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INTEGRITY COMMISSIONER REPORT CODE OF CONDUCT COMPLAINT 2024-02

**THE CORPORATION OF THE TOWNSHIP OF
CENTRE WELLINGTON**

**Laura Dean
Aird & Berlis LLP**

March 28, 2025

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I. INTRODUCTION

1. A formal complaint was filed with the Integrity Commissioner on October 16, 2024 (the “**Complaint**”) alleging that Councillor Lisa MacDonald (the “**Member**”) of The Corporation of the Township of Centre Wellington (the “**Township**”) contravened the Township’s *Code of Conduct for Council Members & Members of Local Boards* (the “**Code**”).

II. APPOINTMENT & JURISDICTION

2. Aird & Berlis LLP was appointed as Integrity Commissioner for the Township pursuant to subsection 223.3(1) of the *Municipal Act, 2001* in February 2023 by By-law No. 2023-14.

3. Council adopted the Code and its Complaint Protocol (the “**Complaint Protocol**”) in August 2023.

4. As Integrity Commissioner, we are appointed to act in an independent manner on the application and enforcement of the Code.

5. We are required to preserve secrecy in all matters that come to our knowledge as Integrity Commissioner during the course of our duties. At the same time, the Township is required to ensure that reports received from the Integrity Commissioner are made available to the public.

6. The Complaint was filed pursuant to Part B, Section 5(1) of the Complaint Protocol and subsection 223.4(1) of the *Municipal Act, 2001*.¹

7. This is a report on the investigation of the Complaint made in accordance with Part B, Section 11 of the Complaint Protocol and subsection 223.6(2) of the *Municipal Act, 2001*.

III. CODE OF CONDUCT PROVISIONS AT ISSUE

8. The Complaint alleges that the Member contravened Sections 9.1; 9.2; 9.3 and 10.2 of the Code which provide:

9.1 A Member shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

¹ We note the Complaint included allegations related to an event that took place more than six months prior to the date of filing the Complaint. Section 8(1) of the Complaint Protocol provides that the Integrity Commissioner shall not accept a Complaint under the Code of Conduct for which the event giving rise to the Complaint occurred more than six (6) months prior to the date of the filing of the Complaint, notwithstanding when it was discovered. We have not included any reference to this event in this investigative report.

- 9.2 A Member shall not use indecent, abusive, demeaning or insulting words, phrases or expressions toward any member of the public, another Member or staff.
- 9.3. A Member shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, gender identity, gender expression, sexual orientation, marital status, family status, disability, age or record of offences for which a pardon has not been granted.
- 10.2. A Member shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves or their family, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

9. We note that the Complaint did not address the allegation that the Member contravened Section 9.3 and we have not considered this provision in preparing this Report.

IV. MATERIALS REVIEWED

10. In order to undertake our investigation and prepare this Report, we have reviewed and considered the following materials:

- Complaint 2024-02 and supporting evidence including an affidavit sworn by the Complainant and an affidavit sworn by a law clerk who works at the law office of the Complainant's lawyer;
- The Member's written submissions in response to the Complaint;
- Emails sent to us by the Member and the Complainant;
- The Member's cell phone invoice containing a call log; and
- Written submissions from the Member's lawyer in response to a draft of the investigative report.

V. THE COMPLAINT

(a) Contact with Complainant's Employer

11. On February 13, 2023, the Complainant appeared before Township Council as a delegation regarding his initiative to have Council reverse or re-consider its prohibition on retail cannabis in the Township.

12. On or about November 14, 2023, Council voted to defer its decision on the matter by sending it to the Economic Prosperity Committee for further deliberation. The Complainant was in attendance at the meeting.

13. On May 27, 2024, Council voted against opting into retail cannabis. On or about May 30, 2024, the Complainant sent an email to the Mayor and another member of Council, protesting Council's decision.

14. The Complaint alleges that or around May 31, 2024, the Member made a telephone call to the Complainant's employer in her capacity as a member of Council. The Complaint alleges that the Member informed the Complainant's employer that the Complainant had been actively communicating with the Township regarding his views on the above-described matter. The Member allegedly mentioned to the employer that other stakeholders within the Township were now involved in the matter and questioned why some of the Complainant's communications were directed towards the Member.

15. The Complaint notes that the Complainant had never given the Member his employer's name or contact information and the Complainant is not sure how the Member received the information. According to the Complaint, the Complainant's involvement with Council with respect to his initiative was always separate and apart from and unrelated to his daily employment.

16. The Complainant states that the alleged act of contacting his employer in order to report on the Complainant's involvement with the initiative and interactions with Council contravened Section 9.1 of the Code. The Complainant states that these alleged actions amounted to abuse and/or harassment and/or bullying and/or intimidation by the Member who had no right to contact the Complainant's employer to complain about his interactions with Township Council. The Complaint alleges that the Member only contacted his employer for the purpose of having him fired and/or disciplined.

17. The Complaint also alleges that the act of contacting the Complainant's employer to complain about the Complainant's initiative and activities with Council contravened Section 10.2 of the Code. The Complaint asserts that the Member used the status of her position as a councillor to attempt to influence his employer for the purpose of creating trouble for him at work and/or for the purpose of having him fired and/or disciplined.

(b) Partner's Employment

18. The Complaint further alleges that the Member is responsible for having the Complainant's romantic partner, who is a Township employee, moved from her previous work location to a different municipal facility. The Complaint alleges that the Member targeted the Complainant's partner due to her relationship with the Complainant, with a view to making her employment with the Township difficult and toxic. The Complaint notes that the timing of this incident coincides with the Member's alleged call to his employer on or around May 31, 2024.

19. The Complaint contends that his partner is being abused and/or harassed and/or intimidated by the Member, in contravention of Sections 9.1, 9.2 and 10.2 of the Code.

(c) Cease and Desist Letter

20. By letter dated August 29, 2024, the Complainant instructed his lawyer to issue a letter to the Member, calling upon her to cease and desist from communicating any further with him or his employer on any issue pertaining to his involvement and activities with Council. The cease and desist letter also advised the Member that should she fail to comply, the Complainant would, among other relief, file a formal complaint with the Integrity Commissioner.

21. The Complaint states that on or about September 16, 2024, the Member called the Complainant's lawyer and left a voicemail requesting that she be called back. The Complainant's lawyer returned the member's phone call on the same day. The affidavit sworn by a law clerk present at the time of the call summarizes the call and statements allegedly made by the Member. The affidavit alleges that the Member told the Complainant's lawyer that she showed the cease and desist letter to the Township's Integrity Commissioner who allegedly advised the Member that the Complainant had no case against her.

22. The Complaint states that the Member contravened Section 10.2 of the Code when she made this alleged statement because she was seeking to use her influence to dissuade the Complainant from making a complaint to the Integrity Commissioner.

VI. INVESTIGATION

23. As part of this investigation, we requested written submissions from the Member which were provided on November 7, 2024. A draft of our investigative report was shared with the Member on February 6, 2025. The Member retained legal counsel who filed written submissions on behalf of the Member, dated February 26, 2025.

24. During the investigation we also spoke to the Member on the telephone on at least two occasions. We also interviewed the Township's CAO, the Complainant's employer and the Complainant.

(i) Contact with Complainant's Employer

25. The Member's initial written submissions state that she was out of town for personal reasons during the week including May 31, 2024. The Member submits that she does not know the Complainant's employer nor did she communicate any information.

26. On November 11, 2024, we responded to the Member requesting that she elaborate on her response to the allegation that she contacted the Complainant's employer. On the same day, the Member responded, "I deny all allegations. I did not contact the Complainant's employer."

27. On December 3, 2024, we interviewed the Complaint's employer who corroborated the allegation in the Complaint, that the Member called him on May 30, 2024 and discussed the Complainant's activities in relation to retail cannabis in the Township. On the same day, at our request, the employer sent us a screenshot from his cell phone call log showing an incoming call from the Member's cell phone on May 30, 2024. The screenshot shows the Member's name and telephone number and indicates that the call lasted for 6 minutes.

28. The fact of the screenshot was put to the Member. Her response to this information was as follows:

I fail to see the correlation, and it is unclear to me who the owner of the phone is.

Due to the lack of information, this is difficult to comment on a screen shot.

29. We requested from the Township and were provided with the invoice for the Member's Township-issued cell phone. The invoice shows an outgoing call to the Complainant's employer on May 30, 2024 at the same time as is shown on the screenshot of the employer's call log.

30. We advised the Member that we had obtained her call history and provided her with an opportunity to comment on our findings. The Member's response provided, in part:

I returned a call during a time when there were a lot of businesses whom I speak to about various projects...

The alleged phone call was short as indicated by the records you sent. I do not recall the details of the call or the name of the person. The phone number is not in my phone.

Further, since November 2024. I now log every number and name with a description of the discussion for reference.

31. The Member's call history also includes an outgoing call on May 28, 2024 to the general telephone number of the Complainant's employer. This call is recorded as four minutes in length. We did not ask the Member for information regarding this separate call nor was this call addressed by the Member.

32. A draft of our investigative report was provided to the Member who retained legal counsel to respond. The response from the Member's legal counsel dated February 26, 2025 provides:

... [The Member] did not "randomly" call [the Complainant's employer] regarding the Complainant's activities in relation to retail cannabis in the Township. Rather, a representative from [the Complainant's employer] left a message for Ms. MacDonald and she made a return call to said representative. Ms. MacDonald recognized the name of the company as she had recently attended an open house where [the Company's] products were being advertised.... When she returned the aforementioned call, the individual to whom she spoke did not identify himself as the Complainant's employer but did ask her if the Complainant had attended the Council meeting on May 27, 2024. This was not an unusual question for Ms. MacDonald to receive as the Complainant was very prominent in the local media regarding his initiative and his dissatisfaction with the Council's handling of same, and it is common practice for the public to make inquiries regarding Council meetings. Ms. MacDonald simply stated that "the delegate did not come back for the meeting even though he was invited." She then told the individual to whom she was speaking that he should contact the Township planning department to receive up to date information for builders and developers.

Further, in addition to not initiating the call, Ms. MacDonald was wholly unaware that [the Company] was the Complainant's employer...

...

Based on the foregoing, Ms. MacDonald did not meddle in the private affairs of a member of the public nor did she intentionally contact the Complainant's employer to discuss the Complainant. Her only reference to the Complainant was her statement, in answer to a specific question asked by an unidentified person at [the Complainant's employer], that the complainant did not come back for the council meeting even though he was invited. In the alternative, if that is a breach, which is not admitted and expressly denied, it was in response to a question asked by the Complainant's employer and was inadvertent and/or an error in judgment made in good faith...

(ii) Parter's Employment

33. The Member's written submissions stated that employees are under the office of the CAO and the Director of Human Resources at the Township. The Member suggested we reach out to them with respect to allegations concerning the Complainant's partner's employment.

34. We interviewed the Township's CAO regarding the employment-related allegations. The CAO advised us that the relocation of the Complainant's partner to a different Township facility was related to a departmental reorganization and that he was not aware that it had anything to do with the Member.

(iii) Cease and Desist Letter

35. The written submissions from the Member's lawyer state the following with respect to the Member's comments regarding the Complainant's cease and desist letter:

With respect to the allegation that Ms. MacDonald told the Complainant's lawyer that she had shown the cease and desist letter to the Integrity Commissioner who allegedly advised that the Complainant had no case against her, Ms. MacDonald submits that this is a gross mischaracterization of what occurred. Specifically, upon receiving the cease and desist letter, Ms. MacDonald called the [Integrity Commissioner] as she often did in the past for clarification regarding governance and ethics, to advise him that she received a cease and desist letter and did not know how to proceed. Importantly, Ms. MacDonald never showed [the Integrity Commissioner] the actual letter. [The Integrity Commissioner] advised Ms. MacDonald that the letter did not require the attention of the Integrity Commissioner but that she should speak to a lawyer about same.

Ms. MacDonald then called the Complainant's lawyer to inform her that she was in receipt of the cease and desist letter and had retained a lawyer....On the call [with the Member's lawyer]. Ms. MacDonald never stated that she gave the Integrity Commissioner anything in writing, nor did she state that the Integrity Commissioner informed her that the Complainant had no case against her...

VII. ANALYSIS

36. At times our investigation uncovered conflicting evidence and we have attempted to assess the credibility of the various allegations and responses. We have reviewed the entirety of the evidence and have made our determinations in accordance with the civil standard of a balance of probabilities or proof on a preponderance of the evidence, which means that something is more likely than not to have occurred or taken place.

37. We have also considered the public interest in this matter and the value in pursuing additional interviews in order to obtain more information regarding certain conflicting details.

38. Following the receipt of the Member's final written submissions from her lawyer we determined that we had a sufficient evidentiary record to make a determination and finalize this Report. We accordingly undertook no further investigative steps.

(a) Contact with Complainant's Employer

39. In our initial discussions, the Member denied contacting the Complainant's employer. It was only once we were in receipt of the Member's lawyer's submissions pertaining to our investigative report that the Member provided an explanation for contacting the Complainant's employer.

40. The lack of a consistent and coherent explanation for the documented telephone call made it difficult for us to assess the allegation set out in the Complaint. Based on the Member's final written submissions regarding the draft investigative report, however, we accept on a balance of probabilities that the Member's motivation for contacting the Complainant's employer was unrelated to the Complainant's activities and interactions with Council.

41. Based on the above, we find the Member did not contravene Section 9.1 of the Code when she contacted the Complainant's employer.

(b) Partner's Employment

34. We have not found any evidence to support the allegation that the Member was responsible or otherwise involved in the relocation of the Complainant's partner to a different workplace. We, therefore, find that the Member did not contravene Sections 9.1, 9.2 and 10.2 of the Code with respect to this allegation.

(c) Cease and Desist Letter

42. The Complaint alleges that the Member contravened Section 10.2 of the Code when she told the Complainant's lawyer that she had shown the cease and desist letter to the Integrity Commissioner who allegedly advised that the Complainant had no case against the Member.

43. Section 10.2 of the Code prohibits a member from using the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves or their family or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

44. We accept, on a balance of probabilities that any comments made by the Member to the Complainant's lawyer regarding the cease and desist letter were not intended to dissuade the Complainant from filing a complaint under the Code, thereby providing an advantage to herself. We find the Member did not contravene Section 10.2 of the Code with respect to the above allegation.

VIII. CONCLUSION

45. For all of the reasons noted above, we find on a civil standard of a balance of probabilities that the Member did not contravene the Code as alleged in the Complaint.

46. Section 15(5) of the Complaint Protocol provides that where the Complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings but may do so at its discretion. Given the time spent on this investigation and the efforts of the parties involved, we determined it was in the interest of transparency to report to Council regarding the Complaint.

47. In view of our opinion that the Member has not contravened the Code, this matter is at an end and Council has no jurisdiction to impose a penalty pursuant to subsection 223.4(5) of the *Municipal Act, 2001*.² Moreover, Council has no authority to contest or question the Integrity Commissioner's conclusions in an investigative report.³

48. Accordingly, this Report has been prepared for and is forwarded to Council solely for the purpose of reporting.

49. Subsection 223.6(3) of the *Municipal Act, 2001* provides that this Report is to be made public.

Respectfully submitted,

AIRD & BERLIS LLP



Laura Dean

Integrity Commissioner for the Township of Centre Wellington

Dated this 28th day of March, 2025

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² Council only has authority to impose a penalty or remedial measures/corrective actions under s. 223.4(5) of the *Municipal Act, 2001* if the Integrity Commissioner has opined that a member has contravened the code of conduct.

³ *Assaly v. Hawkesbury (Town)*, 2021 ONSC 1690 (Div. Ct.) at para. 11 and *Jonker v. West Lincoln (Township)*, 2024 ONSC 1167 at paras. 25 and 32 (Div. Ct.).