

Integrity Commissioner Bulletin 2023-02: **Government vs Personal Use of Twitter**

A citizen of Vancouver complained about a Member of Council blocking them on his personal Twitter account prior to him being elected. The citizen has characterized the block as a “*continuing*” breach of the [Code of Conduct By-Law No. 12886](#) (“Code of Conduct”) as they remain blocked since the Councillor was elected. The citizen relied on a decision from the United States Court of Appeals for the Second Circuit which ruled that former President Donald Trump was not allowed to block citizens on Twitter (the “Trump Decision”) and section 2(b) of the *Canadian Charter of Rights and Freedoms* (the “Charter”), which states:

2. *Everyone has the following fundamental freedoms:*

...

b) *freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;*

Analysis

The Code of Conduct applies to Council Members and Advisory Board Members (see section 1.5). The citizen was blocked from the account prior to the Councillor being elected. Given that he was not a Council Member at the time of the relevant Twitter interactions, including when he blocked the citizen, the Code of Conduct did not apply to that action.

The Integrity Commissioner considered the issue of whether the Councillor continuing to block the citizen on his Twitter account under sections 2(f) and 2(g) of the Code of Conduct, which state, respectively:

responsibility: a member must respect and comply with the Acts of the Parliament of Canada, the Legislature of British Columbia, including the Vancouver Charter, city-bylaws, and applicable city policies, and avoid conduct that, reasonably undermines, or has the potential to undermine, public confidence in city governance, except members may participate in peaceful civil disobedience.

...

transparency: a member must conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect confidential information.

The Integrity Commissioner found no basis in the Code of Conduct that would require the Councillor to unblock the citizen. The Trump Decision is not precedential in Canada. Regarding the question of how the Charter intersects with personal Twitter accounts, the Integrity Commissioner noted *Chan v Therrien*, 2021 ONMIC 6, where Integrity Commissioner Giorno, City of Peterborough, found that Tweets made by the Mayor on their personal Twitter account were “*personal and not governmental.*” Integrity Commissioner Giorno further stated that “*Actions of a government official are subject to the Charter only when the official acts on behalf of the government, and not in a personal capacity ... Nothing indicates the Mayor was Tweeting on behalf of the City of Peterborough.*”



With respect to the Councillor's obligation to conduct his duties in an open and transparent manner, the Integrity Commissioner did not find his activities on Twitter were sufficiently tied to the administration of his duties such that by blocking the citizen, or others, on Twitter, he failed in his obligation to be open and transparent. The Councillor conducts his official duties in City Council meetings, which are open and transparent. The citizen can also contact the Councillor via traditional means of communication with elected officials (including by email and mail). If the citizen continued to wish to participate in dialogue with the Councillor on his personal Twitter account, it was open to them to seek permission for access, which would be within the Councillor's discretion and may be subject to any social media policy he has in place for his account.