

City of London  
Integrity Commissioner's  
Recommendation Report  
Complaints against Councillor Stevenson  
December 8, 2023

**Introductory Comments**

- [1] Principles *Integrity* was appointed the Integrity Commissioner for the City of London on June 1, 2023. We are also privileged to serve as Integrity Commissioner for a number of other Ontario municipalities. The operating philosophy which guides us in our work with all of our client municipalities is this:

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

- [2] The City has as part of its ethical framework a Code of Conduct which is the policy touchstone underlying the assessments conducted in this report. It represents the standard of conduct against which all members of Council are to be measured when there is an allegation of breach of the ethical responsibilities established under the Code of Conduct. The review mechanism contemplated by the Code, one which is required in all Ontario municipalities, is an inquiry/complaints process administered by an integrity commissioner.
- [3] Integrity commissioners carry out a range of functions for municipalities (and their local boards). They assist in the development of the ethical framework, for example by suggesting content or commentary for codes of conduct. They conduct education and training for members of council and outreach for members of the community. One of the most important functions is the provision of advice and guidance to members to help sort out ethical grey areas or to confirm activities that support compliance. And finally, but not principally, they investigate allegations that a person has fallen short of compliance with the municipality's ethical framework and where appropriate they submit public reports on their findings, and make recommendations, including recommending sanctions, that council for the municipality may consider imposing in giving consideration to that report.

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- [4] It is important that this broad range of functions be mentioned at the outset of this investigation report. Our goal, as stated in our operating philosophy, is to help members of the community, indeed the broader municipal sector and the public, to appreciate that elected and appointed representatives generally carry out their functions with integrity. In cases where they do not, there is a proper process in place to fairly assess the facts and, if necessary, recommend appropriate sanctions. In every case, including this one, the highest objective is to make recommendations that serve the public interest, if there are recommendations to be made.
- [5] Our role differs from other ‘adjudicators’ whose responsibilities generally focus, to state it colloquially, on making findings of fact and fault. While that is a necessary component when allegations are made, it is not the only component.
- [6] Our operating philosophy dictates the format of this report. The tenets of procedural fairness require us to provide reasons for our conclusions and recommendations, and we have done that. Procedural fairness also requires us to conduct a process where parties can participate in the review and resolution of a complaint.
- [7] In this regard, we have assessed the information fairly, in an independent and neutral manner, and have provided an opportunity to the respondent named in this Report to respond to the allegations, and to review and provide comment on the preliminary findings set out in this report.

### The Complaints

- [8] This Report follows a deluge of complaints filed against Councillor Susan Stevenson in late July 2023 arising from a single twitter post on July 16, 2023 where the Councillor reposted an article by American journalist Michael Smerconish canvassing solutions for homelessness.
- [9] While in the midst of the investigation we received a deluge of complaints filed against Councillor Stevenson in September 2023 arising out of a series of posts which included photos of homeless individuals (the ‘latter complaints’).
- [10] These latter complaints asserted a loss of public confidence in Councillor Stevenson continuing to serve on the Police Services Board.

### *Procedural Matters:*

- [11] Councillor Stevenson has taken the position that we did not properly initiate the latter complaints referenced in paragraph [9] above, and so technically have failed to comply with the prescriptive requirements of London’s complaint protocol.

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[12] The protocol takes what we would describe as a 'litigative' approach in investigating formal complaints:

5.1 The Integrity Commissioner will proceed as follows, except where otherwise required by the Public Inquiries Act, 2009:

a) serve the complainant and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten business days; and

b) serve a copy of the response provided upon the complainant with a request for a written reply within ten business days.

[13] The Code begins, however, with key principles and a framework for interpretation which includes:

### **Rule 1 - Key Principles and Framework**

1.1 The Code is to be given a broad, liberal interpretation in accordance with the applicable legislation, the definitions set out herein and its general intent and purposes.

[14] The 'service' and 'filing' of documents suggests a level of restrictive formality that interferes with the independent role of an Integrity Commissioner and the Integrity Commissioner's responsibility to carry out the role by exercising the best practices of the profession. For example, section 5.1 of the protocol fails to recognize the frequent need to clarify the content of initial complaints, and to put complaints in a form which can lead to a focused investigation carried out in the public interest.

[15] The better view is that the Code and its protocol are policy documents which are to be given broad, liberal interpretations which are consistent with their purposes.

[16] Regardless of the text in a protocol, the persons involved in an investigation, particularly the complainant, are entitled to procedural fairness. They are entitled to know the factors they are required to respond to and are to be given sufficient time to reply. Our standard approach is to provide two weeks for an initial response, but if reasonable extensions are requested, we agree to them. The rigidity of the City's protocol on its face would deny that interpretation, absent guidance for 'liberal interpretation' consistent with 'general intent and purposes'.

[17] Councillor Stevenson was copied on the latter complaints of September 26, 2023 regarding the posts of homeless individuals – in fact, all of Council was copied on some of these - and the matter was discussed in-person with her when we attended at London Council to provide ethical training on September 28, 2023.

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[18] Regardless, Councillor Stevenson received our preliminary findings report on October 27, 2023 and had every opportunity to provide further explanation, defenses or submissions on every aspect of our findings. Instead, she has opted to rely on the absence of formal written notice from us.

[19] In our view, it is appropriate to apply some level of flexibility, provided the member is not denied procedural fairness. Were we to have received the latter complaint in circumstances where a complaint investigation was not already underway, a different approach would have been taken. That was not the case here.

[20] Further complaints received in the course of an investigation must, of course, be brought to a member's attention in order for there to be procedural fairness. The Councillor was well-aware that there were further complaints filed September 26, 2023, which we were looking at in the context of the initial series of complaints from July 2023.

[21] Taken together, the complaint allegations can be summarized as follows:

- The Councillor's posts promote harmful and stigmatizing narratives against homeless people, which are reckless and disrespectful, and are done in a manner that 'elicits fear and condones violence.'
- Comments posted by her which imply criminal conduct by homeless individuals are mean and unfairly vilify and marginalize the unhoused.
- In addition, the latter complaints regarding the photos posted by the Councillor - which include apparently homeless identifiable individuals – are alleged to represent a breach of the privacy and dignity of these vulnerable individuals and promotes disdain for them.

[22] It was alleged that the Councillor's posts, taken together, are unacceptable, are contrary to the Ontario Human Rights Code, dehumanize and threaten the welfare of the homeless in the City of London, and as such are a breach the Council Code of Conduct.

### Process Followed for this Investigation

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

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

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- Reviewing the complaints to determine whether they were within scope and jurisdiction and in the public interest to pursue, including giving consideration to whether the complaints should be restated or narrowed, where this better reflects the public interest
- Notifying the Respondent, and providing her with an opportunity to respond in full to the allegations
- As noted above, making the Respondent aware of, and providing an opportunity to respond, to the allegations relating to the further complaints received on September 26 following her posts.
- Reviewing the Code of Conduct and other relevant documentation and interviewing relevant witnesses as necessary
- Providing the Respondent with the opportunity to review and provide comments to the Integrity Commissioner's Preliminary Findings Report and taking those comments into consideration prior to finalizing and submitting this Recommendation Report.

### Background and Analysis:

- [25] The Respondent Councillor was elected for the first time in October 2022, although she has been an engaged community activist in the years leading up to her election.
- [26] Like many cities, London is facing a homelessness crisis. In an effort to seek solution, dozens of local organizations and hundreds of individuals with expertise in issues confronting the homeless came together to design a systemic response. Aspects of the proposed Whole of Community System Response, endorsed by the City with extensive opportunities for public feedback, were met with some resistance by some residents.
- [27] Councillor Stevenson has openly challenged the cost and the effectiveness of the shelter and wrap-around service plans proposed.
- [28] In mid-July, she posted an article by Michael Smerconish reflecting on the American experience and suggesting solutions. The article recognized the health needs of the homeless (mental illness and drug addiction), and encouraged all major cities to provide shelter to those living on the streets as a basic necessity.
- [29] The article offered the suggestion that those who decline drug counselling, mental health services, or, if able-bodied, a job, should be arrested.

*The formerly homeless person must accept drug counseling if they are addicted; they must accept mental health services if they are mentally ill,*

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*and they must work or look for a job if they are able-bodied. If they don't do these things and return to the streets despite the availability of shelter, they can and should be arrested, for they will not be homeless. No one should be allowed to live in the public spaces of our cities.*

[30] The article concluded with these two paragraphs:

*If just a few cities sign on, each will bear a huge burden, and other cities will be relatively free riders. So this will only work if all our big cities and their states agree to join a compact. Ultimately it will be cheaper and more humane to solve this problem now together.*

*Who will be first?*

[31] The Councillor re-posted the article with the following comment:

London could be first 🥰

[32] Within days, there was a volume of complaints, almost all apparently 'form letters' reproduced with largely identical text.

[33] We note in passing that a complaint is rendered neither more important nor more substantial merely by virtue of its repetition.

[34] Before we were able to conclude the investigation of those complaints, on September 23, 2023 the Councillor posted to her social media 3 photos of apparently homeless individuals whose faces were visible, making the individuals identifiable, accompanied by comments including

NOW let's address the problem. The needles, the feces, the garbage, the encampments, the open drug use, the erratic and violent behaviour, the CRIME, the VANDALISM... the lack of safety

[35] A second round of complaints followed.

### Post in Support of Smerconish Article

[36] In the intervening weeks between late July and September, we worked with City administration to provide robust education and training for members of Council, with an emphasis on moderating one's own style of public comment and avoiding missteps in social media. That training took place on September 28, 2023.

[37] Against this backdrop, and for the reasons explained below, we find that the Councillor's re-post of the Smerconish article, although provocative because of her

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comment and emoji, should not be interpreted as promoting incarceration of the homeless.

[38] The Councillor, in the flurry of radio and media interviews that followed the post, and in her response to us, clarified that her intention is to articulate first and foremost:

support for committing to providing sufficient shelter beds and housing stock;  
support for enforcement action, when appropriate, and for adequately staffing and resourcing enforcement.

[39] The Councillor denies that her post was intended to convey the impression that she supports arresting people simply for being homeless. She supports providing the necessary supports to the homeless and appropriate enforcement activity to uphold municipal by-laws.

[40] Given that the article by Smerconish canvassed the issues and touched on a variety of solutions, we are satisfied that the re-tweet with the comment "*London could be first*" should not be interpreted as advocating solely an enforcement approach, or for arbitrary arrest of the homeless.

[41] While enforcement might potentially result in persons being removed from public spaces against their will, provided rights are not infringed and proper procedures are followed, it is not improper to suggest that enforcement activity be included as part of the solution to the problem.

[42] It is fair to recognize that the issue of serving the needs, and responding to the challenges of the homeless population is complex and can be controversial.

[43] Councillors are entitled to express controversial views and opinions without fear of contravention of the Code of Conduct.

[44] During our investigation, the Councillor acknowledged that some of her social media posts have been provocative, and that provocative posts may engender a more vitriolic response than is desirable or helpful in a constructive dialogue.

[45] We agree. The issue of homeless encampments being such a divisive one, touching off passionate debate to begin with, it is unnecessary and unhelpful to instigate strong reactions through unnecessarily provocative social media posts.

[46] We find however that her post "*London could be first*" cannot be reasonably interpreted as calling for the arbitrary arrest of homeless, nor can it be considered to breach the Human Rights Code or the Code of Conduct.

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### Posting Photographs of Identifiable Individuals

- [47] In late September 2023 the Councillor shared additional posts to social media, with photos which included identifiable apparently homeless individuals.
- [48] While none of the complaints was filed by any of the individuals photographed, there is no doubt that the issue is a sensitive one.
- [49] On the one hand, the photos reflect a snapshot of individuals in public spaces and so it might be believed that no special consideration is to be accorded these individuals, in publishing their pictures.
- [50] On the other hand, given the vulnerability of the homeless, and the lack of personal space and privacy afforded by having a home, compounded by the adverse reaction which already exists between the homeless and many residents, the posting of pictures with readily-identifiable faces on social media was unnecessary and insensitive.
- [51] The accompanying references to criminal activity and vandalism were also gratuitous editorial commentary and although not specifically directed at any one individual, are unnecessarily provocative particularly when targeting vulnerable individuals.
- [52] We admonish the Councillor to refrain from such gratuitous provocation.
- [53] The Councillor has acknowledged that she did make an attempt to blur the faces of the individuals, although clearly could have done more to anonymize the individuals photographed.
- [54] In this regard, she has acknowledged that there is room for improvement in her use of social media.
- [55] Nevertheless the posting of the un-blurred photos reflected an invasion of the personal privacy of the individuals involved, and disregarded the impact publication of the photographs could have on the community, and the individuals involved.

### Code of Conduct:

- [56] Although many provisions under the Ontario Human Rights Code were suggested as relevant to the complaints, we find that the most relevant provision is found in the Council Code of Conduct:

Rule 7 – Discreditable Conduct



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7.1 Members have a duty to *treat members of the public*, one another, individuals contracted by the Corporation on a purchase of service agreement, students on placement and officers and employees of the Corporation *appropriately and without abuse, bullying or intimidation* and to ensure that their work environment is safe and free from discrimination and harassment.

### Findings:

- [57] For the above reasons, we find that the Councillor's posts of photos of recognizable homeless individuals on social media failed to treat members of the public – particularly vulnerable persons – appropriately, and thereby fell below the standard expected of members of Council.
- [58] Although not blatantly an act of abuse or bullying, the photos inappropriately infringed the personal privacy of the individuals involved, reflecting a disregard for the impact the post could have on the individuals involved and the homeless community at large.
- [59] We find that the re-tweet of the Smerconish article with the comment "*London could be first*" should not be interpreted as advocating for arbitrary arrest of the homeless and therefore does not constitute a breach of the Code of Conduct.
- [60] Councillors are entitled – in fact, expected, from time to time - to express controversial views and opinions without fear of contravention of the Code of Conduct.
- [61] Nevertheless, we admonish the Councillor to exercise greater sensitivity and care – avoiding provocative and gratuitous comments insensitive to the plight of the more vulnerable – in her public comments posted on social media.

### Recommendations and Concluding Remarks

- [62] The role of an Integrity Commissioner is more than simply the task of bringing adjudication to grievances between individuals. As noted at the outset, we see as our highest objective in concluding an investigation to be the making of recommendations that serve the public interest.
- [63] During the investigation the Councillor had been cooperative and appeared to be receptive to our suggestions and guidance, that she modify her approach which many experience as offensive.
- [64] However, in her refusal to recognize the validity of our investigation – in particular, with respect to the complaints regarding posts of homeless individuals – and her

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insistence on the strict language as fatal to our report, belies a technical and unyielding approach.

- [65] It is important for members of Council to recognize some responsibility to approach these issues – which affect the lives of so many – with sensitivity and care. If the Councillor takes only this message away at the end of this experience, that would be a positive outcome.
- [66] The sanctions that may be imposed following a finding of contravention by an Integrity Commissioner are a reprimand, or a suspension of remuneration for up to 90 days. A reprimand, although not a monetary sanction, reflects a serious sanction which is intended to convey the censure of both the Integrity Commissioner and Council.
- [67] Based on all of the above, we are of the view that the sanction of a formal reprimand is warranted.
- [68] We therefore recommend:
1. That Council pass the following resolution:  
That in consideration of the Integrity Commissioner's Findings regarding the breach of Council's Code of Conduct in their Report of December 8, 2023, that Councillor Susan Stevenson be formally reprimanded;
- [69] We wish to conclude by publicly thanking the parties and administrative staff who participated in our investigation.
- [70] We will be available to introduce this report and respond to questions about how our recommendations relate to our findings during the Council meeting at which this report is considered.