



ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Grimsby

MICHAEL L. MAYNARD

Integrity Commissioner

Town of Grimsby

E-mail: mmaynard@adr.ca

July 2, 2022

SENT BY EMAIL TO:

Complainants 1, 2, 3, and 4 [Anon]¹

AND TO:

Councillor Dave Sharpe

Cc: Sarah Kim, Clerk

Re: Final Investigation Report - IC-16634-0222

Investigative Mandate of Integrity Commissioner

This Investigation Report ("Report") has been prepared in accordance with my appointment as Integrity Commissioner ("IC") for the Town of Grimsby (the "Town"). It has been prepared pursuant to the *Code of Conduct for Members for the Council of the Town of Grimsby and Local Boards of the Municipality* (the "Code of Conduct" or "Code") and its appended *Complaint Protocol* ("Complaint Protocol"), with reference to the relevant portions of the *Ontario Municipal Act, 2001*.

The Complaint

Four residents of the Town (the "Complainants") submitted a joint complaint (the "Complaint") against Councillor Sharpe ("Respondent" or "Councillor")

¹ In accordance with the standard practice at the Town of Grimsby, the identities of the Complainants have been anonymized because they are residents of the Town.

alleging numerous violations of the *Code of Conduct* relative to his participation in, and broadcasting / posting about (via social media) the Ottawa Convoy / Occupation / Protest (“Ottawa Convoy”, “Convoy”, or “Protest”) which occurred in January and February of this year. The Complaint was filed with our office on February 14, 2022, with the requisite Consent and Confidentiality Agreement (“CCA”) filed on February 16, 2022.

Our office was advised that evidence, in the form of 37 videos downloaded from the Respondent Councillor’s Facebook account would be provided, together with a table describing the incidents and relevant *Code* sections pertaining to each occurrence. These videos were received on February 22, 2022.

I reviewed the content of the Complaint and the various materials provided in support and determined that the matter was within my jurisdiction and mandate as Integrity Commissioner, and that the issues raised warranted an investigation. However, in determining this, I first noted that the Complaint contained allegations of possible criminal activity (as indicated by the Complainants themselves in their submissions). I accordingly considered section 223.8 of the *Municipal Act*, which states:

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act, other than the Municipal Conflict of Interest Act, or of the Criminal Code (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. [emphasis added]

Given that a number of individuals had been arrested at the Ottawa Convoy, and because at numerous points the Protest had been referred to by police and political leaders as “unlawful” and “illegal”, I determined it was required of me to make inquiries with the police of several relevant jurisdictions as to whether they considered this matter to be under their jurisdiction as a matter of priority over my own. After some time, on or around March 8, 2022, I was able to conclude following discussions with various police forces that the matter was

not, at least at the time, a police matter. I accordingly determined that I was free to commence my own investigation unless or until I was advised otherwise by the relevant authorities.

The Complaint materials were provided to Councillor Sharpe, together with correspondence from me, on March 8, 2022. I also wrote to the Complainants on the same day to advise that I would be commencing my investigation.

Councillor Sharpe requested and was granted several extensions to provide his Response, which he did over the weekend of March 26, 2022.

The Councillor's materials were reviewed, and on March 28, 2022, they were sent to the Complainants.

The Complainants' Reply was received by my office on April 6, 2022, reviewed by me, and subsequently provided to Councillor Sharpe on April 12, 2022.

I interviewed Councillor Sharpe on April 20, 2022.

It was determined that no interview of the Complainants was required, though they were offered the opportunity if they determined it was necessary. The Complainants declined to be interviewed as they agreed it was unnecessary.

Subsequently, on May 4, 2022, my office received correspondence from one of the Complainants about a potential act of reprisal by Councillor Sharpe directed at them. I initiated a parallel inquiry into this added issue, the results of which are incorporated into this Report.

In sum, the process of investigation for this matter included:

- a. a review of the written submissions of the Parties;
- b. an interview with Councillor Sharpe;
- c. a review of email records obtained from the Town's email server;
- d. a subsequent interview with one of the Complainants;
- e. a subsequent interview with Councillor Sharpe; and,
- f. a review of other relevant information and law as referenced periodically herein, including numerous media reports from a variety of sources.

Procedural Fairness and Evidentiary Standard

The principles of procedural fairness were followed in this matter. This Complaint was investigated with input from all involved Parties who were provided with the opportunity to review the written statements of the other side, and to provide oral evidence by way of interview. The evidence obtained from all sources has been assessed in a fair and neutral manner.

As with any civil matter in such an adjudicative process, the standard of proof to be applied in this case is the *balance of probabilities* standard.

Code of Conduct – Cited Sections

The Complainants alleged that Councillor Sharpe breached *Code of Conduct* sections 4.1 (a), (b), (c), (d), (e), (f), (g), (h), (i); 14.1 (a), (b); and 14.2; by participating in, video recording, and posting on social media in regard to the Ottawa Convoy which arrived in and occupied downtown Ottawa, Ontario for several weeks in January and February, 2022.

Those sections read as follows:

4.1 In all respects, Members shall:

- a) Make every effort to act with good faith and care; of the Council or any committee and in accordance with the Town's Procedural;²*
- b) Conduct themselves with integrity, courtesy and respectability at all meetings By-law or other applicable procedural rules and policies;*

² As indicated in previous reports to Council, including my last annual report, the published version of the *Code* contains transposed sections of 4.1 (a) and (b) (as noted above). These sections should read:

4.1 In all respects, Members shall:

- a) Make every effort to act with good faith and care;
- b) Conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Town's procedural By-law or other applicable procedural rules and policies.

- c) Seek to advance the public interest with honesty and to avoid conflicts of interest and unethical behaviour;*
- d) Seek to serve their constituents in a conscientious and diligent manner;*
- e) Respect the individual rights, values, beliefs and personality traits of any other person;*
- f) Refrain from making statements the Member knows, or ought reasonably to know, to be false or with the intent to mislead Council or the public;*
- g) Accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings;*
- h) Make it clear that he or she is expressing a personal opinion when expressing disagreement with a decision of Council; and,*
- i) Refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.*

14.1 A Member shall:

- a) Adhere to any and all Town policies and guidelines, regarding social media use; and*
- b) Always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the Town when using social media.*

14.2 *No Member shall use social media to publish anything that is dishonest, untrue, offensive, disrespectful, constitutes harassment, or is defamatory or misleading in any way.*

Complaint Particulars

The Complainants asserted that Councillor Sharpe “openly supported” the Ottawa Convoy “...through his social media councillor page.” They noted that

he “live streamed” his attendance over three consecutive weekends in Ottawa; that he supported the protest; and that he criticized mask mandates and supported “no more lockdowns”. In doing so, the Complainants asserted that Councillor Sharpe “...contributed to the illegal siege in effect on the entire country.”

In addition to this, the Complainants asserted that Councillor Sharpe shared untrue or misleading information on his social media page (i.e., a Facebook page titled “Dave Sharpe – Councillor Ward 4 – Grimsby) (the “Facebook Page”). For example, Councillor Sharpe made the statement: “People have the right to do whatever they want but we don’t have the right to tell people what they have to do,” which was shared on that page. The Complainants asserted that Councillor Sharpe has accordingly been misleading about the tenets of the *Charter of Rights and Freedoms*, as such a statement fails to acknowledge the inclusions in that document which place reasonable limits on the rights and freedoms expressed therein.

The Complainants further asserted that Councillor Sharpe was being misleading about the nature of the protest itself, and in particular that the Ottawa Convoy was not “illegal behaviour”. They noted that the Ottawa Convoy was deemed an “occupation” after the first weekend; that the activities of the Convoy infringed upon the rights of citizens living and working in Ottawa; and furthermore, pointed out that Premier Ford called a State of Emergency in the Province of Ontario in relation to the Ottawa Convoy (and concurrent protests elsewhere).

The Complainants noted that the content of Councillor Sharpe’s live-streamed videos (which are then saved as a permanent record on Facebook, unless deleted) displayed various offensive and disrespectful materials, including signs and flags containing profanity and an upside down Canada flag (which they consider to be inappropriate imagery of a country “in distress”). The Complainants further pointed out that in one video Councillor Sharpe made “disparaging references” about Prime Minister Trudeau, claiming that he was “hiding” which the Complainants view as inappropriate.

The Complainants made reference to music with profane and/or suggestive language, pointing out in particular certain suggestive lyrics from a song (which appear to be from a pop song called “Sexy and I Know It” by the musical group

LMFAO), which they viewed to be inappropriate for a Councillor's Facebook page, in addition to being offensive to women.

In another video shared by Councillor Sharpe, a speech is given which declares women "...the life givers of every nation in the world," and furthermore that "...men need to protect their women," to which the Councillor could allegedly be heard saying: "Yeah!" and "Hell yeah!" respectively. They view this as offensive to women because it is a reductive view of women and also implies ownership of women by men (i.e., with the word "their" being possessive).

The same speaker (on the video) later proclaims, "...tyranny projected on the tribal people is now being pushed on the civilians." The Complainants took offense to this comment (which was broadcast by the Councillor) because it was not culturally sensitive and appeared to them to be (possibly) cultural appropriation. They noted that "[s]tatements released from First Nations in regard to the protest and use of Indigenous symbols, ignorant acts of cultural appropriation citing them as clear examples of racism." They asserted that it was "...clearly inappropriate to stream from a member of council through an official page without Indigenous consultation to validate these actions aren't a mockery of ceremonial traditions."

The Complainants asserted that the videos shared by the Councillor displayed incidents of harassment of the residents of Ottawa. They note that the Councillor himself refers to the "honking of horns" in one video and remarks about "how they are going on 24/7 and will continue for days." He also compared the atmosphere to a "vacation destination". The Complainants assert that this "...is sending a concerning message that this behaviour is acceptable to do to a community," and that "Councilor Sharpe is participating as a representative of council in an occupation of the City of Ottawa in which they have declared a state of emergency."

The Complainants lastly note that:

"Through the commentary of many of the videos it is abundantly clear that Councilor Sharpe is representing the community, as well as staff and council. We see comments such as, "thanks for representing me" and "Thank you for representing me as a Grimsby resident" as well as "Thanks Councilor""

The Complainants indicated that one of them had notified Councillor Sharpe of their concerns by email (to all Members of Council and others) on February 1, 2022. The Complainants described the email as follows:

“This email explained that the content belonged on his personal social media and not his official Council page. It also commented that regardless of what the original intent may have been, it was now wholly inappropriate due to the event’s affiliation with Nazi and confederate flags, homophobia and ableism.

The resident respectfully asked they be removed as it did not represent them. The request was ignored, and another email was sent (Feb 2) asking the posts to be removed. This email gave a detailed explanation of why some of these posts were offensive. Knowing that residents were offended by the content, Councilor Sharpe proceeded to return to the protests and once again livestream events from his official Council social media account.”

Another of the Complainants also wrote to the Councillor requesting his resignation and raising concerns that the content he posted was contrary to his Oath of Office and various obligations he has as a Council member.

It is not necessary to publish the full content of these emails, however, I have reviewed their content and find that they generally conform to the descriptions set out above.

Along with the written Complaint particulars, the Complainants also provided downloaded copies of 37 Facebook videos streamed and/or shared by Councillor Sharpe on his aforementioned Facebook Page which are referred to in the body of their Complaint.

Response of Councillor Sharpe

The Respondent Councillor asserted his view that, “[m]uch of this code of conduct complaint is regarding the actions of other people. The action that I took was to go live stream on Facebook from the protest in Ottawa.”

The Respondent acknowledged attending Ottawa during the Protest on three consecutive weekends but denies doing so as a representative of the Town, stating: “There seems to be some confusion that because I identify myself as a councillor on my Facebook page that I am representing the Town of Grimsby or the entire town council, even though I clearly identify myself as Dave Sharpe.” He pointed out that “...most of the content on my Facebook page is not related to the town council,” and that the Complainants themselves acknowledge this. He explained that he opened the Facebook Page (which is different to a personal profile) approximately a year and a half before he became a Councillor. He views it as a personal page but added his elected title as he believes he is required to do so (i.e., identify himself as a Councillor) by section 14 of the *Code*.

The Respondent noted that an earlier post on his Facebook Page from January 26, 2022 regarding residents attending a highway overpass in Grimsby received significant social media attention, and he accordingly believed there was interest in the Ottawa Convoy protest.

The Respondent noted that while the Complainants allege that he broke the law while in Ottawa, he denies this, and points out that while he was there, he stayed in a hotel, used underground parking, and patronized Ottawa businesses – in other words, making the point that he engaged in lawful and ordinary activities as a visitor to the city. He did not stay for three weeks but returned twice after his initial visit on the last weekend of January (on subsequent, consecutive weekends) in the hopes of seeing the Prime Minister acknowledge the protestors.

He stated that his videos are taken in public places and were shot and broadcast live on Facebook. Because they were live, they were not edited, and are an “unabashed representation of what is actually happening at the Ottawa protest.” In many videos he gives the date, time, and location, as well as his description of what he is seeing at the time. The Respondent advised: “It is never my intent to be offensive. I do not use offensive language. I try not to focus on protesters signs that have choice language.”

With respect to the Complainants’ references to various flags carried by others at the Protest, the Respondent noted that these flags “...have commonly been flown to represent libertarian, classic-liberal, anti-government overreach, and the pursuit of Quebec independence from federal government,” and that “...one of

the flags is also commonly flown by Canadian military at war memorials.” The Respondent then explained:

“Since there were Canadian military present at the protest and at the war memorials, and the general sentiment of the protest was anti-government overreach, and independence from the federal, and provincial government mandates. It is reasonable to presume, on a balance of probabilities, that this is why these flags were flown at the protest. Either way, the flags were not flown by me.”

Among the flags discussed in the Complaint was the “F*ck Trudeau” flag which is partially censored with a maple leaf (where I have placed the asterisk). The Respondent noted that the protest was voicing displeasure with the Prime Minister and that such flags can be found in many towns and cities, in various forms (e.g., clothing). He noted that the City of Port Colborne had recently rescinded a By-law prohibiting that flag from being flown.

Regarding the speech with indigenous content, the Respondent noted that the speaker was Indigenous, and the quotes referred to by the Complainants are “taken out of context” as the speaker was engaging in a prayer “...for everyone to be free from government tyranny.” He denied saying “Yeah” and “Hell Yeah” and asserted that it was someone else picked up by the audio.

The song lyrics complained about are from a pop song (“Sexy and I know it” by the musical group LMFAO) which the Respondent noted was a common “Billboard Hot 100” pop song. In the Respondent’s opinion, the song “...is not generally regarded as offensive”.

The Respondent asserted that the Complaint about him making false or misleading statements about the *Charter of Rights and Freedoms* is invalid because he made no mention of it. He asserted that neither he nor the Complainants are experts on the *Charter*, and he believes this issue is a “...difference of opinion, not a false or misleading statement”.

The Respondent further asserted that the Complainants disagree with him in respect of this matter generally and in respect of other issues also. The subject matter of this Complaint, in his view, is more akin to a disagreement than it being a *Code* violation on his part.

The Respondent noted that his posts achieved significant public interest as demonstrated through Facebook metrics. He asserted that he was posting the videos to his personal page, and that posting the live videos does not, in his view, "...constitute arranging my private affairs in a manner that lacks public trust, is against the public interest, is dishonest, or unethical."

The Respondent summarized his position as follows:

"I submit that I have not breached the code of conduct. This protest was by its nature somewhat controversial, and I am aware of that. I believe it was abundantly clear to the complainants that I was not representing the town of Grimsby, or Council as a whole, while I was at the protest in Ottawa. However, I will take instance from this situation and in the future, I will put more effort to make it absolutely clear that my social media posts are personal."

Lastly, the Respondent provided a brief explanation to each video referenced in the Complaint. It is not necessary to list each video and its response here (just as I did not particularize every issue raised by the Complainants in the videos); these videos are publicly available on the Councillor's Facebook Page. They can also be provided to Council by the Integrity Commissioner's office, if requested.

The Respondent's submissions can be summarized by observing that he did not agree with any of the assertions that his videos were inappropriate or contained inappropriate content that would give rise to a *Code of Conduct* violation. The Respondent also provided various Facebook metrics which demonstrated the public interest in his posts on the subject matter.

Complainants' Reply

In their Reply, the Complainants stated that Councillor Sharpe "...did not address our complaint and concerns in his conduct as an elected council member and representative of the Town of Grimsby." They asserted the view that the Councillor "...is deflecting responsibility with respect to his own actions by posting live stream content, as he admitted to, with his publicly funded cell phone / service." The Complainants stated that the Councillor's actions "...encouraged and promoted the occupation, which occurred in the city of

Ottawa, which opposed a federally elected position, which contravenes section 10³ of the Code of Conduct.”

The Complainants disagreed with the Respondent’s characterization of his Facebook page as being personal and noted its long history of use for election and Council representative purposes. They included in their appendix a “Page Transparency” print out from Facebook which demonstrated that the page in question was created and named Dave Sharpe in June of 2017, before being changed to Vote Dave Sharpe in July 2018, and eventually “Dave Sharpe – Councillor Ward 4 – Grimsby” by late 2018 (with some other similar changes in between, after he was elected and the Town adopted the term “Councillor” in lieu of the formerly used title of “Alderman”).

The Complainants further noted that the Councillor uses the page to inform constituents of Town announcements and planning applications, and to have online discussions with citizens regarding how councillors vote on issues. In the Complainants’ view, this gives the impression that the page is an official page, sanctioned by the Town.

The Complainants raised various questions and concerns about the reach of the Councillor’s posts on the page, noting the Councillor claims to have reached over 25,000 people and provided metrics as evidence to support that claim. The Complainants questioned whether he paid to “boost” the post to meet those numbers and also whether his actions were planned or coordinated with anyone else prior to or during the protest.

The Complainants referred again to the emails of February 1 and February 2, 2022, in which the Councillor was asked to remove his live stream posts from his Facebook Page due to the offensive themes and imagery presented therein. The Complainants again questioned whether this was in fact a personal page or a public page for an elected representative. They point out that in any event, it is not appropriate “...to use imagery associated with and promoting hate as stated in the *Canadian Criminal Code*.” The Complainants asserted that the Councillor referred to the original meanings of “white supremacy flags” as justification for their use, but “...does not deny that they also symbolize hatred against marginalized demographics.” They cited the example of the Nazi flag which

³ Notwithstanding its reference in the reply, section 10 not was referred to in the Complaint and is not before me.

contains a symbol (the swastika) that had a different meaning prior to it being adopted by the Nazis but is now most commonly recognized in Western society as being a symbol of hate.

The Complainants stated that Councillor Sharpe failed to acknowledge the fact that organizers of the Ottawa Convoy "...have a history of white nationalism and racism," and asserted that "...it is very probable that Councillor Sharpe was aware of this," as such information "...was communicated to the public [via the media] on January 29, 2022." The Complainants asserted that "...given this history, it is not probable those flags meant anything else," [i.e., that they were intended as racist symbols]. The Complainants therefore asserted that the Respondent had a duty to educate himself after being notified by email of the concerns, and that "...simply stating they have alternate meanings and '*were not flown by me*' is not acceptable." The Complainants further pointed out that the Respondent Councillor is part of the Coalition for Inclusive Municipalities as a representative on Town Council, and that the Town (and its Councillors) bear certain responsibilities for respecting and promoting equity and human rights as collective co-signatories and Members of that coalition.

The Complainants reasserted their position that the Respondent Councillor had a responsibility to seek out an Indigenous consultant (e.g., through the Grimsby Museum, where he sits on the Board) to advise him whether the one (above-referenced) speech he filmed and posted was not actually a mockery of Indigenous customs.

The Complainants stated that instead of following through with his responsibility to ensure that the content he posted was not offensive, he instead did the opposite and "...watched his likes and additional followers grow with the known racist content."

The Complainants then reasserted their view that the Facebook Page is not a personal page but a public page for a politician. However, irrespective of this argument, they believe that his actions of posting these live videos constitutes "...arranging his private affairs in a manner that lacks public trust, is against public interest, is dishonest and unethical."

The Complainants named several new sections of the *Code of Conduct* that had not originally been named in their Complaint.⁴

To support their claim that the Respondent had used a publicly funded cell phone to post the impugned content, the Complainants provided a copy of the “Statement of Remuneration and Expenses paid to Members of Council and Local Boards,” which showed Councillor Sharpe was paid \$240.00 for cell phone expenses for the year ending December 31, 2021.

Lastly, the Complainants pointed out that the Councillor attended and participated in an occupation, and the attendees, by their occupation of the City of Ottawa, were ignoring various By-laws and engaged in conduct that impacted upon many local residents and businesses. They noted that the Federal government eventually invoked the *Emergencies Act*.

In the Complainants’ view, the Councillor’s posts on his Facebook Page appeared to be representing the Town of Grimsby and made it seem like the Town was supporting the Ottawa Convoy.

Interview with Councillor Sharpe

Councillor Sharpe acknowledged attending the Ottawa Convoy protest on three consecutive weekends (i.e., on the weekends of January 28-30, February 4-6, and February 11-13, 2022). He did not return on the weekend after the federal government invoked the *Emergencies Act* (February 18-20, 2022). When asked whether the invocation of that *Act* was the reason for him not returning, he advised that it was not the reason; rather, that he and his spouse had other plans, that it was expensive to return again (for a fourth weekend), and that he wanted to avoid trouble with the police, who “...were there with batons...”

The Respondent was asked whether he was aware that the Ottawa Convoy was unlawful. He denied participating in anything unlawful and pointed out that he stayed in hotels, ate food from restaurants, used underground parking, and did not block any streets. He called the hotels he stayed at in advance and they gave him “...no inclination that [he] was not to be there.”

⁴ I am declining to consider these new allegations as they were not properly advanced at the outset of this process as required by the Complaint Protocol.

The Respondent was asked whether he was aware that the Ottawa Police Chief had referred to the Ottawa Convoy as “unlawful”^{5,6}. He denied knowing about this and stated: “He [the Ottawa Police Chief] might have done that on the weekend after I was not there.” The Councillor noted that there was a police presence, but that “...none of them were telling us we were not allowed to be there.”

The Respondent was asked whether he was aware of the declaration of emergency from the Ontario Premier, Doug Ford (on February 11, 2022)⁷. He said he was aware of it, but “...thought it had more to do with the closing of the border,” adding, “...he did some things there and cleared it up. He did not do anything in Ottawa.”

The Respondent was then asked whether he was aware that the Ontario Premier had told people in Ottawa to disperse and go home. He replied: “No”.

The Respondent was then asked if he was aware of whether the government or police had told people to leave Ottawa and/or go home. He again replied: “No” and added: “I was a paying guest at a hotel. They welcomed us. Police were around, which I presume was for crowd control. The police were telling people which roads were closed or open.”

The Respondent was asked about live streaming videos to Facebook. He acknowledged having done so and noted that they stay saved on Facebook. He had not removed the videos as of the date of our interview. When asked why he was streaming, he advised that he had “...friends at home [who] wanted to see what was going on,” and, “...there were also other people who were interested to see it.” When asked which people, he stated: “Just people that I know – maybe acquaintances. I was not speaking specifically to my friends – my account is public.” He also noted that the videos were re-shared in some Facebook groups, such as one called “No more lockdowns Niagara”. When asked, he advised that he could not recall the names of other Facebook groups where the videos were shared.

⁵ [Trucker protests: Ottawa police chief announces 'surge and contain' strategy – February 4, 2022 - YouTube](#)

⁶ [Trucker convoy: Provincial government goes to court over convoy fundraising; Police say there's a 'concerted effort' to flood 911 line | Ottawa Citizen](#)

⁷ [Ontario truck convoy: Doug Ford declares state of emergency to end 'siege' in Ottawa and Windsor | CTV News](#)

While discussing the videos that he took and shared, the Respondent advised that he only took short videos (i.e., numerous short ones rather than a few longer ones) because of how cold it was outside. He stated he took videos "...whenever it looked busy or something worth watching, like a big crowd of people." When asked to specify what qualified as "interesting" he advised that: "...speeches and crowds listening," were examples, and added: "...people dancing, people giving away food, hats, mitts, handwarmers." He then stated that he "...did not have any specific things [that he wanted to share]," and that he, "just went live."

When asked about sharing protest signs specifically (in reference to a video where the Councillor is specifically sharing images and describing a long row of discarded – or placed – signage) he stated:

"I was talking during that video. Each of the signs said something, and together they meant something - I was trying to show the overall feeling, specifically peace, and love, and freedom from the mandates. Some people were trying to show the protest was about something else."

The Respondent was asked to expand on what he meant by "...people were trying to show the protest was about something else," he stated: "People said it was about 'hate'. It wasn't."

The Respondent was asked whether he encountered any hateful messages during his times in Ottawa. He indicated that he did not. He was asked if he had seen a Nazi flag, for example, and he stated: "No. The people that were there would have run that flag out," (i.e., told them to leave). He added: "The movement is categorically not a Nazi movement. It is not hateful. It is about freedom and personal choice."

The Respondent was asked about showing various flags in his video images, such as the controversial "Gadsden" flag. He said that he did not set out specifically to show flags, but there were many around. He further stated: "Based on the sentiment of the protest, I do not believe they [the flags] were there for improper or racist or hateful reasons." He added that while the Complainants refer to the flags (such as the Gadsden) as "white supremacist" or "white nationalist" there was no one at the protest discussing those kinds of bigoted ideologies; rather: "It was about freedom and the government not mandating

things for people.” He also advised that some flags were in French, and he does not read the language.

The Respondent was asked whether he was aware of some protestors being there with an alleged goal of overthrowing the federal government^{8, 9, 10, 11}. He stated “I don’t believe it is true. I think people were there to ask the government to end the mandates,”. The Respondent also denied any knowledge of plans among some protestors for setting up a provisional government¹², or any manifestos / memoranda expressing a plan to take over the government.

The Respondent was asked whether he belonged to any social media groups related to the Ottawa Convoy. He said he did not. He was also asked whether he was included in any online chat groups regarding protest, and again advised that he was not involved in any such groups.

The Respondent was asked about the apparent Indigenous ceremony that he recorded. He advised that the speaker in that video was on a flat bed truck and offered prayers to the crowd, including “Our Father” (also known as “The Lord’s Prayer”) in her own language and in English, as well as other blessings. He did not believe the speaker was being offensive to women and had no reason to believe that she was not Indigenous (particularly as she seemed to be speaking an Indigenous language). He stated: “She was an Indigenous person. There is no strong argument to say she was not Indigenous.”

With respect to the *Charter of Rights and Freedoms*, and his comments that “[p]eople have the right to do what they want, we don’t have the right to tell people what they have to do,” the Respondent advised that he was offering his personal opinion and did not cite the *Charter* in his remarks. He stated that he accepts there are “some limitations to absolute rights,” but he was not making an argument about the *Charter* in any case – he was just giving his opinion. He further asserted that it is not reasonable to expect him to go into significant detail about the *Charter* when he was merely talking and giving his opinion about something.

⁸ [Freedom Convoy: What is its aim? | CTV News](#)

⁹ [Trucker convoy: Is the 'coalition' proposal possible? | CTV News](#)

¹⁰ [What many convoy protesters get wrong about constitutional rights and the Governor General | CBC News](#)

¹¹ [Convoy plans to replace Canada's elected gov't the stuff of fantasy | Toronto Sun](#)

¹² [How Trucker Protests Shut the Canadian Border and Rocked the Economy | Financial Post](#)

The Respondent was asked about his comments that the Prime Minister is “hiding”. He advised that people were saying it at the protest, and that he heard that the Prime Minister was at his cottage instead of in Ottawa. The Councillor advised that he believes the Prime Minister “was hiding” because “...[h]e was purposely not being there.”

The Respondent reiterated his position that the song by LMFAO (as cited by the Complainants for being background audio in one of the videos) is not offensive; it is a pop song that was played on the radio, and people were dancing to it.

Regarding the nature of his Facebook Page, the Councillor noted that people interact with him on both his “page” and his “profile” (i.e., personal profile). For example, he has been referred to as “Councillor Sharpe” occasionally on both. He stated that he was posting about the Ottawa Convoy for personal interest, not as a representative of Council. He noted specifically that he did not have any direction from Council which would be required in order for him to do anything on Council’s behalf.

The Respondent was asked about the issue of harassment by Ottawa Convoy participants towards the residents of Ottawa. The Councillor asserted that he did not have a truck or a horn, that he remained parked underground, and did not participate in the noise-making activities. He was asked whether he believes that sharing videos of the honking was promoting the harassment being perpetrated by others. He stated he did not agree with that assertion and noted that he was “...not in a residential area – it was hotel and office areas.” He was asked whether he was aware of residences being downtown also, with there being, for example, apartments on Sparks Street in the downtown core near the protest. He stated he was not aware of that. He was also asked about residences in the Byward Market area, and he stated that he was not aware of them either; though he also added that he did not spend a lot of time there.

The Respondent was asked whether he was aware of Ottawa residents complaining about the protests, and he confirmed that he was aware of this to a certain extent, explaining: “I remember them [i.e., Ottawa residents] saying streets were closed. They weren’t. Some were, but there were ways to get in and out. I did.” He further advised that complaints about street closures were the

only complaints he was aware of, and specifically denied being aware of reports of noise causing harm to residents^{13,14}.

Finally, the Respondent was asked about his support for a similar convoy in Grimsby. He stated that he shared information about everyone standing on the bridges in Grimsby because "...it was just something people were interested in." He advised that he received 25000 engagements on his Facebook post about it, with 1300 positive reactions and 188 shares (as of the date of our interview).

In closing, the Respondent Councillor asserted that he does not believe he has breached the *Code of Conduct* with his actions, stating:

"I participated in a protest, I guess. I did not even really participate. I took some videos and shared my opinions. My intent was not to be offensive to anyone. I don't think the things I did were offensive."

Claims of Reprisal

On May 3, 2022, one of the Complainants wrote to my office to advise that s/he was experiencing "acts of reprisal" from the Respondent Councillor.

I contacted the Complainant in question to follow up on these concerns. S/he advised that s/he sent an email to Members of Council expressing certain concerns about how the Town had handled a particular issue related to protests. The email was sent to all Members of Council and the Town's CAO. Several days later, verbatim copy from this email correspondence appeared on a protest group's Facebook page. The Complainant also began to receive targeted online harassment. A fake profile of the Complainant was created, and abusive messages were sent directly, in addition to there being negative public comments, all of which stemmed from the email the Complainant had sent to Members of Council and the CAO (and was not copied to anyone else publicly).

I commenced a parallel investigation of this potential additional issue, as I determined it to be related to the ongoing investigation. My inquiry included a narrow, targeted search of certain email activity on Town's email server. This

¹³ [More than annoying: What trucker convoy's nearly nonstop honking could be doing to people in Ottawa | National Post](#)

¹⁴ ['Hostages in our own city': Ottawa residents say '#GoHomeTruckers' as convoy protest noise, blockades turn to 'a form of torture' \(yahoo.com\)](#)

data investigation proved inconclusive. I accordingly requested a second interview with Councillor Sharpe to inquire whether he had any knowledge of this situation, and more particularly, whether he was the individual who shared the Complaint / constituent's email with the Facebook group and/or Admin of the Facebook group. The Councillor initially rejected a second interview and requested questions in writing, but after an exchange of emails, he eventually accepted my request for a second interview, which accordingly took place on June 17, 2022.

I asked the Respondent Councillor whether he knew about the Facebook group in question. He stated that he did not know them personally but was aware of them and noted that they are "...just one of a bunch of connections on Facebook". I then explained to the Respondent that out of all individuals copied on the constituent email from the Complainant, only he had a connection to that particular group on Facebook and that he alone (of Council Members and the CAO) was friends with the Admin of that group. I advised him that the email from the Complainant had evidently been released to that Facebook group, and I asked the Respondent Councillor whether he had sent it to them. He acknowledged that he did. I asked him why he had sent the email to the group, and he stated: "Because [the Complainant] named them in [the] correspondence."

I asked the Respondent whether such emails to Council (i.e., wherein a constituent complains to the Town Council about certain decisions or actions / inactions by the Town) were generally shared outside of Council, or if they were considered confidential. He stated that the Complainant's email in this instance "...said nothing about it being private and confidential" and that he knew who to forward it to because the Facebook group was named in the email. When asked why he would share it at all, the Respondent Councillor replied that the Complainant had made reference to certain issues regarding the group's activities and that he believed the group should be aware that there were concerns. He further advised that he has, in other instances, shared similar emails of concern to third parties, stating: "If someone made a complaint about a business or a neighbour or an activity, I might share this with them...to create awareness that there is a problem."

The Respondent was asked whether he was aware that the Complainant had been the subject of harassment / online abuse as a result of the email being shared. He advised that he was aware that a fake profile had been created.

The Respondent was asked if he retained the message in which he sent the email contents to the Facebook group and whether he could provide me with a copy of that message. He refused my request. When asked why he was refusing a request from the Town's Integrity Commissioner respecting the subject matter of an investigation, the Councillor stated: "I just don't want to," and added "I don't see how this is related to my posts about Ottawa." I explained again that the issue raised with me was one of potential reprisal against a Complainant who made a Complaint about his Ottawa posts, and that as Integrity Commissioner it is up to me to determine the scope of my investigation. The Respondent stated: "I am very clear that this is not reprisal". He also added that if this matter (i.e., of sharing the email with Facebook group) came as a separate complaint on some later date he would consider providing the information at that point.

Analysis of Evidence and Findings

This Complaint raised a significant number of issues and cited numerous *Code* provisions as being possibly breached by the Respondent Councillor. It referenced 37 separate videos and raised numerous points of concern across all of them, including in some cases multiple points of concern in certain individual videos.

While I have given due consideration to all of the many issues raised in this matter, it is within my purview as Integrity Commissioner to conduct a qualitative analysis of these issues to determine the importance and pertinence of each of them. I do not see it as my role to engage, unless absolutely necessary, in an exercise of detailing, analyzing, and making findings about every strand of an incredible quantity of information. In most cases, to do so would not be in the public interest, as such a process is likely to be extraordinarily time consuming; costly; and confusing and/or overwhelming for the Parties, Members of Council, and the public; as well as possibly serving no corrective or remedial purpose.

In other words, the Integrity Commissioner's office is not intended to bulldoze a Member of Council for every possible issue arising out of a wide-ranging set of circumstances (though it is certainly appropriate to consider all issues, as I have

done). It is clear that the role of Integrity Commissioner is intended to serve as an accountability and ethics aid to Council; to advise, educate, and assist Council and its Members (as well as Members of local boards) and support Members in course-correction (through investigations, reports, and recommendations) where required. Insofar as this case is concerned, not every allegation needs to be thoroughly analyzed and reported upon on as a potential *Code* breach when a higher level look at the circumstances will satisfy the public interest. I have accordingly screened the issues and will deal with those that are, in my view, most pertinent.

Issues

The key issues raised in this matter are as follows:

1. Did the Respondent Councillor contravene the *Code of Conduct* by attending, filming, and posting content from the Ottawa Convoy?
2. If so, which sections were contravened?

Secondarily, as a matter of processing this Complainant:

3. Did the Respondent Councillor engage in an act of reprisal against one of the Complainants?

And finally:

4. What is the appropriate remedy?

Analysis and Findings

Through my analysis, and for the reasons laid out in the proceeding paragraphs, I have determined that the Respondent Councillor's actions were in breach of several sections of the *Code of Conduct*, including in particular sections 4.1 (a), (d), (e); and Section 14.2.

It is clear that the Complainants and Respondent approach the issue of the Ottawa Convoy from opposite perspectives – the Complainants squarely against the Protest, and the Respondent supportive of it. My reading of these matters

leads me to the conclusion that at least some portions of this Complaint appear to be rooted in basic political disagreement. The Complainants, for example, lean heavily into the “*white nationalist*” aspects of the Ottawa Convoy, whereas the Respondent denies any knowledge or involvement in such matters vis-à-vis his Ottawa Convoy experience, and expresses a firm belief that the goals (and at the very least the ones he subscribes to) are of a more noble purpose.

The Integrity Commissioner’s office does not exist to settle political debates or engage in sociological exercises. It would not be appropriate for me to delve into (for example) the long history of the use of the Gadsden flag and how it may be perceived in this particular instance, when there are other clearer, less ambiguous issues to deal with as matters of conduct under the *Code* (and in service of the public interest for the residents and ratepayers of Grimsby). I will leave these issues to political actors, commentators, and members of the public to consider for themselves in this case.

However, certain aspects of the Complaint raise legitimate concerns about the Councillor’s use of social media and his engagement with / support for / participation in what was at varying points deemed by police¹⁵, and the local (Ottawa)¹⁶, provincial¹⁷, and federal¹⁸ governments to be an unlawful / illegal event and a cause for declarations (at all three levels of government) of a state of emergency.

The Councillor’s Conduct

The Councillor attended the City of Ottawa for the purposes of engaging with the Ottawa Convoy protest on the weekends of January 28-30, February 4-6, and February 11-13, 2022. He acknowledges having done so, and he posted videos from Ottawa on each of the days he attended on those three consecutive weekends. It is clear from the videos themselves that the Councillor supported the Ottawa Convoy, with him making various statements of support and other warm and encouraging sentiments about the Protest throughout.

¹⁵ *Supra* at note 5

¹⁶ [Declaration of Emergency in the City of Ottawa - Jim Watson \(jimwatsonottawa.ca\)](https://www.jimwatsonottawa.ca/declaration-of-emergency-in-the-city-of-ottawa)

¹⁷ *Supra* at note 7

¹⁸ [Federal government invokes Emergencies Act for first time ever in response to protests, blockades | CBC News](https://www.cbc.com/news/politics/federal-emergency-act-1.6344444)

At varying points, the Councillor also demonstrated his knowledge that certain activities were occurring which, in my view, he either knew or ought to have known to be contrary to law. For example, in a video taken on January 29 at approximately 8:00 p.m., the Councillor is walking around downtown Ottawa and remarks about roads being closed off and a “24 hour honking of horns, constantly, for three days...it’s going to go on for weeks”. Later in the same video, he speaks in glowing terms of the feeling at being a part of this “amazing experience” and encourages watchers of his video to “Get in the car, come on Sunday night.”

As a Municipal councillor, and indeed as a person with a reasonable degree of common sense, the Respondent ought to have been aware that honking horns and clogging streets “24 hours, constantly, for three days...going on for weeks,” is unlawful activity and is at the very least contrary to municipal noise By-laws¹⁹ in Ottawa (just as it would be in most, if not all, municipalities in the Province). Not only did the Councillor revel in such conduct; he directly encouraged others to join it. He also failed to recognize that the constant noise would be (and was) viewed as harassment by many residents of Ottawa, as evidenced by the fact that the noise issue was later subject to a court injunction²⁰ and other legal action²¹, as well as By-law charges being laid against the perpetrators²².

The Respondent cites the lack of police enforcement as a defence. Breaking the law and enforcement of the law are not the same thing, and indeed the Ottawa Police Chief eventually (on February 2, 2022) expressed his concerns about the police force’s inability to enforce the law due to the size of the protest and its volatility²³.

Councillor Sharpe’s support for and encouragement of such conduct is a clear breach of the *Code of Conduct*.

In my view:

¹⁹ [Loud noise or shouting | City of Ottawa](#)

²⁰ [Court grants injunction to silence honking in downtown Ottawa for 10 days | CBC News](#)

²¹ [Class action lawsuit suing convoy organizers, donors, truckers for \\$306 million — and counting - CityNews Ottawa](#)

²² [Ottawa police hand out 30 tickets, including for honking, over convoy disruptions | Globalnews.ca](#)

²³ [Ottawa's top cop says military may be needed to end trucker protest, turned 'occupation' | Canada's National Observer: News & Analysis](#)

- By promoting and supporting acts of unlawful conduct, **the Councillor failed to “avoid [...] unethical behaviour” contrary to s. 4.1 (d) of the Code.**
- By ignoring the rights and well-being of the residents of Ottawa, **the Councillor failed to “respect the individual rights...of every other person”, contrary to section 4.1 (e) of the Code.**
- By publishing and promoting such unlawful, disrespectful, and harassing activity, **the Councillor “use[d] social media to publish anything that is...offensive, disrespectful, [and] constitutes harassment...” contrary to s. 14.2 of the Code.** Even if he did not specifically engage in the more extreme aspects of the harassing activity himself (e.g., blocking roads, making excessive noise, and engaging in other public order offences) he still contributed to it by lending it his support, promoting it via social media, and even encouraging others to attend.

Lastly, I would note that the Councillor’s conduct fails to align with the core principles of the *Code*, as set out in s. 1.3 (d), which states:

“Members shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and Council of the Town.”

- By failing to live up to this underlying principle, it is my finding that **the Councillor also breached section 4.1 (a) by failing to “Make every effort to act with good faith and care,”** as the Councillor clearly supported and promoted an event that included noted unlawful activity, that he either knew or ought to have known was unlawful.

At numerous points throughout the Ottawa Convoy protest, various levels of government and law enforcement referred to the activity as “unlawful”, “illegal”, and called it an “occupation” of the City of Ottawa. At least as early as February 4, 2022, then-Ottawa Police Chief Peter Sloly referred to the Ottawa Convoy as an “...unlawful and unacceptably dangerous demonstration”²⁴.

²⁴ [Trucker protests: Ottawa police chief announces 'surge and contain' strategy – February 4, 2022 - YouTube](#)

On February 6, 2022, the Mayor of Ottawa made a Declaration of Emergency in the city, which declared the Ottawa Convoy protest to be an “illegal occupation” and “...an ongoing threat to public safety, the well-being of all Ottawa residents as well as the operation of business and services in the downtown core.”²⁵ The declaration further noted that as a result of the protest,

“...the peace and safety of residents of the City of Ottawa, particularly in the downtown area, have been severely disrupted, virtually 24 hours a day, including those of children, vulnerable peoples, healthcare workers, long-term care centre workers, emergency workers, and other frontline workers who serve our community”; and that “...it is evident that the magnitude of this unprecedented occupation is frustrating the ability of the municipality to provide adequate and effective police services...”.

On February 11, 2022, Ontario Premier Doug Ford declared a province-wide State of Emergency. In his news conference to announce this declaration²⁶, the Premier referred to the Ottawa Convoy as a “siege” and an “illegal occupation” and stated: “This is no longer a protest. With a protest, you make your point, and you go back home.” He then commended those who had done so and urged those still in Ottawa to leave and go home. Rather than heeding these warnings, following this advice, and respecting the state of emergency, the Respondent headed back to Ottawa, and, as he had on two previous weekends, livestreamed more videos broadly supporting and promoting the Ottawa Convoy protest.

It is important to note this timeline of events because the Respondent Councillor attended the Ottawa Convoy protests on three separate occasions, staying for at least two days each time, including on the weekend after the Ottawa Police Chief had referred to the protest as “unlawful” and again on the weekend after the Mayor of Ottawa and the Premier of Ontario had respectively declared a state of emergency throughout the extent of their geographic jurisdictions, with both stating in plain language that the Convoy was “illegal” and an “occupation” of the City of Ottawa.

On February 12, 2022, the Respondent Councillor posted several videos of his time in Ottawa. He noted in one video that there was a “party going on” and that

²⁵ [Declaration of Emergency in the City of Ottawa - Jim Watson \(jimwatsonottawa.ca\)](#)

²⁶ [Truck protests: Ontario Premier Doug Ford declares province-wide state of emergency – Feb. 11, 2022 - YouTube](#)

people were still "...screaming '*freedom*' [...] and saying: "...*hold the line*...". He observed "I don't think these people have the attitude to just say: '*pack up and go home*',". He later remarked: "When Doug Ford says: '*We're declaring an emergency, it's time for us to go*,' I don't know if that guy [referring to an individual being filmed by the Councillor] is going to leave. What is Doug Ford going to do? I think they called his bluff. I think he's bluffing, and I think they called his bluff."

The Councillor then went on to count the number of police officers in the area and reflected on their presence being "your tax dollars". He noted that the "ask" (from the protestors) was still to "end to mandates" and pointed out that the government was spending money to maintain their position (i.e., of not ending the mandates). "This could all be over," the Councillor remarked. "All it takes is an end to the mandates."

In another video taken on February 12, 2022, the Councillor remarked (in part): "I guess Doug Ford said it's time for people to go home [...] I'm not going home, I don't think these people are going home. It looks like they may be setting up for another party tonight. [...] I don't know how long this is going to go on...until the government listens to the people, not the people listen to the government."

I note that when the Councillor was asked during his interview about his knowledge of the Premier's declaration of emergency²⁷, he stated that he "...thought it had more to do with the closing of the border." His comments respecting the Premier's emergency declaration as reflected in his video recording of February 12, 2022 reflect otherwise.

In another video taken on February 12, 2022, the Councillor remarked: "They just said from the stage '*we are winning*' [...] People here are saying '*hold the line*' [...]." He then went on to discuss the protest being in the "history books" and that he was "...proud to say I am here, proud of my fellow Canadians."

It is abundantly clear that the Respondent Councillor was aware (or ought reasonably to have been aware) that the Ottawa Convoy was declared "*unlawful*". He was likewise aware that heads of government (including the Premier) had asked the people (protestors) to leave. On the basis of the evidence before me, I am left to conclude that the Councillor knew that the Ontario government's emergency declaration applied as much to Ottawa as it did to

²⁷ *Supra* at page 15

other protests in the Province (in addition to the fact that the City of Ottawa had declared its own emergency), and I note that the Councillor offered an incorrect (and possibly misleading) response to my interview question on this point. In any case, the evidence strongly supports a finding that the Councillor knew, or ought reasonably to have known, that the Ottawa Convoy had gone from being a questionably lawful protest (on its first weekend) to an outrightly unlawful *occupation* in the eyes of law enforcement and various levels of government. He chose to attend, support, and promote it to the public via social media anyway.

I observe that this is a clear and unambiguous breach of the *Code of Conduct*. In my view, this activity is also a breach of the same provisions as noted above.

Specifically, I find that:

- By promoting and encouraging unlawful conduct, **the Councillor failed to “avoid [...] unethical behaviour” contrary to s. 4.1 (d) of the Code.**
- By ignoring the rights and well-being of the residents of Ottawa, **the Councillor failed to “respect the individual rights...of every other person”, contrary to section 4.1 (e) of the Code.**
- By publishing and promoting such unlawful, disrespectful, and harassing activity, **the Councillor “use[d] social media to publish anything that is...offensive, disrespectful, [and] constitutes harassment...” contrary to s. 14.2 of the Code.**
- By failing to live up to the underlying principle that Council Members follow and uphold the law (per s. 1.3 (d) of the *Code*), it my finding that **the Councillor also breached section 4.1 (a) by failing to “Make every effort to act with good faith and care,”.**

Social Media

The Complainants made several points about the Councillor using his Facebook page titled: “Dave Sharpe – Councillor Ward 4 – Grimsby” to post content from the Ottawa Convoy. They asserted the view that this gave the appearance of the Councillor using a Town platform to promote unlawful activity. They also pointed out that he used a taxpayer funded mobile device. The Councillor

asserted, to the contrary, that the page is personal, and that he has used the title of Councillor in order to be compliant with the *Code*, in particular, s. 14 (b), which states that Members must always “...*identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the Town,*” when using social media.

As pointed out in an earlier Report on another matter, I do not necessarily believe this wording requires Members of Council to use the title of Councillor in their social media profiles; however, I do believe it means they must not conceal their real identity or status as Members of Council – for example, by having anonymous or alias accounts, or by denying who they are if asked. That said, I believe Councillor Sharpe’s decision to clearly identify himself as a Councillor on both of his Facebook accounts (i.e., in the title of his “page”, and in the bio in his “profile”) is a good practice as it lends itself to transparency.

I do not accept that there is any meaningful difference whether the title of “Councillor” was used or not. The *Code of Conduct* applies to a Member of Council at all times, not only while identifying themselves as a Councillor or acting specifically in that role. As a public figure, a Member of Council is inherently recognized by the public as a Town representative, and their conduct is accordingly always under public scrutiny and subject to the *Code of Conduct*.

Relatedly, I am not aware of whether Councillor Sharpe has claimed (or will claim) cell phone expenses for the data consumed during his time at the Ottawa Convoy. Given that I have found his conduct to be inappropriate and a breach of the *Code* regardless, I do consider it to be a pressing concern to further explore this peripheral element of the matters at issue to make such a determination.

The content shared by the Councillor consisted of live videos taken on site. It included images and sounds that were also broadcast in many places online and through the media and also included a variety of forms of political expression both by the Councillor and others. The Complainants have taken exception to many of the sounds and images broadcast by the Respondent, including various signage and flags, speeches, music, and language. I find that many of these issues belong to the category of “political expression” or “free expression” and while I agree that there were cases of totally unacceptable, anti-social, and even hateful signage and language at the Ottawa Convoy protest (as has been reported in the media) I do not find that the Councillor expressed any specific support for such

inappropriate things or any underlying messages of hate (nor do I have any reason to believe he subscribes to such ideologies).

It is important to point out that this case (insofar as my findings are concerned) is not about freedom of expression. It is about reasonable limits on conduct by a Member of Council who is held, by virtue of his office, to a higher ethical standard of behaviour and is subject to the principles and rules set forth in the Town's *Code*. In this case, the Councillor (whether acting as a private citizen or otherwise) publicly breached the *Code of Conduct* in a manner which brings a level of disrepute to himself, his office, and arguably to the Town of Grimsby. He did so flagrantly, by participating in, supporting, broadcasting, and promoting an illegal occupation of the City of Ottawa, which included various unlawful activities (even if not directly engaged in by him) and significantly disrupted the peace for thousands of Ottawa residents and businesses.

I do not accept the Respondent Councillor's arguments that he was engaged in acceptable activity because he stayed in hotels and patronized local restaurants. He was clearly there in support of an illegal occupation, regardless of where he laid his head at night or ate his breakfast the next morning. I likewise do not agree with his assertion that the protest was lawful because of a lack of police enforcement (despite a considerable police presence).

While the Councillor himself did not appear to engage in any specific acts of public disorder (e.g., vandalism, noise disturbances, etc.), I observe that he still attended and gave support and encouragement to the Ottawa Convoy even after it was made clear by law enforcement and declared by two levels of government that the event was an "illegal occupation" in which many acts of public disorder by others were being carried out. It is simply not reasonable to accept any argument that the Councillor was totally unaware that the protest was deemed "unlawful" by authorities. The Councillor defied calls by police and leaders at all levels of government to go home. Instead of going home and staying there (or going anywhere else but back to downtown Ottawa and into the thick of the protest) the Councillor attended and then reattend the city in support of the occupation taking place there.

*Reprisal*²⁸

Section 5.3 of the Code reads, in part, as follows:

5.3 *No Member shall:*

a) Undertake any act of reprisal or threaten reprisal against a complainant or any other person for providing relevant information to the Integrity Commissioner or any other person;

b) Obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this Code, in the carrying out of such responsibilities, or pursuing any such objective;

[...]

The Respondent Councillor, in his official capacity, was in receipt of an email from a constituent who voiced concerns about certain actions and/or inactions of the Town and made reference to a third party protest group. The constituent in question also happens to be a Complainant under this process.

By his own admission, the Councillor forwarded the email (or certain of its contents, including the name of the Complainant / constituent) to a private protest group on Facebook. This resulted in the near immediate targeting and online abuse of the Complainant / constituent, evidence of which was provided to my office.

The Complainant asserted the view that this act by the Councillor to “dox”²⁹ them (i.e., to reveal their identity publicly to third parties on the internet) was an act of reprisal for the filing of this Complaint. The Complainant asserted that the Councillor knew or ought to have known that they (the Complainant) would be the target of abuse by certain elements if their identity and the contents of their email were made known to the protest group.

²⁸ A reprisal can be defined as a retaliatory act against a person for asserting a right. For example, see: <https://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions/11-reprisal>

²⁹ <https://www.merriam-webster.com/dictionary/dox>

The Respondent Councillor was not cooperative with this aspect of the investigation. While I appreciate that he eventually agreed to an interview, I must also point out that he flatly refused my reasonable request for information related to a live issue in this investigation – and there can be no question that a potential act of reprisal during the conduct of an investigation is a relevant issue to *that* investigation.

The Councillor took the position that a new Complaint must be filed in order for the issue of reprisal to be explored. I disagree with this view, because – while it is certainly a standalone provision in the *Code* and could be subject to a separate Complaint – an act of reprisal also directly interferes with the conduct of an ongoing investigation and (a) witness(es) who are providing evidence in support thereof. In my view, there are certain actions, including reprisals and other acts which fail to respect the investigative process, which can be considered as *added issues* within the context of an ongoing investigation by the Integrity Commissioner whose function may be directly impacted by such improper conduct.

An alleged act of reprisal brought to the Integrity Commissioner’s attention during the course of an investigation, or any other act by a party which could impact negatively upon the collection or integrity of evidence, or the participation (or indeed the well-being) of witnesses (which also includes, potentially, a Respondent in certain instances) in my view falls within the Integrity Commissioner’s reasonable jurisdiction to consider and determine, without the requirement of a new process first being initiated. The only requirement attached to adding such a *process-based* issue is that procedural fairness is followed in investigating and determining it, just as it would be with a new, standalone complaint.

An example where an Integrity Commissioner determined that a potential act of reprisal would be added and considered alongside an existing Complaint (without a new, standalone Complaint being filed) can be found in *Durham Region (Council Member) (Re)*, 2018 ONMIC 3 (CanLII)³⁰, in which Integrity Commissioner Guy Giorno wrote:

[Cont’d next page]

³⁰https://www.canlii.org/en/on/onmic/doc/2018/2018onmic3/2018onmic3.html?searchUrlHash=AAAAAQALcmVwcmlzYWwAAAAAQ&resultIndex=2#_ednref3

SUBSEQUENT ALLEGATION

"[...]

9. *Subsequently the Complainant raised an additional allegation, which I determined should be considered alongside the original Complaint. The Respondent had declined to provide a response to a separate inquiry and assistance request from the Complainant who was, as has been noted, a constituent of the Respondent. This led to the following allegation by the Complainant:*

E. Allegation that by declining to reply to the Complainant's assistance request the Respondent had undertaken an act of reprisal against the Complainant contrary to section 14.2 of the Code."

[emphasis added]

I do not know whether the Respondent intended the sharing of the Complainant's personal information as an act of reprisal relative to this Complaint, or whether he forwarded the information for other legitimate (or possibly illegitimate) reasons. Either way, it is clear that his actions resulted in negative consequences for the Complainant, who is a resident of the Town of Grimsby.

The Respondent acknowledged that he provided the information about the Complainant to the Facebook group via Facebook but denied that reprisal was the rationale for doing so. His refusal to provide the requested evidence has hindered my ability to determine this question conclusively. The information I requested is information that only he and the recipient (an anonymous third party) have in their possession; it is not evidence that is available to the Complainant, and it is also unobtainable by me without the Respondent's cooperation (or otherwise if I compel the evidence to be produced under the *Public Inquiries Act*, 2009, which I decline to do in these circumstances given the extraordinary nature of such an undertaking).

The Respondent was provided with reasons for my request for the information; particularly, that I have before me a legitimate question of possible reprisal by him against the Complainant, and that in my view the information requested

could be determinative of that issue. The Councillor refused to provide the information simply because he did not “want to”.

The failure to adduce evidence which could exonerate him from the allegation that he engaged in an act of reprisal, without the requirement of a new Complaint first being filed against him to re-raise the question in a fresh, standalone process, is perplexing and concerning. I could very well draw an adverse inference from his deliberate refusal to provide such evidence which, as noted, is in his possession and control. However, in lieu of making such a finding, I will simply point out that Members of Council have a duty to comply with the *Code of Conduct* and *Complaint Protocol*, including reasonable requests from the Integrity Commissioner, and that the Councillor appears to have fallen short.

This duty is set forth in s. 5.2 of the *Code*:

5.2 A Member shall:

- a) Observe and comply with every provision of this Code, as well as all other policies and procedures adopted or established by Council affecting the Member, acting in his or her capacity as a Member;*
- b) Respect the integrity of the Code and inquiries and investigations conducted under it; and*
- c) Co-operate in every way possible in securing compliance with the application and enforcement of the Code.*

This duty is further established under section 5.3 (b) of the Code, which, as noted above, reads:

5.3 No Member shall:

[...]

- b) Obstruct the Integrity Commissioner, or any other municipal official involved in applying or furthering the objectives or requirements of this*

Code, in the carrying out of such responsibilities, or pursuing any such objective;

[...]

While I am not introducing yet another parallel process to deal with this issue as a freestanding *Code* contravention, I will simply note it for Council's information and decline to make a formal finding about this issue at this time.

Conclusion and Recommendation(s)

Conclusion

Based on the foregoing, **I have concluded that Councillor Sharpe contravened sections 4.1 (a), (d), (e), and 14.2 of the Code of Conduct.**

I decline at this time to make a formal finding of reprisal under s. 5.3 of the *Code* due to a lack of evidence in respect of his intentions and the possibility that the Respondent forwarded it for other purposes unrelated to this Complaint. I could draw an adverse inference by the Respondent's failure to adduce evidence on his behalf, however, I will exercise my discretion and simply note that he was uncooperative with my request for such evidence, despite it being in his possession.

In that regard, I will also express my concern that the Respondent Councillor fell short of his obligations under s. 5.2 of the *Code* by obstructing my investigation into the issue of reprisal.

I will again exercise my discretion and refrain from making a formal finding of a *Code* contravention at this time, in part to expedite this already lengthy and complicated matter, in which several *Code* contravention findings have already been rendered, and furthermore in the hopes that this will (at the very least) be a learning opportunity for Members of Council regarding their obligations to respect the *Code* and investigations conducted thereunder.

This issue is simply noted herein for Council's information because it is relevant to these proceedings, and additionally because the Complainant in question has a right to be made aware of the process undertaken to address these concerns.

Recommendation(s)

As noted above, I have found that Councillor Sharpe contravened the Town's *Code of Conduct*.

Section 223.4(5) of the *Municipal Act*, 2001, (as well as s. 9 (b) of the Town's *Complaint Protocol*) allows the Town to impose either of the following penalties on a Member of Council if the Integrity Commissioner reports to the Town that, in the Commissioner's opinion, the Member has contravened the *Code of Conduct*:

a) A reprimand.

b) Suspension of the remuneration paid to the Member in respect of their service as a Member, for a period of up to 90 days.

In another case³¹, the Integrity Commissioner of Ottawa relied on the following principles in determining the appropriate sanctions for violations of Ottawa's *Code of Conduct*:

- a. Sanctions are normally progressive in their severity;
- b. Sanctions depend on the experience of the Councillor;
- c. How flagrant was the behaviour; and
- d. Whether there is any acknowledgement of wrongdoing, remorse or regret.

I find this set of factors an appropriate barometer – and in this case, particularly emphasize that that behaviour was *flagrant*.

I have found that the Councillor breached several provisions the *Code of Conduct* on several occasions. His *flagrant* disregard for the rights and well-being of downtown Ottawa residents and for the laws and proclamations of police and the governments of the City of Ottawa and the Province of Ontario are in my view sufficient to warrant a sterner sanction than a formal reprimand by Council.

I accordingly recommend **a suspension of Councillor Sharpe's remuneration as a Member for a period of 15 days.**

³¹ As noted in *Chiarelli v. Ottawa (City of)*, 2021 ONSC 8256 (CanLII), at para 42: [2021 ONSC 8256 \(CanLII\)](#) | [Chiarelli v. Ottawa \(City of\)](#) | [CanLII](#)

However, this is only a recommendation. Council, which is self-governing, has the right to determine the appropriate penalty and may decide to issue a reprimand or a suspension of remuneration for the recommended duration, or for some other duration (up to 90 days), at its discretion.

I do note for Council's information that the *Act* refers to imposing "*either*" of the two penalties. It does not say Council may impose *both*.

Review Period

Section 4(g) of the Complainant Protocol requires that:

"The IC shall not issue a report finding a violation of the Council Code of Conduct on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended sanction and an opportunity either in person or in writing to comment on the proposed finding and any recommended sanction."

I confirm that Councillor Sharpe was provided with an earlier advance draft of this Report on June 28, 2022 and was offered a review period until the end of July 1, 2022. In recognition of the fact that July 1st is a statutory holiday, the Respondent was advised that he could request more time (in addition to the two business and one non-business days he was provided) if needed.

Councillor Sharpe returned comments on July 1, 2022. As a result of these comments (and as a result of a further final copy revision of the draft report which was being undertaken in any event), I confirm that a number of inconsequential, non-substantive revisions (e.g., to fix typos, spacing issues, and minor wording clarifications) were made to this Final Report.

None of these minor revisions resulted in any changes to the analysis, findings, or conclusions set out in the report.

This "*Review Period*" subsection was also added to this Final Report.

Though the Respondent Councillor's feedback has not caused me to make any substantive changes to the findings or recommendations in this Report, I have however issued the attached *Addendum* to address several questions and issues

raised by the Respondent in his draft review comments.

Matters to Remain Confidential Until Published

The Parties are hereby advised that the subject matter of this investigation and this Investigation Report shall remain confidential pursuant to the provisions of the *Municipal Act* and the *Code of Conduct* until this Report is published on the public Council agenda, at which point it is a matter of public record.

Concluding Remarks

I trust this Investigation Report provides clarity to the Parties, Council, and the public regarding the matters at issue raised in this Complaint. I hereby issue it to the Parties and to the Council of the Town of Grimsby in conclusion of this matter.

Yours truly,

A handwritten signature in black ink, appearing to read 'M. Maynard', with a long, sweeping horizontal stroke extending to the right.

Michael L. Maynard
Integrity Commissioner, Town of Grimsby

An Addendum to this Report follows



ADR
CHAMBERS

Integrity Commissioner Office
for the Town of Grimsby

ADDENDUM

Re: Investigation Report - IC-16634-0222

As noted in the Final Report, the Respondent Councillor raised various questions and made several position statements regarding the contents of the Report.

None of these comments gave me any cause to make substantive changes to my findings, conclusions, and recommendations. There is nothing new either raised or considered that was not addressed in the Report itself. I am issuing this Addendum to address these comments for the purposes of adding greater clarity and ensuring the highest degree of procedural fairness to the Respondent.

I have therefore summarized the various points raised by the Councillor in turn and offer my responses below each.

Issue One

The Respondent raised concerns about the possible political ambitions of at least one Complainant and questioned whether the Complaint was politically motivated.

Answer One

I do not consider this a relevant concern.

A properly filed Complaint was made to my office in February 2022 by four residents of Grimsby. Their Complaint advanced a plausible case that the *Code* had been violated. I accordingly determined, in accordance with my jurisdiction and mandate, that an investigation was warranted to determine whether, in fact, a *Code* violation had occurred. That investigation yielded evidence that supported several findings of *Code* violations, which I found.

There is nothing remotely questionable about the propriety of this Complaint or the participation of any of the Complainants in this process.

Issue Two

The Respondent stated in his feedback: *"I want to clarify that I attended a protest, not a convoy. I did not drive to Ottawa in a procession of cars or trucks. I took the highway at regular speed as anybody else would. It's about a 5-6 hour drive from Grimsby depending if I stop."*

Answer Two

The term "Ottawa Convoy" was used throughout the Report as a defined identifier. The issue raised here is one of semantics. The entire Convoy / Protest / Occupation is referred to as a "Convoy" for the purposes of identifying the event in the Report. To be clear, there is no finding that the Councillor joined in a slow-rolling vehicular parade into the City of Ottawa.

Issue Three

The Respondent asked whether it was his "presence" that was a breach of the *Code*, or whether it was his "opinion" about the protest that was a breach. He then cited the fundamental freedoms enumerated in section 2 of the *Canadian Charter of Rights and Freedoms*.

Answer Three

I cannot engage in offering legal advice with respect to *Charter* rights. I will simply note that all Canadians have the same fundamental freedoms as guaranteed under the *Charter*, and that reasonable limits apply to those rights and freedoms consistent with the rule of law.

As someone who chose to stand for elected office in the Town of Grimsby, was elected, and took a seat at the Council table, Councillor Sharpe is subject to a *Code of Conduct*, as required by Ontario's *Municipal Act*, 2001. Codes of Conduct exist in many workplaces, as well as for elected people. They exist to hold individuals to a higher standard of conduct.

Issue Four

The Councillor asked whether if he had taken a more "objective position" (i.e., rather than clearly supporting the protest) the findings would have been different.

Answer Four

I am not prepared to engage in a hypothetical exercise about what would have happened or what I may have decided had the Councillor done something different than what he actually did.

The fact remains that the Councillor attended, publicly supported, and encouraged an illegal occupation. That choice has consequences. I have recommended what I believe those consequences should be pursuant the Town's *Code of Conduct*.

Issue Five

The Councillor asked for clarity as to whether the issue was his attendance at the protest, or whether it was the fact that he took and posted videos of it.

Answer Five

This is addressed in the Report. Both are of concern. The videos are both evidence of the Councillor repeatedly attending an illegal occupation to give it his full, public support, while also representing a *Code* breach in and of themselves.

Issue Six

The Councillor pointed out that he took 37 short videos due to the cold temperatures and did not want the *quantity* of videos being held against him.

Answer Six

The *quantity* of videos is not at issue; it is the *content* of the videos that are of concern – in particular, the fact that they represent and provide evidence of the Councillor's impugned activities over three consecutive weekends.

Issue Seven

The Councillor argued that the provision of 4.1 (a) "*Make every effort to act with good faith and care,*" is vague and does not provide "...a great deal of direction to guide my future conduct."

Answer Seven

Council may wish to consider amending the *Code* if it collectively views this provision as problematic. The Councillor could even propose an amendment. I would be happy to assist Council with this endeavour, and I am also happy to provide training on the *Code* at Council's request.

Notwithstanding the Councillor's concerns about this section, my Report clearly sets out my interpretation and how I see this section of the *Code* being applicable and enforceable vis-à-vis the Respondent's conduct in this matter.

Issue Eight

The Councillor questioned the finding that he did not serve his constituents in a conscientious and diligent manner (per s. 4(d) of the *Code*). He asserted that he attended the protest in defence of his principles, which is a matter of personal conscience, and noted that he saw Grimsby residents at the Ottawa Convoy (including constituents from his own Ward).

Answer Eight

The Councillor may have been acting in accordance with his personal conscience, but the fact that he supported an unlawful protest is not a legitimate position for an elected representative of the Town to take.

This has nothing to do with the Councillor's position on mandates, freedom of choice, bodily autonomy, lockdowns, or anything related to his personal beliefs. The Councillor is free to express himself *lawfully* on all of these issues. The problem is that the Councillor attended, supported, and encouraged an illegal occupation of the City of Ottawa. The Councillor could have expressed his views on any or all of these matters without concurrently embracing and encouraging unlawful conduct and, by so doing, breaching the *Code*.

Issue Nine

The Councillor stated that he did not personally harass the residents of Ottawa (and cited the finding in Report that he "...did not engage in any specific acts of public disorder,"). He reiterated his evidence that he parked legally, stayed in

hotels, and spent “practically all of [his] time” in the Parliamentary district. He stated he was unaware of the fact that there are residences in that area.

Answer Nine

This was dealt with in the Report. As found therein, the Respondent may not have honked his horn downtown or blocked a street, but he nevertheless supported and encouraged this conduct, and broadcast such encouragement (including a direct invitation to others to join in) via social media.

Issue Ten

The Councillor asked that I “...be specific which item(s) of 14.2 the live videos I published are in breach of:

- a) dishonest,
- b) untrue,
- c) offensive,
- d) disrespectful,
- e) constitutes harassment, or
- f) is defamatory or misleading...”

Answer Ten

This was addressed in the Report, for example at page 25 and again on page 28, where it states:

- By publishing and promoting such unlawful, disrespectful, and harassing activity, **the Councillor “use[d] social media to publish anything that is...offensive, disrespectful, [and] constitutes harassment...” contrary to s. 14.2 of the Code. [...] [emphasis added]**

Issue Eleven

The Councillor stated that he did not direct his videos to the people of Ottawa and expressed doubts about whether anyone from Ottawa watched them. He is unaware (and doubts) whether his videos encouraged anyone to join the protest.

He accordingly asserted that the videos did not harass the citizens of Ottawa.

Answer Eleven

There is no way of knowing who or how many people the Councillor's posts inspired or bothered, or where those people reside. Irrespective of this, there was a clear intent to encourage and support an unlawful event.

Issue Twelve

The Councillor cited my finding that much of what was contained in his videos amounted to "political expression," and requested that I reconsider my conclusion that he violated sections 4.1 (a), (d), and (e) of the *Code*.

Answer Twelve

By way of this Addendum, I have reviewed and considered these findings again. **I am not persuaded to change my original findings, conclusions, or recommendations.** I stand by the findings in my Report, which are thoroughly supported by the evidence and carefully considered.

Issue Thirteen

The Councillor advised that he is "...willing to accept that the live videos [he] posted on social media may be considered offensive by some," though it was not his intention to offend, notwithstanding his right to free expression.

He requested that I reconsider my position on the recommended penalty. He stated that he would, "...be willing to apologize to the people that I may have offended, not only the complainants."

Answer Thirteen

I believe an apology is appropriate, however I also believe, given the seriousness of these circumstances, that the recommended penalty is also appropriate.

The purpose of enforcement of a *Code of Conduct* is to achieve compliance. I am not convinced that a lesser penalty will serve as an appropriate admonition for the Councillor's flagrantly improper conduct in this case. I accordingly stand by my recommended penalty as set out in the Report.