

OFFICE OF THE INTEGRITY COMMISSIONER
MUNICIPALITY OF CHATHAM-KENT

memorandum

October 15, 2025

TO: Mayor and Members of Council

FROM: Suzanne Craig, Integrity Commissioner

Re: Municipality of Chatham-Kent Code of Conduct Information Bulletin

I am writing to the Mayor and Members of Council with this Information Bulletin in exercise of my advice and education function as Integrity Commissioner for the Municipality of Chatham-Kent. What has motivated the submission of this Information Bulletin is the receipt of numerous inquiries by my Office from Members of Council and the public seeking clarification on the Council Code of Conduct rules regarding the principles of respectful communication and the representative role of Members of Council.

I have determined that this is an appropriate time for me to outline to Members of Council, through this Information Bulletin, the rules of the Code of Conduct for Members of Council (the “Code”) relating to fair comment and to provide some guidance to Council Members to assist in navigating and adhering to the rules of the Code regarding respectful communication.

Code of Conduct Rules regarding Council Member Statements:

The Code does not prohibit Council Members from expressing dissent or debating matters for which they disagree. The right of freedom of expression is an essential feature of democratic governance. However, a Council Member’s dissent, in any communication, must be expressed within the bounds of respectful discourse with a good faith attempt to check facts to ensure that the substance of their communications is true.

With respect to comments about staff actions, the Code does not prevent a Council Member to advance a political position. However, the Code rules do not allow a Council

Member to intentionally communicate inaccurate statements which give the impression that staff have not provided accurate or sufficient information to Council (for example, that staff have not addressed legislated accessibility standards and/or provided actual and accurate costs for a project). To make such statements (verbally, written or on social media), if investigated and sustained, will likely constitute conduct that undermines staff and such conduct will be a contravention of the Code. Many rules of the Code and its *Commentary* enshrine the above-noted principles. In fact,

Rule 13.3 and 13.4 set out that:

13.3 Members must seek to advance the public interest with honesty and treat members of the public with dignity, understanding and respect.

13.4 Members may not make statements known to be false or make a statement with the intent to mislead Council or the public;

The *Commentary* to Rule 14 sets out that:

Commentary: The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the public.

Rule 15.5 sets out that:

Members shall not maliciously or falsely injure the professional or ethical reputation of staff, or the prospects or practice of staff, whether in public or in private, and all members shall show respect for the professional capacities of staff.

Rule 15.9 sets out that:

15.9 Members may choose to advocate for a particular political position and/or on behalf of their constituents. Members must remember that municipal employees have distinct and specialized roles. Some employees have duties and obligations that require them to make decisions independent of Council and free of influence from Council members. Some employees also have obligations to professional associations, which are separate from the municipality, and which govern the way in which these employees can respond to members and the public. Members must be respectful of these obligations and the professional obligations of employees.

A Council Member may speak on a matter of importance to the community, but may not make misstatements about staff's advice or drive a narrative which undermines staff reports through unsupported suggestions.

The Code of Conduct Regime Does Not Prevent A Council Member From Fulfilling Their Representative Role:

Though some Council Members have suggested that the Code and the Integrity Commissioner regime result in silencing disagreement and preventing Council Members from giving voice to the perspectives of their constituents, in reality the Code only regulates disparaging and disrespectful comments that call into disrepute the professional reputation of staff.

In the Pickering Judicial Review of that municipality's Integrity Commissioner Code Complaint Investigation findings and Council decision on sanctions, the Court stated that:

The Commissioner engages in a balancing exercise [...] and the court found that it was appropriate that "the Commissioner expressly acknowledged that "[e]lected municipal officials are leading players in local democracy. They are democratically chosen to look after the community's interests." and that "the Commissioner recognized the importance of elected officials exercising free speech, noting that a councillor's "freedom of expression is a crucial instrument for achieving effective participation and good municipal government." The Commissioner explained in that decision "that elected municipal councillors function as 'conduits for the voices of their constituents: they interpret and convey their grievances respecting municipal government."

But, on the other hand, the court found that -the Commissioner properly recognized that freedom of expression is not an absolute, unfettered right: "it is limited by reasonable restrictions, including by requirements to protect the rights and freedoms of other persons." Moreover, while acknowledging the important role that elected representatives play as "conduits for the voices of their constituents," the Commissioner in that jurisdiction the court stated – 'was sensitive to the need not to countenance unlimited and possibly harmful expression by allowing an elected official to justify their position as "merely reflecting the views of her constituents." 'The Commissioner reasoned – as the court pointed out - in their report , that it would be "completely unacceptable for a Councillor to publicly make statements in support of spousal abuse, antisemitism or slavery, regardless of whether these were the ardently-held views of one's constituents."¹

As set out in a decision of an Integrity Commissioner, code of conduct decisions:

...are also careful not to unnecessarily silence councillors from respectfully criticizing decisions made by staff. Previous ICs have also sought to isolate councillor conduct from whether the impugned decision or action on the part of staff was correct or whether the criticism levelled had any merit. However, ICs have found Code violations where councillor comments veer into inappropriate questioning of the motives, competence or professionalism of staff.

¹ Robinson v. Pickering (City), 2025 ONSC 3233 (CanLII)

Council Member dissent and debate:

Code of Conduct rules are interpreted in light of the fact that a municipality is a democracy. The Code does not prevent a Council Member from disagreeing with the positions of other Members or of staff. Disagreement is part of the democratic process, and typically Integrity Commissioners will not intervene to regulate such speech unless conduct is discriminatory, derogatory, demeaning, disparaging or undermining the professional reputation of staff.

A Council Member may disagree with information provided by staff to Council and may seek clarification at Council when the matter is properly before Council for consideration. However, questions of clarification should neither veer into a Council Member making inaccurate comments at Council or otherwise, that the municipal staff and/or Council have not turned their minds to or refused to address concerns raised by Council, nor suggest without reasonable evidence that staff have refused to fully inform Council on requested information. Each Council Member is entitled to voice their disagreement with stated positions of their colleagues or even recommendations in staff reports. That said, the rules of the Code prohibit Members from disparaging the majority's decision of Council or suggesting as fact, unsubstantiated comments that staff subject matter experts have failed to follow Council direction or respond to Council requests for information.

In a 2018² Integrity Commissioner Code Complaint Report, the Council Member was investigated for his public comments alleging that the information provided by staff in a briefing note to Council was “untrue”, “inaccurate” and “influenced by the politicization of City Hall rather than just their objective advice”. In her Code Complaint Report, the Commissioner stated that:

As I have previously commented, the health of the relationship between Council and staff is a matter of public interest. Members of Council and staff each have separate and important roles to play.

It is for this reason why I have repeatedly advised members of Council that they should not treat public servants as *political adversaries* or *political allies* when debating matters of public policy.

[...] Fenn and Siegel state at page 19:

Municipal government operates in a political arena, with all that that implies. As a result, a councillor may quite properly – or even simply for political reasons – ask if staff is incorrect, lacked in research or creativity, or was insensitive to community concerns, or being too slow to deal with an issue. Staff may not like it, but they have broad shoulders and it is the right of democratically elected representatives to say such things if they are warranted.

But there are limits that should not be exceeded. Best practice says it is the duty of the head of council and the CAO to act decisively when these limits are exceeded. A

² Byford v Matlow, 2018 ONMIC 5 (CanLII),

councillor should never accuse staff members publicly of stupidity, unethical behaviour, or incompetence. If an elected representative feels that way about a member of staff, he or she should take it up with the CAO [...], in private. Likewise, if a staff member feels his or her integrity or honesty is being questioned, or if workplace interactions with a councillor are inappropriate or demeaning, he or she should take the matter up with the CAO and take advantage of protections afforded to all employees, including in serious cases, access to the municipal integrity commissioner.

The Commissioner went on to say that:

When questioning staff reports or actions, members of Council should ensure that their comments are in the nature of “fair comment”, and related to the *substance* of the report and not the authors or their suggested motivations.

This means that members of Council can raise concerns about whether information is correct, or whether staff considered certain information, such as local concerns. The Toronto public service is prepared (and expected) to respond to these kinds of questions from City Council.

City Council discharges its duties when it is robustly and fairly scrutinizing the information and advice that staff provide.

However, members of Council should not publicly state or imply that a particular public servant, or a group of public servants, acted for political or private motivations or in a way that is negligent or that failed to meet professional standards. Serious concerns about staff misconduct should be raised with the public servant’s supervisor, the City Manager [...]

Extra scrutiny should be applied to public statements about the public service that are broadcast in mass media. This is because staff do not have the same platform as members of Council to engage in the public arena.

Best practices and jurisprudence at the municipal government level in Ontario confirm that a Council Member may question the content of a staff report or comments made by staff at a Council meeting. Generally, this type of question is included in the nature of *fair comment* and staff are expected to be prepared to be accountable for their work. However, if a Council Member’s statement does not only pose questions about the information in a staff report, but suggests that the information provided by staff is intentionally incomplete or incorrect, (that staff have simply refused to provide information requested by Council) or that staff were guided by improper political intervention, this is conduct, if sustained after an investigation, that would be found to run afoul of the Code rules, insofar as falsely injuring the professional or ethical reputation of staff. In so doing, such statements and comments of a Council Member, if investigated and sustained, will likely be deemed to cross the line from fair comment to statements that are injurious to the professional reputation of staff.

Conclusion:

There are no rules in the Code that prevent a Council Member from respectfully disagreeing with decisions made by Council or recommendations made by staff. Under

the Code, a Council Member can continue (in accordance with procedural rules) to urge Council to re-open a debate, revisit past votes, and/or consider new information.

However, upon seeking clarification through questions and motions, the Code prohibits a Council Member from stating that notwithstanding information having been provided by staff in fulfillment of their professional duties, staff has continued to refuse to provide the information to Council or intentionally misled Council with insufficient or inaccurate information. This line of questioning is not advocating for a Council Member's constituents but rather, is tantamount to stating that staff have misled Council and the public, intentionally ignoring their professional duties. Such statements, if sustained following an investigation, will constitute conduct that falsely injures the professional or ethical reputation of staff or the prospects of practice of staff, contrary to the Code rules.

Council Members are encouraged to seek guidance from the Integrity Commissioner with respect to the application of the Code rules to a Council Member's public statements and comments, in particular with respect to the professional reputation of the administration.

Respectfully submitted,
Suzanne Craig
Integrity Commissioner