councillor Robinson when in fact it is her position, which we accept, that the editorial was unpaid.

As a result the phrase ‘paid editorial’ was included instead of the words ‘an editorial’ or ‘editorial’ in paragraphs 5, 13, 23, 25 (and in the title of that section of the Report), 32, 46, and 48. In addition, the phrase ‘pay to publish’ instead of the word ‘publish’ appears in paragraphs 27 and 57. We ask Council to disregard the incorrect references. The error does not impact our analysis or findings.

Further, the PDF provided contains formatting which was not updated. As a result the paragraphs at the end of the document are out of alignment, and a paragraph number, [99], was skipped. The final report should have ended with paragraph number [100], not [101].

We apologize for these errors and any confusion that may have resulted.

Sincerely,

Principles *Integrity*
Integrity Commissioner for
the City of Pickering

c. City Clerk

Integrity Commissioner's Recommendation Report Regarding Complaints Against Councillor Robinson

September 17, 2024

Introduction

- [1] 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.
- [2] 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.
- [3] Though it is not an Integrity Commissioner's only, or even primary function, they also serve as an independent investigator when there are allegations that a Member has contravened the Code of Conduct, conflict of interest provisions or in other ways breached the Municipality's ethical framework; and where appropriate, they submit public reports on their findings and make recommendations, including recommending sanctions, that Council may impose after giving consideration to that report.
- [4] When we deliver reports following an investigation our approach wherever possible is to provide tangible guidance for course correction, where appropriate, and improvement going forward.

Executive Summary:

- [5] This report results from a lengthy complaint against Councillor Robinson submitted by Mayor Ashe regarding numerous actions alleged to breach the Code of Conduct, as well as an individual complaints and concerns received from the public about a paid editorial taken out by Councillor Robinson on February 6, 2024.

[6] We have grouped the various complaints by category where possible, which include:

- Continuing to publicly advance a platform which has already been found to be in breach of the Code
- Equating PFLAG with groups engaging in undesirable, illegal and/or immoral acts
- Publicly denouncing and attacking Black History Month
- Equating loss of pay (for previous Code violations) with being a *modern day slave*
- Associating with a foreign nationalist politician known for racist and Islamophobic views
- Publicly attacking the Mayor for attending church, and providing misinformation regarding the absence of prayer at the opening of Council meetings
- Making various scandalous social media posts
- Impugning the City's CAO's integrity and disparaging volunteer committee members
- Disparaging staff and councillors in public statements
- Crowdfunding for replacement of pay forfeited by Council-imposed sanctions for previous Code breaches

[7] We have found all of the complaints alleged to be substantiated and to constitute breaches of the Code.

[8] We are recommending a 90-day suspension of pay, the most severe sanction which may be imposed by a Council under the Municipal Act.

Process

[9] In conducting this investigation, Principles *Integrity* applied the principles of procedural fairness and was guided by the complaint process set out under the Code of Conduct.

[10] This fair and balanced process includes the following elements:

- Reviewing the complaints to determine whether they are within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the complaints should be restated or narrowed, where this better reflects the public interest;
- Notifying the Respondent, and providing her with the opportunity to respond in full to the allegations;

- Reviewing the Code of Conduct and other relevant documentation and interviewing relevant witnesses as necessary; and,
- 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.

Code Provisions

[11] Some of the relevant provisions of the Council Code of Conduct 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.

[...]

Statutory Provisions and References to Legislation

02.02 This Code of Conduct operates along with, and as a supplement to, the existing statutes governing the conduct of Members. The following Acts of

Provincial legislation govern the conduct of Members of Council:

- a) *The Municipal Act, 2001*;
- b) *The Municipal Conflict of Interest Act, 1990*;
- c) *The Municipal Elections Act, 1996*;
- d) *The Municipal Freedom of Information and Protection of Privacy Act, 1990*;
- e) *The Occupational Health and Safety Act, 1990*; and
- f) *The Human Rights Code, 1990*.

[...]

04 Gifts and Benefits

04.04 Despite anything else in this Code, a Member shall not accept a Gift or Benefit of value greater than \$500.00 and shall not accept from a single source during a 12-month period Gifts and Benefits of total value greater than \$500.00.

04.05 A Member who receives a Gift or Benefit of value greater than \$200.00, or received from a single source during a 12-month period Gifts and Benefits of total value greater than \$200.00, shall within 30 days of receipt, file a Disclosure Statement with the City Clerk.

[...]

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.

[...]

09 Communications and Media Relations

9.01 Members shall fairly and accurately communicate the decisions of Council even if they disagree with a majority decision of Council, in order to foster respect for the decision-making process of Council.

[...]

17 Reprisals

17.01 No Member shall seek any reprisal or threaten any reprisal, against a complainant or any other person for providing relevant information to the Integrity Commissioner in the course of an inquiry pursuant to a complaint.

[...]

23 Confidentiality

23.02 A Complaint about any Member is to be treated as the personal information of the Member against whom the Complaint is directed, and of the complainant. Under the *Municipal Freedom of Information and Protection of Privacy Act*, both the Member and the complainant must therefore consent to the public disclosure of the Complaint.

[...]

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.

[12] Relevant provisions of the *Ontario Human Rights Code* are set out below:

Services

1. Every person has a right to equal treatment with respect to **services, goods and facilities**, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, **sex, sexual orientation, gender identity, gender expression**, age, marital status, family status or disability. [emphasis added]

Infringement prohibited

9. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

Definitions re: Parts I and II

10. (1) In Part I and in this Part, “harassment” means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome; (emphasis added)

The Complaints

[13] This investigation stems from a large itemized complaint submitted by Mayor Ashe regarding certain actions of Councillor Robinson alleged to breach the Code of Conduct (the “Code”), as well as an individual complaint submitted by a community member, and concerns also received from additional community members in respect of a paid editorial taken out by Councillor Robinson on February 6, 2024. The complaint submitted by Mayor Ashe is complex and touches on a number of events, and so some time has been dedicated to set out the background of these complaints.

[14] Some complaints relate to like instances of the same impugned behaviour; where possible, these complaints have been grouped into categories for ease of analysis.

[15] Subsequent to the filing of this complaint, Council also approved a motion on March 25, 2024 to request that the Ontario Human Rights Commission hold a public inquest inquiry with respect to the inclusion of tools in the *Municipal Act* to address behaviour by councillors which promotes racism, bias, and discrimination, and further to advise the City of Pickering with respect to other tools in this regard.¹

1. Repeated public, media, social media commentary about the subject matter of the two previous complaints made to the Integrity Commissioner regarding the Councillor's behaviour.

Background and Context

[16] Councillor Robinson has been the subject of two prior reports of the Integrity Commissioner in which she was found to have breached the Code and for which sanctions were recommended.² In both cases, Council adopted the recommended sanctions. It is noted that Councillor Robinson has commenced a judicial review in respect of both reports, as she has indicated in her response to the current complaints.

[17] The first report related to the use of Facebook for a communication found to be sarcastic and bullying towards three named individuals who had opposed the Councillor's request for a minor variance to accommodate a shipping container at her home.

[18] The second report related to Councillor Robinson's behaviour at a Durham District School Board rally during which she read out three Notices of Motion, indicating that she could not get a seconder for these Notices of Motion from among her colleagues on Council. These Notices of Motion are addressed in detail in the previous reports, but in summary they related to:

- restricting and removing the City's support for drag queen story time, flying of Pride and Trans flags at City premises, and any related LGBTQ+ related events and activities;
- removing the universal washrooms and changes rooms from City facilities, specifically the Chestnut Hills Recreation Centre.

[19] These Notice of Motion and attendant commentary were found in breach of the Code as they promote homophobic and transphobic attitudes.

¹ [March 25, 2024 \(pickering.ca\)](#) (item 13.4)

² [September 25, 2023 \(pickering.ca\)](#) (Corr.28-23); [October 23, 2023 \(pickering.ca\)](#) (Corr.30-23).

[20] The current complaint indicates that Councillor Robinson has attended several interviews with right-wing social media commentators and has also posted her own YouTube commentaries wherein she reiterates her position on the issues for which she has already found to be in breach of the Code.

Analysis and Findings

[21] The conduct attracting these complaints is a collection of recorded individual statements and interviews with members of the right-wing social media world. Each interview or statement features similar key messaging, which involves repeating the desired motions and the reasons behind them. In the second report, we have already determined that this conduct constitutes thinly-veiled homophobia and transphobia and, in the absence of new evidence, we are bound to that finding. Councillor Robinson refers to pride and LGBTQ matters as being “political”; it is noted that the matters represent prohibited grounds of discrimination, and that citing the very existence of people as a politically controversial issue as support for her position is clearly discriminatory.

[22] Despite the clear findings of the Integrity Commissioner and the subsequent sanctions adopted by Council, Councillor Robinson has not been contrite, but instead has become further entrenched in her position and has taken or created at least 16 opportunities to continue advancing a platform which has already been found to be in breach of the Code.

2. Publications and Statements Regarding Participation in the Santa Claus Parade

Background and Context

[23] Councillor Robinson engaged in numerous public communications, including postings on X (formerly Twitter) and a paid editorial in the Oshawa Central Newspaper, in which she challenged PFLAG’s participation in the annual Santa Claus parade, in some places equating it to the participation of cannabis companies, gun clubs, adult stores, and “strippers”.

Analysis and Findings

[24] Councillor Robinson has equated existence as a member of the LGBTQ community with drug use, gun clubs, adult sexuality, and exotic dancers, and suggests that participation in the parade is a means to “sell” or “promote” membership in the community. This fails to recognize sexuality and gender identity as an innate human characteristic and instead casts it as deviance from which children must be protected.

We find this to be a breach of the fundamental principle 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 the public with respect and dignity and without abuse, bullying, or intimidation.

3. Paid Editorial relating to Black History Month

Background and Context

[25] Councillor Robinson took out a paid editorial in the February 6, 2024 edition of the Oshawa/Central newspaper in which she took issue with Black History Month as prioritizing one peoples' history over another, and promoting divisiveness. This complaint was also made by members of the public.

Analysis and Findings

[26] Councillor Robinson has chosen Black History Month to launch an attack on Black experience, which aligns with her prior choice of Pride month to attack LGBTQ interests. The very existence of Black History month is predicated on the fact that history is written by the powerful from their own point of view, and it cannot be meaningfully argued that Black people have ever in history occupied that position with respect to White people. Consequently, there are stories that have not been told and are highlighted during the month of February to begin integrating them into our understanding of history as a whole.

[27] The editorial suggests that Councillor Robinson is also a victim of prejudice, and she refers to herself as a "modern day slave" within it. She suggests that there were "wrongs" on "both sides", which minimizes the reality of racism both past and present, denies the very real impacts of systemic racism, and dismisses the reality that racism is still prevalent today. This is, in itself, a racist act. There was no public or municipal purpose whatsoever for this article, and it is noted that Councillor Robinson sought out the opportunity to pay to publish this document in the Oshawa Central newspaper.

[28] We find this to be a breach of the fundamental principle 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 the public with respect and dignity and without abuse, bullying, or intimidation.

4. Use of Term "Modern Day Slave"

Background and Context

[29] Councillor Robinson has referred to herself publicly in numerous different media as being a “modern-day slave” because of the sanctions imposed for her breaches of the Code of Conduct.

Analysis and Findings

[30] The language Councillor Robinson chose to use in describing the sanctions imposed by Council is clearly intended to be provocative; rather than simply choosing different language, Councillor Robinson goes to great pains to attempt to justify the use of the word “slave” as being legitimate by referring to dictionary definitions of slavery as well as the *Modern Day Slavery Act*. A cursory search of that legislation reveals that it is aimed at eliminating the use of slave labour in manufacturing imported goods in the supply chain and does not in any way relate to a person whose income is suspended based on sanctions authorized by a valid act of legislation, as is the case here. As a paralegal, she should be aware of this.

[31] Councillor Robinson also takes a particular interest in stating that “slave” is not a word unique to the Black community and that she is entitled to use it. In this context, it is racist to suggest her experience, which is fully legal, can be equated to slavery, which is both abhorrent and completely illegal. It is noted that she used the term in her editorial about Black History Month.

[32] Councillor Robinson’s financial sanctions are deemed by the *Municipal Act, 2001* to be appropriate penalties for breaching the Code. She has commenced a judicial review process, as is her right, with respect to these matters. We find that her insistence on referring to herself as a “modern day slave”, including within a paid editorial in opposition to Black History Month, is a violation of the Code duty imposed on Members to treat members of the public, one another, and staff, with respect and dignity and without abuse, bullying or intimidation.

5. Association with Christine Anderson

Background and Context

[33] Councillor Robinson previously acknowledged attending an event featuring Christine Anderson, a German nationalist politician known for racist and Islamophobic views. She later issued an apology for her attendance. Subsequently, she appeared at another event featuring Christine Anderson, this time acting as a speaker at the event.

[34] Councillor Robinson takes the position that her second attendance as a speaker was a “different way to engage” with people than her first attendance as an audience member, and she indicates that she feels that her apology is not invalidated by her subsequent repeat attendance for this reason.

Analysis and Findings

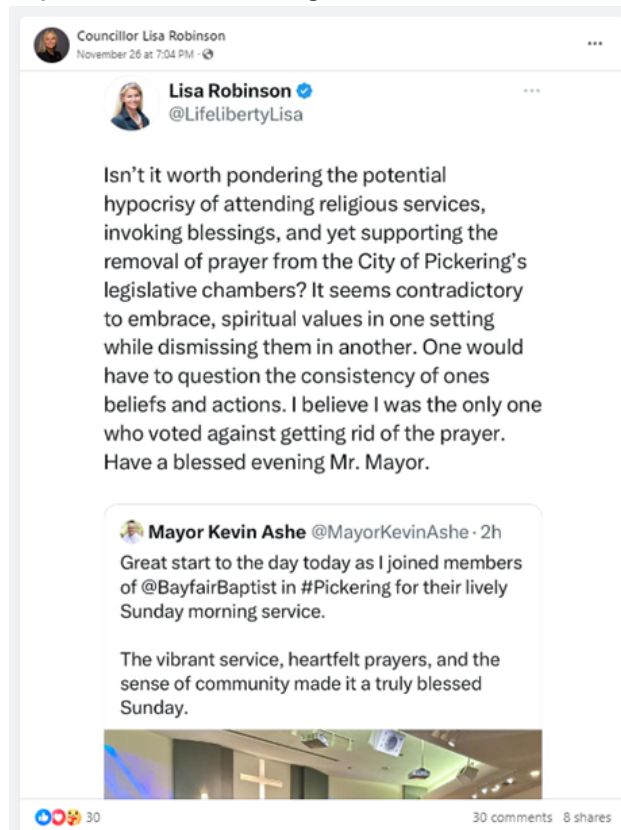
[35] Councillor Robinson issued an apology for attending an event as a passive audience member and then became an actual participant, which clearly demonstrates that her apology was either insincere at the time, or that she no longer feels apologetic. She also states that although she has a framed photo of Christine Anderson in her office, this does not mean she agrees with or endorses her message. This is simply not credible. It is not up to us to determine how Councillors choose to decorate their offices, but in conjunction with the prior attendance at a Christine Anderson event, attending as a speaker shows alignment with this individual and her views, which are widely recognized as racist and Islamophobic.

[36] We find that her continued association with Christine Anderson and her messages are a violation of the Code duty imposed on Members to treat members of the public, one another, and staff, with respect and dignity and without abuse, bullying, or intimidation.

6. Facebook Posting regarding Mayor Ashe's attendance at Church

Background and Context

[37] Councillor Robinson posted the following on Facebook:



Analysis and Findings

[38] The elimination of prayer not only at Pickering City Council, but also at most municipal Councils across Canada, was the result of the Supreme Court decision in *Mouvement Laïque Québécois v. Saguenay (Ville)*³ and not the personal preferences of municipal councillors or mayors. Pickering City Council received a staff report on this and other matters as part of the review of its procedural by-law. Delegations were received, debates were held, consultations with Councillors were undertaken, and the amendments were passed as By-law 8019-23 on June 26, 2023.

[39] We find that the statements contained in this posting are inappropriate and misleading and constitute a breach of the Code obligation at 9.01 to fairly and accurately communicate the decisions of Council even if a councillor disagrees with a majority decision of Council, in order to foster respect for the decision-making process of Council. We also find that the accusations levelled at the Mayor in this posting were unfairly based on the misinformation contained in it, and as such we find that the posting also violates the Code in that Councillor Robinson fails to treat her fellow Council member with respect and dignity and without abuse.

7. Various Social Media Postings and Photographs

Background and Context

[40] Following the imposition of sanctions for breaches of the Code, Councillor Robinson made postings on Facebook as follows:

- A photo depicting a piece of tape over her mouth
- A photo depicting her holding a piece of cardboard inscribed with the phrase “I faithfully & diligently uphold the responsibility of being your voice even in the absence of compensation. -Lisa Robinson City Councillor” and captioned, “What would you do if you lost ¼ of your salary?”
- Sharing a publication by “Druthers” regarding the basis for her sanctions and which contained misinformation.

Analysis and Findings

[41] The image of Councillor Robinson with a piece of tape over her mouth suggests that she is not permitted to speak. That is not an accurate representation. She is not being silenced; like all members of Council, she is governed by both the Procedural By-law as well as the Code that was adopted by the Council she chose to sit on.

³ 2015 SCC 16

[42] The image depicting Councillor Robinson holding the cardboard sign is a statement of her position following the imposition of sanctions. We do not find that this posting contravenes the Code. However, this same picture appears with more lengthy commentary in what appears to be Councillor Robinson's e-newsletter entitled "My Inaugural Year in the Realm of Politics", which commentary accuses her fellow councillors of defaming and silencing her. We find that this is inappropriate and misleading and constitutes a breach of the Code obligation at 9.01 to fairly and accurately communicate the decisions of Council even if a councillor disagrees with a majority decision of Council, in order to foster respect for the decision-making process of Council.

[43] The reposting of the Druthers article is clear misinformation. The caption on the posting is "Thank you Druthers newspaper for your unwavering dedication to reporting the truth and prioritizing accuracy over sensationalism. Your commitment to providing reliable information is truly commendable."

[44] In her response to the complaint, however, Councillor Robinson acknowledged that not all the information in the article was true. Her position is that sharing the article did not constitute her endorsement of it. That is completely at odds with her overt endorsement of the article as being accurate and truthful. This is a reckless, irresponsible, and unacceptable response from a public figure, particularly when the correct or incorrect nature of the information shared is within her personal knowledge because it is actually about her. She further submitted that she felt her constituents were entitled to access to the information, while at the same time expressly acknowledging that not all of it was true. This demonstrates not only an indifference to whether she was endorsing untruthful information, but an intent to convey information with the actual knowledge that it was not true.

[45] We find that this is inappropriate and misleading and constitutes a breach of the Code obligation at 9.01 to fairly and accurately communicate the decisions of Council even if a councillor disagrees with a majority decision of Council, in order to foster respect for the decision-making process of Council.

8. Commentary Regarding Committee Members

Background and Context

[46] Councillor Robinson is alleged to have impugned the integrity of the CAO as well as the knowledge and skills of committee members on the Community Safety and Wellbeing Committee, of which she was a member. Through commentary regarding the committee selection process in a paid editorial, she questioned the use of the word "expert" to describe committee members and criticized the transparency of the appointment process.

Analysis and Findings

[47] The committee appointment process is outlined in the Committees and Taskforces of Council Policy (the “Policy”). Per the Policy, the Clerk provides all applications to the staff resource for each committee for review and recommendation based on the applicants’ “relevant experience and expertise” in relation to each committee’s specific mandate. Council is provided with the staff recommendations as well as the applications and any appended resumes of all applicants. Council has the opportunity to question staff in closed session regarding their recommendations and retains the ultimate discretion to select or reject any candidate regardless of staff recommendations.

[48] In her paid editorial, Councillor Robinson took exception to the use of the term “expert” in relation to those who serve on committees, and expressed concern that this term misleads people. Municipalities frequently make use of public participation on Council committees to bring additional valuable experience, knowledge, and perspectives to Council’s decision-making process. It is widely understood that these individuals are contributing to their community as volunteers and are not paid staff members or consultants engaged entirely for their professional expertise. While there may be more accurate words to choose than “expert” to describe these committee members, Councillor Robinson’s statements unfairly cast doubt on the qualifications and earnestness of those who commit to serve in this role.

[49] The fact that Councillor Robinson was a member of the Community Safety and Wellbeing Committee is a further aggravating factor; she is not merely making a general observation about committee composition but clearly disparaged those who sat on the Community Safety and Wellbeing Committee with her. We find this to be a violation of the Code duty imposed on Members to treat members of the public, one another, and staff, with respect and dignity and without abuse, bullying, or intimidation.

[50] The process to select committee members as set out in the Policy is merit-based, with designated staff – who are themselves experts in their own fields – making recommendations for membership based on “expertise and experience” of applicants when viewed through the lens of the committee mandate. Council is given full access to all application materials for their own review and retains the ultimate ability to follow or disregard the recommendations of staff. This is a healthy and balanced approach to community appointments to Council committees.

[51] We are satisfied that the Policy was observed in both letter and spirit in the appointments made in December of 2022. Councillor Robinson was present and participated in the appointments, including having access to all application

materials and even acting as a seconder for motions to appoint members to the Committee of Adjustment and the Animal Services Committee.

[52] We are also satisfied that the Policy was observed in both letter and spirit in the appointment of members to the Community Safety and Wellbeing Committee, subject to the membership requirements imposed by the *Police Services Act* (now *Community Safety and Policing Act*). Indeed, Councillor Robinson agreed to participate in that committee with a full understanding of the appointment process that took place.

[53] We find that her statements regarding lack of transparency in the process are unsupported, inappropriate, and misleading, and constitute a breach of the Code obligation at 9.01 to fairly and accurately communicate the decisions of Council even if they disagree with a majority decision of Council, in order to foster respect for the decision-making process of Council.

9. Disparaging Councillors and Staff in various media

Background and Context

[54] Councillor Robinson has made numerous public statements regarding members of Council and, in the instance under review, the Chief Administrative Officer. In these editorial statements, she accused her Council colleagues of “persecuting” her and in engaging in behaviour which is illogical, biased, vindictive, and influenced by lobbying. She indicates that she is being bullied and discounted and suggests her gender may be the cause.

Analysis and Findings

[55] Councillor Robinson takes the position that because she does not specify individuals by name, she could be speaking, in a very general sense, about anyone in the political realm. This is contradicted by her assertions in these pieces that she has firsthand experience with the things she describes (“I can attest to this personally”), or that she was unaware of the extent of the “smoke and mirrors” until she “became a politician” herself.

[56] These statements demonstrate that her comments are based on her own experience as a Councillor in Pickering and makes it clear that the politicians and “leadership” she is referring to are her own colleagues and administrative staff. The failure to specifically accuse people by name does not reduce the impact of these statements and creates a cloud over all elected officials on City Council, as well as municipal administration.

[57] With respect to the Mayor himself, she refers to bullying, intimidation, sexism, and then indicates in her response that she's been unable to utilize the existing mechanisms to address these issues because of the power imbalance inherent in their roles. It is not credible that she would not avail herself of a private process out of fear or intimidation but would instead choose to pay to publish articles making accusations, and then decry the lack of processes available to address them. The Respect in the Workplace Policy specifically addresses the type of behaviour the Councillor alleges to have experienced and includes specific procedures to investigate and address it.

[58] We find that in publishing these statements, Councillor Robinson has breached her duty to treat her colleagues with respect and dignity and without abuse, bullying or intimidation. While she specifically named the Mayor and made accusations against him, the fact that she relied on innuendo and suggestion rather than direct allegations to attack her fellow Councillors does not mitigate the breach of the Code.

10. Give-Send-Go Crowdfunding Account

Background and Context

[59] Councillor Robinson is the beneficiary of a Give-Send-Go account established to collect money on her behalf. A link to this account is published on her website.

Analysis and Findings

[60] Councillor Robinson takes the position throughout her discussion of the sanctions imposed on her that she has lost all her income based on the suspension of pay, and as such she missed a mortgage payment and is concerned about her financial wellbeing. However, her personal website indicates that she has worked in real estate for over twenty years, holding specific designations. Her business website shows active listings. She is also a licenced paralegal.

[61] In the response to this complaint, Councillor Robinson indicates that the funding is intended to assist her with the legal fees she is incurring on the judicial review. This is contradicted by an interview she gave to Derek Sloan where it is clearly stated that this money is intended to replace her salary.

[62] The Give-Send-Go page itself, which continues to be active, states that the funding will go directly to Councillor Robinson. Despite her assertions that she did not set this page up to benefit herself, her personal webpage contains an active "donate" button that links directly to the Give-Send-Go account. She acknowledges that the purpose of this button is to allow people access to the site if they wish to provide her with money.

[63] Councillor Robinson advises that she has no role in respect of this account, and that she is unaware of how much money, if any, has been raised through the account. Further, she states that any money raised is or will be directed to her lawyer. Whether or not the money comes to her or is directed to others on her behalf to satisfy her own financial obligations is irrelevant, as payment of her legal fees clearly constitutes a financial benefit to her.

[64] Importantly, Councillor Robinson claims that the funding will not have any undue influence on her decisions as a councillor. We find that to be inaccurate. The funding is replacing the pay she is not receiving as a direct result of legislatively-approved sanctions for violating the Code. Allowing her to benefit from this, essentially avoiding the impact of the sanctions, encourages continued disregard for the Code and renders the concept of sanctions to be meaningless, which clearly has an ability to impact her behaviour as a councillor. While the Councillor indicates she will be complying with “fundraising rules”, it is noted that fundraising rules apply to municipal election campaigns, and not ongoing fundraising for personal matters.

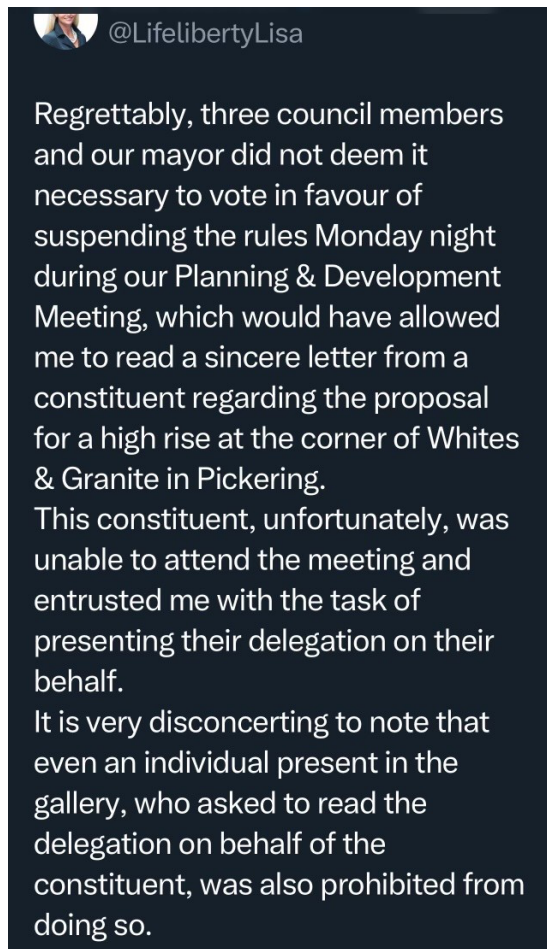
[65] Finally, as this funding is intended to act as income replacement, whether such funding would constitute reportable income is not within the purview of this report but bears consideration in other contexts.

[66] We find that Councillor Robinson has received or is intending to receive a benefit from a single source – a group of individuals ensuring she will not face the impact of previous sanctions imposed upon her for contravening the Code. Despite alleging that she is unaware of the amount raised and making no effort to ascertain that figure when asked for clarification, we find that there is nonetheless a benefit that is accruing to the Councillor in contravention of section 4 gift provisions set out in the Code.

11. Public Commentary Regarding Planning Committee Meeting

Background and Context

[67] Councillor Robinson attended a Planning Committee meeting on November 26, 2023, during which she attempted to read out a constituent letter (or have the letter read by a member of the public who was not the constituent) in violation of procedure, and she subsequently posted the following on “X”:



Analysis and Findings

[68] Councillor Robinson's post suggests that the viewpoint of a constituent was unfairly silenced during a Planning Committee meeting and, as such, the constituent was not permitted to communicate concerns with respect to a planning decision. Her response to this allegation reaffirms her position that she was entitled to read this constituent letter during the meeting, and that not being allowed to do so prevented citizen participation in the planning process.

[69] The Procedural By-law permits delegations to appear before the committee, or to provide written comment, or to do both. Written submissions are to be provided to Council as well as to administrative staff to be considered in the recommendation and decision-making process. We find that this is an established and observed procedure of which the Councillor was well aware, as evidenced by her statement that the majority declined to suspend the usual rules to allow her request. The constituent's written submission was circulated as required, and under Council's delegation process was permitted full participation in the process. We therefore

find that the Councillor's post was misleading as it inaccurately paints the Councillors and Mayor sitting on the committee as having suppressed or denied citizen participation in the process.

[70] We find that this constitutes a breach of the Code obligation at 9.01 to fairly and accurately communicate the decisions of Council even if a councillor disagrees with a majority decision of Council, in order to foster respect for the decision-making process of Council.

12. Additional Consideration: Allegation of Bias

[71] In the course of investigating this complaint, Councillor Robinson has alleged that Principles *Integrity* is biased against her, and therefore cannot impartially and independently conduct an investigation into the complaints against her. She bases this allegation on the fact that she has commenced a judicial review process in respect of two prior investigations conducted by Principles *Integrity* into complaints against her.

[72] It is an important issue of procedural fairness to address the issue of bias in this context. The independence and impartiality of an administrative fact-finding agency or tribunal is fundamental to the proper application of procedural fairness in an investigation, and this is determined through an assessment of whether there is a reasonable apprehension of bias. Though an integrity commissioner has broader functions than an agency or tribunal, the principle is applicable to our work.

[73] The objective test is whether a reasonable person informed of the facts, viewing the matter realistically and practically, and having thought the matter through, would conclude that the tribunal members were not institutionally independent and impartial or that they were institutionally or individually biased in the conduct of the matter. [A fulsome discussion of this principle and its legal basis can be found at Appendix 'A'.]

[74] Ultimately, however, the question is whether an Integrity Commissioner is able to review the matter without bias. In this situation, the allegations arise from the fact that the Councillor has sought a judicial review in respect of two prior reports issued by Principles *Integrity* addressing complaints against her. This is her right, enshrined in legislation, and we respect that right.

[75] We have taken the Councillor's concerns into account, and having given them due consideration, we conclude that the mere existence of the judicial review – a legitimate exercise of a legal right – cannot be construed as giving rise to bias. The entire adjudicative framework of Canada contains built in routes of appeal, and this is no different. Exercising that right does not, in and of itself, lead to a situation of inherent bias.

[76] The judicial review has not affected our perspective nor our judgment in undertaking this investigation. Based on the jurisprudence, we are confident in our ability to maintain an independent and impartial perspective in the investigation of the complaints against Councillor Robinson.

[77] As a precautionary measure, key steps in the investigation, including the drafting of the findings set out in this report, were assigned to an experienced municipal expert with no prior engagement in matters involving Councillor Robinson.

Disciplinary Role of Council

[78] This Report is the culmination of an independent and confidential investigation conducted in accordance with the Municipal Act, and in accordance with the tenets of procedural fairness.

[79] The role of the Integrity Commissioner is to undertake a thorough and impartial investigation, which has now been completed. 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.

[80] We have a statutory obligation to conduct investigations in a confidential manner. That means that Council is not able to conduct its own 'investigation' because it does not, by operation of the statute, have access to all of the information that contributed to our findings in this matter.

[81] The obligation to conduct a fair and independent investigation has been discharged.

[82] The role of Council is not to reinvestigate the complaint or the findings in this report. The role of Council is to review this report and decide which recommendations to adopt, if any.

Recommendations and Concluding Remarks:

[83] An Integrity Commissioner may recommend that sanctions be imposed, including a reprimand, or a suspension of pay for up to 90-days.

[84] An important aspect of an Integrity Commissioner's investigation report, where a breach is substantiated, is to daylight the concern for Council and the public.

[85] We are of the view that the Councillor's conduct represents a breach of the provisions of the Code of Conduct and a continued pattern of behaviour for which she was previously sanctioned.

- [86] The evidence discloses that, even in the face of previous sanctions following two earlier Reports of Code violations, the Councillor persists in engaging in unacceptable behaviour.
- [87] Given the continued conduct exhibited by the Councillor as substantiated through this investigation, we conclude that a further monetary sanction is warranted.
- [88] A suspension of pay does not affect the Councillor's ability to attend meetings or otherwise continue in the role⁴, but it does take away a portion of their salary, as a penalty for violation of the Code.
- [89] The factors to be taken into consideration in determining a penalty ought to include proportionality and deterrence. We would add to this the concept of progressive discipline.
- [90] Following receipt of our August 14, 2023 Report dealing with the targeting of citizens on Facebook, Council imposed a 30-day suspension of pay.
- [91] Following receipt of our October 13, 2023 Report dealing with publicly promoting homophobic and transphobic positions, Council imposed a 60-day suspension of pay.
- [92] We are therefore recommending that Council impose a 90-day suspension of pay. If there were legislative authority for such (similar to the Education Act in regard to school board Trustees), we would recommend the suspension of the Councillor from attending meetings for a period of 90 days.
- [93] During the investigation the Councillor lodged counter-complaints against the Mayor. This action must be recognized as a reprisal – conduct clearly contrary to the Code of Conduct.
- [94] She alleged bias against the Integrity Commissioner. Again, this must be recognized as an attempt at obstruction, intended to derail our investigation of the complaints.
- [95] Her steadfast refusal to recognize any of her conduct as contraventions of the Code or to acknowledge the hurt and harm she inflicts on others through her actions demonstrate an arrogant self-righteousness which we have rarely encountered in our municipal political leaders.
- [96] Her conduct raises real concerns about impacts on those individuals within already-marginalized groups of society.

⁴ Unlike the Education Act, which contemplates suspending Trustees found in breach of the Code from *attending meetings*, the Municipal Act lacks this simple mechanism.

[97] Based on all of the above, a significant sanction is warranted.

[98] We therefore recommend as follow:

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

[100] We wish to conclude by publicly thanking the parties, members of Council and current and former staff who participated in our investigation. We express genuine appreciation for the sharing of time, knowledge and perspective by everyone concerned.

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

Appendix A - Bias

In one of the leading cases on bias of administrative tribunals and agencies, a panel of the Federal Court of Appeal ⁵ stated at paragraph 37:

[37] It is now recognized that the constitutional or common law rules of independence and impartiality applicable to the courts do not apply with the same stringency to administrative tribunals....[quoting from a Supreme Court of Canada decision] “an informed person’s assessment will always depend on the circumstances. The nature of the dispute to be decided, the other duties of the administrative agency and the operational context as a whole will of course affect the assessment. In a criminal trial, the smallest detail capable of casting doubt on the judge’s impartiality will be cause for alarm, whereas greater flexibility must be shown toward administrative tribunals.”

[In that matter, the three members of the panel who had been appointed by the Canadian Human Rights Commission to inquire into a complaint had not been appointed to a newly established tribunal. Their appointments were therefore not being extended. The continuation of the hearing before them would result in their remuneration on a per diem basis for the duration of the matter.

The complainant alleged that the tribunal members were not independent or impartial, given that their appointments had not been extended and their per diem remuneration was to be impacted by the continuation of the hearing.]

In finding no reasonable apprehension of bias, the Court stated:

[38] The appellant, in my view, in what I can only term either a desperate move or a wasted effort (*un coup d’épée dans l’eau*), argues that there is a reasonable apprehension of bias resulting from the fact that the three members, being paid on a per diem basis, might protract and prolong the hearing of the complaint in order to extract more money from the government.

... Again, a reasonable person well informed of all the facts surrounding these proceedings and the allegations made by the appellant could not and would not

⁵ Northwest Territories v Public Service Alliance of Canada 2001 FCA 162 (CanLII).

conclude that the members would be, for that reason, institutionally or individually biased in the conduct of their hearing.

... More than fanciful speculation is required to create in the mind of a well-informed and reasonable person a reasonable apprehension of bias. As Cory J. said in *R. v. S. (R.D.)*, 1997 CanLII 324 (SCC), [1997] 3 S.C.R. 484, at paragraph 112, the threshold for a finding of real or perceived bias is high and mere suspicion is not enough: a real likelihood of probability of bias must be demonstrated.

In a similar allegation of bias raised by a respondent against the investigating Integrity Commissioner, in the City of Ottawa case involving Councillor Chiarelli, the Court stated:

[73] ... The structure for establishing a position of "Integrity Commissioner" has been designed by the Province to create that office as independent. The Legislature has designed the structure, and no inference can be drawn that, due to that structure, the independence and neutrality of the Commissioner is "tainted" because the Mayor or members of Council may have indicated their views.

[74] The Commissioner's role is investigative, not adjudicative. ...

[75] The test to show bias or a reasonable apprehension of bias on the part of an adjudicator is a high one:

"Bias" refers to anything that may reasonably lead the adjudicator to decide the case on some basis other than the evidence before the tribunal and the law. "Apprehended bias" refers to anything that may lead the informed and reasonable observer to form a reasonable apprehension that the adjudicator might decide the case on some basis other than the evidence and the law.³

There is a "strong presumption" of impartiality; "the threshold for a successful allegation of apprehended bias is high".

[76] The test for showing bias or a reasonable apprehension of bias on the part of someone performing an investigative or administrative function is even higher than it is for someone performing an adjudicative function:

The standard of conduct which is applicable to those performing an adjudicative function is different from those performing a purely administrative or investigative

function. In the case of an administrative or investigative function, the standard is not whether there is a reasonable apprehension of bias on the part of the investigator, but rather whether the investigator maintained an open mind, that is whether the investigator has not predetermined the issue.

[118] ...we find that the Commissioner showed professionalism, courtesy, patience and restraint in his dealings with Councillor Chiarelli and his counsel.

[119] ...We see no basis, whatsoever, for the allegation that the Commissioner proceeded with a closed mind, that his investigation was predetermined, or that the Commissioner discharged his duties in a manner that could give rise to a reasonable apprehension of bias.