

Integrity Commissioner Bulletin 2022-01: Hate Crimes and Hate Speech Complaint

A member of the public complained about a member of City Council who sent a Tweet that condemned the “Freedom Protests” against government mandates related to the COVID-19 pandemic.

They said that by sending this Tweet, the member of City Council breached “Part 2 – Standards and Values” of the Code of Conduct by committing “hate crimes” and “hate speech”.

The Integrity Commissioner decided that the allegation of “hate crimes” raised “an allegation of a criminal nature consistent with the *Criminal Code*” (as directed under section 6.13 of the Code of Conduct). **The Integrity Commissioner does not have jurisdiction to address that allegation.**

The Integrity Commissioner decided to consider the allegation of “hate speech” because that expression can be interpreted broadly and could amount to a Code of Conduct breach. **The Integrity Commissioner closed the Complaint after finding that the allegation did not contain grounds for concluding that a Code of Conduct violation occurred.**

The Integrity Commissioner gave the following reasons for finding that the “hate speech” allegation was not a Code of Conduct breach.

- The statements in the Tweet did not meet the threshold definition of ‘hate speech’ as determined by the Supreme Court of Canada in *Saskatchewan (Human Rights Commission) v Whatcott*, 2013 SCC 11, which requires expression that “goes far beyond merely discrediting, humiliating, or offending” a target group (for example, the Freedom Protestors), and requires the speech to subject a target group to “detestation” which tends “to inspire enmity and extreme ill will” and which “goes beyond mere disdain or dislike”.
- Political expression, including expressions captured by a municipal code of conduct, “should be interpreted in a manner consistent with the *Canadian Charter of Rights and Freedoms*, including the right of freedom of expression” (see *Re VanLeeuwen*, 2021 ONMIC 13).
- “The role of a Council Member includes communicating with members of the public about local issues. This includes not just responding to residents but initiating communication with the public. In fact, the Courts have clearly stated that, as an elected representative of the public, a municipal councillor is entitled to take ‘an open leadership role’ on an issue. As part of the political process, a Council Member has every right to form views, to hold views, to express views and, while in office, to give effect to those views” (see *Monforts v Brown*, 2021 ONMIC 10).
- The nature of social media must be considered in interpreting whether the Tweet amounted to a breach of the Code of Conduct (see *Chan v Therrien*, 2021 ONMIC 6).

The Integrity Commissioner also considered if the Tweet violated “Part 3 – Communications and Confidentiality” of the Code of Conduct. They determined that it did not because the member of City Council was expressing their personal views and did not try to represent the City of Vancouver’s position on the “Freedom Protest”.