

REPORT ON INVESTIGATION OF CODE OF CONDUCT COMPLAINT CONCERNING COUNCILLOR, MICHAEL VAN HOLST

I have received a number of complaints concerning the conduct of Councillor Michael van Holst related to his views concerning the Vaccination Policy and the COVID pandemic. Although, these complaints were forwarded by various individuals, they generally raised the same or similar issues. As a result, rather than engaging in repetition I have decided to treat these complaints as originating from one source.

FACTUAL SITUATION

The complaints received arise from actions taken by Councillor van Holst in regard to vaccine requirements. In October 2021 London City Council adopted a “Members of Council Proof of COVID-19 Vaccination Policy”.

The Vaccination Policy stated as its purpose to “reduce the risk of COVID-19 in the Corporation of The City of London workplace and to provide a safe environment for Members of Council, Corporate Employees, Volunteers and the public to access and use city facilities and services”.

The policy requires all Members of Council to: “(a) produce proof of full vaccination against COVID-19; or (b) provide a written attestation of a medical reason(s) or Ontario written Human Rights Code reason(s) for not being fully vaccinated against COVID-19.”

The policy goes on to state that “- it applies to all Members of Council of the Corporation of The City of London and includes the Mayor” “- members are required to comply with this policy”.

Under the terms of the policy there is a provision that the City Integrity Commissioner “may consider and review complaints of non-compliance with the policy and make recommendations regarding sanctions.”

The policy had been recommended for consideration by Council by the Corporate Services Committee on September 20th, 2021. On September 29, 2021 Councillor van Holst appeared on CTV London television advising persons who had concerns about vaccine mandates to join his “creed” that he had formed and referred to as the “Order of Freedom”.

On Saturday October 16th, 2021, Councillor van Holst attended and spoke at a rally in Victoria Park in London which was held for the purpose of protesting public health concerns and vaccine mandates related to COVID-19.

In the CTV London interview, Councillor van Holst made a number of statements. In the interview he held out the Order of Freedom as a creed which would form the basis of obtaining an exemption to the vaccination policy under the Ontario Human Rights Code. In that regard, he stated:

“Many people already hold these beliefs, however, by establishing the Order of Freedom, it creates an association which allows that association to become a creed and therefore the basis of a Human Rights exemption.”

On the website for the Order of Freedom the following statement is found: “Despite any past precedents, the vaccine mandates, passports and proof of status policies being presented as a response to COVID-19 are not compatible with those who hold our beliefs.”

He went on to state in the interview:

“A creed needs to be associated with an organization or community and I’m simply creating the community of people who hold those beliefs.”

During his appearance at the October 16, 2021, rally, Councillor van Holst spoke of the Order of Freedom and stated that he formed the Order to make it possible for people to unite and claim an exemption based on creed. He claimed that this creed based exemption “has been successful for me and other people in the employment of the City”. He stated that by being organized as a creed, that would form the basis of a Human Rights exemption. Referring to those attempting to enforce mandates he stated, “We are up against a very savvy opponent.”

Subsequent to the adoption by council of the policy on October 5, 2021, the Councillor filed with the City a “Proof of Medical Reason(s) or an Ontario Human Rights Code Reason(s) for not being Vaccinated Against COVID-19”. In the document he claimed an exemption stating: “To provide private medical information under duress or submit knowingly to a vaccination would violate my creed.”

COMPLAINTS

Complaints about Councillor van Holst’s conduct generally concerned these areas:

1. That he provided a false attestation on the basis of an illegitimate “creed”, deliberately designed to circumvent the “Member of Council Proof of COVID-19 Vaccination Policy”.
2. That he actively counselled and advised employees on how to circumvent the City of London Vaccination Administration Policy.
3. That he attended and participated in a public rally that openly and visibly sought to defy and undermine COVID-19 Policy.

1. False Attestation

The complaints note that the Vaccination Policy was recommended by the Corporate Services Committee on September 20, 2021, and adopted by Council on October 5, 2021. They note that under the policy, Members of Council are allowed an exemption to the policy based on submission of a written attestation of a medical reason or reasons or Ontario Human Right Code reason or reasons for not being vaccinated.

The complaints note that in a release on September 22, 2021, the Ontario Human Rights Commission commented on rights under the code stating that “A person who chooses not to

be vaccinated based on personal preference does not have a right to accommodation under the Human Rights Code”. The Human Rights Code also states that “While the Code prohibits discrimination based on creed, personal preferences or singular beliefs do not amount on a creed for purposes of the Code”.

The complaints concluded that based on these considerations, the Order of Freedom does not qualify for a legitimate exemption to the Vaccination Policy.

2. **Actively Counseling and Advising Employees on How to Circumvent the City of London’s Vaccination Administration Policy**

The complaints referred to an issue that had been raised by a union official with the City indicating that he had received express concerns that Councillor van Holst was giving advice to employees about the Vaccination Policy and raising a concern that this advice was contrary to city policy and that the Councillor may be seen by employees as a person in authority to whom they should listen.

3. **Attending and Participating in a Public Rally that Openly and Visibly Sought to Defy and Undermine Council Policy**

The complaints referred to Councillor van Holst’s attendance and speaking at the October 16, 2021, rally at Victoria Park which was held to protest public health measures and vaccine mandates. It is alleged that at that time, he spoke out against vaccine mandates including the policy adopted by Council and promoted the Order of Freedom creed as a means to support an exemption based on creed.

4. **Response by Councillor van Holst**

The issues of complaint and documentation received were forwarded to Councillor van Holst who provided responses.

1. **That he had provided false attestation on the basis of an illegitimate creed deliberately designed to circumvent the Members of Council proof of COVID-19**

The Councillor responded that the claim that he has concocted an insincere belief system for the sole purpose of avoiding a vaccination is not true. He states that his beliefs as expressed in his creed are sincere, long-held and not centered around the concept of vaccination.

In support of his position, the Councillor points to the following:

- He believes that it is extremely risky for a society to allow politicians or their appointed officials to determine what medicines we are forced to take and pay for through our socialized health system.
- He has publicly stated that mandates are extreme measures that will probably fail in court challenges.
- That the creed in the Order of Freedom was intended to help make Human Rights exemption possible.
- His objection is to the loss of privacy and the right to informed consent which have more to do with freedom than vaccines specifically.
- The creed consists of long-standing beliefs that he has held and shared with many others and was formalized because of the belief that he should stand in defence of freedom.

The Councillor also addressed the question of whether or not the Order of Freedom is a legitimate creed.

- The basis and most important part of the creed is the set of beliefs that he knew was shared by many people who feel passionate about freedom.
- He referred to various elements of a creed as outlined in the Ontario Human Rights Code. He indicates that he holds the elements of his creed freely and deeply, that the Order is integrally linked to his self-determination and spiritual fulfilment; it is a particular, comprehensive and over-arching system of belief that governs his conduct and practices; that it addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a creator and/or a higher or different order of existence.
- The Order has some nexus in connection to an organization or community that professes a shared system of belief

Councillor van Holst states that the Order of Freedom is the expression of an inner calling and not a list of personal preferences. Informed consent is not a personal preference but a universal principle that cannot be denied out of an abundance of caution over a “respiratory virus”. He describes the Order of Freedom as having a creed that, like other legitimate creeds, is an integrated framework that provides guidance for life’s decisions. He states, “the beliefs have guided me in the past, will guide me in the future and the present guidance they provide on the topic of informed consent for medical treatments is not equivalent to a singular belief about being for or against vaccinations.”

He includes a comment on the formation of the creed:

“It is my sincere belief that by formalizing the creed and using it as the basis for a human rights exemption, I would comply with the policy and resolve the dilemma for many others.”

2. **Speaking at the Rally**

Councillor van Holst states that there is a mistaken impression that he attended the October 2021 rally for only one reason.

He refers to his “offer to speak” and states that he had asked that the fact that he was going to speak not be made public. He said that he was not using his office to promote the event. He describes himself as a freedom-loving person who was there to speak to other freedom-loving people. He states that he had not met the other speaker, has not read his book and did not stay to hear him speak. He describes himself as having gone with his own purposes in mind.

ANALYSIS

The issues related to this complaint:

1. The facts and circumstances related to the Order of Freedom.
2. Actions and comments made by Councillor van Holst concerning the Vaccination Policy.

1. **Order of Freedom**

As a bottom line it should be emphasized that by being elected as a Member of Council, an individual does not relinquish, nor should be expected to relinquish his or her personal beliefs. Therefore, Councillor van Holst’s adherence to a set of beliefs should not be an issue here. The issue remains conduct in regard to council policy and the manifestation of those beliefs.

The subject of that discussion is the Order of Freedom as a creed. In the complaints and the response there is considerable attention given as to whether the Order of Freedom is a creed such that it will result in an exemption to the Vaccination Policy pursuant to the Ontario Human Rights Code. Again, this is not the salient point connected to these complaints. From a Code of Conduct point of view, the issue is the connection between the Order of Freedom and whether it was being legitimately put forward.

The question of whether the Order of Freedom is a legitimate creed under the Code, is a question for the Ontario Human Rights Commission. If Councillor van Holst wishes to pursue that issue, he is free to make the required application.

In his approach to this situation, Councillor van Holst has made a number of comments concerning the formation and purpose of the Order of Freedom:

1. In his interview with CTV News on September 29, 2021, he is said to have held out the Order of Freedom as a creed which would form the basis of obtaining an exemption to the Vaccine Policy under the Human Rights Code. He indicates in the interview that this was the purpose for which the Order of Freedom was created:

“Many people already hold these beliefs, however, by establishing the Order of Freedom, it creates an association which allows the association to become a creed and therefore the basis of a Human Rights exemption.”

He goes on to further comment on the creation of the creed:

“A creed needs to be associated with an organization or community and I am simply creating the community of people who hold these beliefs.”

The website for the Order of Freedom states: “Despite any past precedents, the vaccine mandates, passports and proof of status policies being presented as a response to COVID-19 are not compatible with those who hold our beliefs.”

During his appearance on the October 16, 2021, rally, Councillor van Holst spoke of the Order of Freedom stating that he had formed it to make it possible for people to unite and claim an exemption based on creed. He went on to state that being organized as a creed would form the basis for a vaccine exemption under the Ontario Human Rights Code.

He subsequently filed a Vaccination Proof of Exemption Form stating: “to provide private medical information under duress or submit knowingly to a vaccination would violate my creed.”

Based on the words in the creed website and the Councillor’s comments to the media and on his appearance at the rally, it appears abundantly clear that Councillor van Holst was putting adherence to the Order of Freedom forward as a means of supplying an exemption to vaccination mandates. He clearly states that purpose.

2. Councillor van Holst did attend and speak at the October 16, 2021, rally in Victoria Park. In his response to the complaint the Councillor characterizes the rally as a gathering of

regular people talking about their freedom initiatives. He summarized the issues he mentioned in his speech indicating they are summarized in his “crib notes”:

- provide some common encouragement
- report out on the order of freedom
- caution against fanaticism
- describe how poor behaviour could impact restaurants and their staff
- mention the necessity of scientific group control.

The video of the statement at the October rally does include a statement by Councillor van Holst in which he says that he formed the Order of Freedom to make it possible for people to unite and claim a vaccine exemption based on creed. He stated that this creed-based exemption had been successful for him. He referred to those attempting to enforce vaccine mandates as a “savvy opponent”.

APPLICATION OF CODE OF CONDUCT

The various complaints received referred to various sections of the Code of Conduct. Sections 2.1, 2.4, 2.5, 2.6, 8.1.

The bottom line issue here is the question of the Councillor’s conduct in the face of the vaccination policy adopted by Council. The policy was adopted by a vote of Council. The policy states that it applies to all Members of Council; it states that all Members of Council are required to comply with the policy. The policy requires all Members of Council to provide proof of full vaccination or a written attestation of medical or Ontario Human Rights Code reasons for not being fully vaccinated.

The Councillor has not provided proof of vaccination, nor has he provided a written attestation of medical or valid Ontario Human Rights Code reasons for not being vaccinated. The Councillor did file a statement that

“to provide medical information under duress or submit unwillingly to a vaccination would violate my creed.”

Clearly based on his own words, Councillor van Holst has not been vaccinated. Based on his subsequent statements he was referring to the creed (Order of Freedom) as a basis for claiming an exemption.

Based on this information alone, he does not appear to be in compliance with the policy. He puts forward the Order of Freedom as a creed to justify an exemption. He clearly states that he formed the Order of Freedom to justify an exemption. He urges others to join the Order of Freedom in order to avail themselves of a faith-based exemption to the vaccination requirements.

The Ontario Human Rights Code does not contain a definition of creed. The commission has outlined relevant characteristics when considering whether something is a creed:

“A creed

- is sincerely, freely and deeply held
- is integrally linked to a person’s self-definition and spiritual fulfillment
- is a particular, comprehensive and over-arching system of beliefs that governs one’s conduct and practices
- addresses ultimate questions of human existence, including ideas about life, purpose, death and the existence or non-existence of a creator and/or a higher or different order of existence
- has some “nexus” or connection to an organization or community that professes a shared system of belief”

In his response to the complaint, Councillor van Holst states that the Order of Freedom possesses many, if not all of these characteristics. He further states that he has long held the beliefs which form the basis of the Order of Freedom as have others. That may well be true.

However, the issue here is not the substance and character of the Order of Freedom or of Councillor van Holst’s beliefs but the manner in which it is being used. Councillor van Holst, as a Member of Council is urging citizens in London to join this creed in order that they can support a creed based exemption to vaccination requirements. That is no different than urging people who are not members to join a religion in order to gain a creed based exemption to a vaccination policy.

In that respect, the Councillor is not adhering to or supporting the policy passed by Council. Similarly, during his attendance at the October 2021 rally he sent out that same invitation.

It must be kept in mind that the issue here is not the Councillor’s belief but his conduct. Rather than supporting Council’s policy he was actively advising the public on ways to get around the policy.

SUMMARY

This complaint basically focusses on two elements of conduct by Councillor van Holst:

1. The question of his adherence to the Council Vaccination Policy for Members of Council.
2. His general conduct concerning Vaccination Policy and exemptions.

1. Vaccination Policy

The policy states as its purpose “to provide a safe environment for Members of Council, Corporate employees, volunteers and the public to access and use city facilities and services”.

It also states that its purpose is to “reduce the risk of COVID 19 in the Corporation of the City of London workplace”.

The policy sets out the obligation for Members of Council with respect to vaccination:

- (a) Provide proof of full vaccination against COVID 19;or
- (b) Provide a written attestation reason(s) or Ontario Human Rights Code reason(s) for not being fully vaccinated against COVID 19.

In response to this requirement, Councillor van Holst did not provide proof of full vaccination. He did provide an attestation in which he claimed an exemption on the following grounds:

“To provide private medical information under duress or submit unwillingly to a vaccination would violate my creed”.

It is to be noted that on October 20, 2021 the City Clerk published an email confirming “all Members of Council have submitted documentation in accordance with the policy”. Therefore, from a technical point of view Councillor van Holst has complied with the requirements of the policy.

2. **Conduct Concerning Vaccination Policies and Exemptions**

From the wording of the Vaccination Policy, it is the clear intent of Council that employees of the City and Members of Council be vaccinated. The stated exemption to this is for those who have legitimate medical and Human Rights exemptions.

Councillor van Holst has based his conduct on what he characterizes as long held, firm beliefs that he refers to as a creed. The question of what constitutes a legitimate creed is a subject of debate in which the Ontario Human Rights Commission has not provided a clear definition.

Councillor van Holst has stated that the creed in his Order of Freedom was intended to help make human rights exemptions possible. In his public statements he has declared:

“It is my sincere belief that by formalizing the creed and using it as a basis for a human rights exemption, I would comply with the policy and resolve the dilemma for many others.”

He further stated that “by establishing the Order of Freedom” it creates an association which allows the Association to become a creed and therefore the basis for a human rights exemption”.

Therefore, in his own words, Councillor van Holst created the Order of Freedom in order to create what he felt was a creed and thereby provide a faith-based exemption to vaccination requirements. In his public statements he has urged others to join the Order of Freedom in order to obtain that same exemption.

APPLICATION OF THE CODE OF CONDUCT

There are four sections of the Code of Conduct that are applicable to this situation:

2.4 Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

2.5 Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature and the by-laws and policies of the Corporation.

2.6 Members shall accurately and adequately communicate the decisions of the Council, even if they disagree with Council's decision such that the respect for the decision-making process of Council is fostered.

8.1 Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

Councillor van Holst clearly does not agree with the Council Vaccination Policy requiring vaccinations. In order to avoid adherence to the policy, he has developed a creed and urged the public to join the creed in order to provide themselves with an exemption to vaccine requirement policies. His belief that the Order of Freedom does this does not make it so. It also does not justify his stated conduct in developing the Order of Freedom as a means of providing an exemption publicly urging others to do so.

Section 2.4 of the Code of Conduct requires a councillor to perform his or her duties in office and conduct their private affairs in a manner that will promote public confidence.

By his conduct in urging the public to participate in a manner to provide themselves with an exemption to Council's general view on vaccination, he has engaged in a course of conduct intended to undermine Council's wishes and decisions. He can certainly hold his own views but does not have to publicize them. Such conduct does not promote public confidence. By his conduct in that regard, I find that he has violated Section 2.4 of the Code of Conduct.

Section 2.5 requires a Member of Council to uphold both the letter and the spirit of the by-laws and policies of the Corporation. In speaking out publicly about the Order of Freedom and urging the public to join it for the purpose of obtaining a creed-based exemption, Councillor van Holst has attempted to undermine the position of Council with respect to vaccination requirements. In that regard, I find that he has violated Section 2.5 of the Code of Conduct.

Section 2.6 of the Code of Conduct requires Councillors to accurately communicate decisions of council even if they disagree with Council's decision so as to foster respect for the decision making processes of Council.

In promoting the Order of Freedom and urging people to join for the purpose of gaining an exemption to vaccine requirements and policies, Councillor van Holst has failed to foster respect

for Council's decisions in that regard. I find that he has violated Section 2.6 of the Code of Conduct.

Section 8.1 of the Code of Conduct requires councillors to adhere to the by-laws, policies and procedures adopted by council that are applicable to them. The Council Vaccination Policy applies to Councillor van Holst.

On its face, by filing an attestation with the Clerk, he has complied with that policy. However, when considered in light of his public comments urging people to join his creed for the purpose of obtaining a creed-based exemption this would appear to be disingenuous. By his own admission he is claiming an exemption based on a creed that he has developed and promoted to provide that exemption. In that regard, I find that he has violated Section 8.1 of the Code of Conduct.

CONCLUSION AND RECOMMENDATION

The clash of individual and public views is frequently a difficult confrontation. Council has passed and promoted a policy concerning vaccination requirements. It has stated that this was to promote and ensure the well-being of Members of Council, employees, volunteers and the public who access City facilities.

Councillor van Holst does not agree with the policy. He has been vocal in his disagreement. He has discussed what he feels is a means of avoiding or getting around the policy. He has urged members of the public to avail themselves of that means.

The difficulty for Councillor van Holst is that he is a Member of the very Council that implemented the policy. He is governed by a Code of Conduct. Under the Code of Conduct he is required uphold the letter and spirit of the By-law and policy to communicate the decisions of Council in a manner to foster respect for Council's decision making, even if he disagrees with that decision; to adhere to policies and procedures of Council. In this case, he has failed to do so. By that conduct, he has failed to conduct himself in a manner that promotes public confidence in Council.

Under the provisions of the Code of Conduct, when an Integrity Commissioner has determined that there has been a violation of the Code of Conduct, Municipal Council may impose one of two penalties:

- (a) A reprimand; or
- (b) Suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council for a period of up to ninety (90) days.

The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) A written or verbal apology;

- (b) Return of property or reimbursement of its value or of monies spent;
- (c) Removal from membership of a committee; and
- (d) Removal as a Chair of a committee.

In this particular case I have no bases to determine or conclude that Councillor van Holst does not hold a sincere belief in his “Order of Freedom”. As stated, he is free to hold those beliefs. However, his conduct with respect to the policy of Council failed to uphold that policy or encourage public respect for it. It appears that once these issues became public and were called into question, he no longer publicly criticized the policy. However, there is no indication that he has retracted his statements or apologized for his conduct when it began to attract public concern.

Conduct of this nature by a sitting Member of Council should not be allowed to stand without comment or note. Accordingly, I recommend to Council that a formal reprimand be issued by Council with respect to the conduct of Councillor van Holst.

COMPLIANCE WITH SECTION 5.3 OF THE CODE OF CONDUCT PROTOCOL

Section 5.3 of the Code of Conduct Protocol provides that prior to issuing a report finding a violation under the Code, the Integrity Commissioner is to provide the Member with reasonable notice of the basis of the proposed finding and recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty. In accordance with that requirement, Councillor van Holst was provided with a draft copy of this report for review and comment.

The Councillor did provide a response in which he made comments regarding the following:

- A number of comments concerning the creed and the sincerity of his belief in it.
- Comments concerning the Council policy, his views on the policy and the basis for those view.
- His views on the vaccine and anti-vaccine lobbies.
- The manner in which the policy operates.
- His views on exemptions to the policy and entitlement to exemption.
- His view of the application of the various sections of the Code to his conduct.

I have reviewed the Councillor’s further comments carefully. Most, if not all serve to elaborate on his original response and comments concerning the allegations. None of these comments alters my view concerning the conduct of the Councillor in putting the Creed forward in a

means of supplying an exemption to vaccine mandates or his conduct with respect to Council's policy on vaccination.

Dated this 19th day of April, 2022.



Gregory F. Stewart
Integrity Commissioner for the City of London