



PRIVILEGED & CONFIDENTIAL

EXECUTIVE SUMMARY REPORT

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INDEPENDENT INVESTIGATION REPORT

1. Report Summary

I was appointed by Ms. Rebecca Silverberg, of McLennan Ross LLP, as counsel for the Town of Cochrane (the “Town”), to conduct a privileged, independent investigation on behalf of the Town into allegations raised in a written complaint (the “Complaint”). The Complaint was received from **Section 17(1)**, an employee of the Town (“the Complainant”). The Complaint named one Respondent, Councillor Marni Fedeyko (the “Respondent”).

Based on my investigation, I find that the Respondent more likely than not engaged in hostile physical posturing towards the Complainant and other staff and Council members, engaged in improper and inappropriate conduct within the Town workplace, and that conduct rises to the level of bullying or harassment for the purposes of legislation, the Town’s workplace policies and at common law. Overall, my findings support that the Respondent displayed repeated instances of poor judgment in the context of her dealings with the Complainant and others, and a pattern of behaviour that reflects poorly on her position and role as an elected official for the Town.

My findings are limited by a lack of evidence, particularly with regard to the text and email communication, as well as provided video footage of various meetings, and could be subject to change should additional information come to light.¹

2. Allegations

The Complaint alleges that the Respondent, while she was an elected official for the Town, engaged in bullying and harassment towards the Complainant and various other members of staff of the Town, and created a toxic working environment at the Town. While the conduct complained of is alleged to have occurred over the prior year, the Complainant also outlines several other avenues have been explored to address the conduct and that the Respondent has power over staff and is engaged with Town staff on a weekly basis during Council meetings.

Following my interview with the Complainant, further detailed and outlined below, a written Summary of Allegations was provided to the Complainant. This was done to clarify the conduct of the Respondent, given the fact that the Complainant alleged that, in addition to incidents involving the Complainant, **Section** had witnessed conduct towards other employees and/or members of Council. Further, the Complainant wished to support some of **Section** allegations with supporting materials and online source media making them somewhat unclear at the time of **Section** interview, such that summarizing **Section** allegations in written form was deemed most appropriate to ensure that the entire Complaint was captured. When this Summary of Allegations was provided, minor revisions were requested by **Section** on the understanding that, if completed, **Section** was in agreement with the Summary of Allegations. These changes were incorporated in order to finalize the allegations being made against the Respondent before being provided to the Respondent.

¹ Some individuals indicated that they would provide supporting materials, and then were unable to do so, or the provided material was incomplete. This was clarified with the party and some information was still outstanding. Others mentioned items being discussed during video meetings, but video footage of such meetings was not provided, or meeting dates and/or Agenda items were not clarified so as to determine the footage referenced. I note that in my role as Investigator, I did not independently take on the task of locating the information as this task would have involved assumptions not entirely supported by evidence and been time prohibitive.

Briefly, the Summary of Allegations details that the Respondent engaged in creating an atmosphere of fear and a toxic working environment for staff and others of the Town of Cochrane, following an unrelated investigation into a Town employee.² The conduct complained of includes making rude and offensive gestures towards the Complainant during public Council meetings on at least two occasions, glaring towards the Complainant during Council meetings, but also behaviours towards **Sec. 17(1)**, and Town employees, **Section 17(1)**, including treating **Sec. 17(1)** with contempt, rolling her eyes while **Sec. 17(1)** is speaking, glaring directed towards **Section 17(1)** and/or the Complainant during 80% of Council meetings, providing inappropriate social media responses and email responses regarding issues that **Section 17(1)** has addressed with Council, bringing a Notice of Motion to have a public vote about the leadership of **Section 17(1)** after a positive performance review, leaving a Council meeting abruptly, storming out while the Notice of Motion was being discussed, and engaging in social media posts contrary to the email instructions of **Section 17(1)** (collectively, the “Allegations”).

3. Nature of the Inquiry

My mandate requires me to determine whether the Allegations raised by the Complaint against the Respondent disclose any contravention of the Town Policies, whether the Complaint discloses conduct contrary to any applicable legislation or legal principle and, finally, to prepare a privileged and confidential written investigative report (the “Report”) describing my findings of fact and conclusions. This mandate is further identified in the Terms of Reference.

4. Investigative Procedure

Between February 29, 2024 and May 10, 2024, while in the course of this investigation, I attended and conducted the following interviews:



Section 17(1)

² My mandate did not include addressing specific details of this investigation, which I understand has been conducted and concluded. Rather, as further set out below, the authorization of this investigation by Town employees was considered in the course and scope of this investigation and formed part of my mandate.

Section 17(1)

Each interview was conducted in person. All interviews with the exception of the Respondent interview were conducted at the RancheHouse in Cochrane. All interviews were arranged by my office. Neither the Complainant nor the Respondent attended with any supporter present.

Prior to proceeding with any interview, each individual was required to execute a Confidentiality Agreement.

At the beginning of each interview, I introduced myself and advised of my role as an investigator appointed on behalf of the Town to investigate certain allegations of bullying and harassment and gave a general overview of the investigative process. All interviewees were asked to keep our discussion confidential and advised not to discuss the interviews with anyone, including colleagues, other employees or Council members. I explained that I am not an advocate for any party, but rather an objective, third party interviewing all individuals with knowledge or potential knowledge of the matters at issue to determine the truth of what took place. I further advised that my role, as an investigator, was to make findings of fact and reach conclusions about the Allegations.

The Complainant was aware that ^{Section} name and the content of the Allegations would be shared with the Respondent, and I confirmed that ^{Section} had been advised of the availability of counselling services at the Town. I explained that I could not ensure complete confidentiality, particularly to the Complainant, and that where information would be disclosed, it would be done so in order to rebut or corroborate a certain version of events. I explained that this would be done in order to ensure fair and due process to the Respondent. All parties were advised of the Town's position prohibiting retaliation.

The Complainant and Respondent were advised over the course of the investigation that my report would be provided to legal counsel and was privileged.

I examined all witnesses on their role at the Town, their interactions with other parties to this investigation, and their recollections of conversations, physical interaction, Council involvement or other events that might serve to address the Allegations raised in the Complaint.

The Complainant was given an opportunity to describe the basis for the Complaint and the Respondent was given a full opportunity to respond to the Allegations made against her, which fall within the purview of this report.

While conducting all the interviews, I took notes of the discussions. My associate also attended all interviews as a Note Taker and took detailed notes. I then reviewed and formulated detailed memoranda based on the notes of each interview, as close in proximity to the time of the actual interview as possible.

In addition to the Complainant, I also interviewed various witnesses to the events alleged in the Allegations. Given time constraints, a decision was made to proceed with interviewing the witnesses to the events alleged prior to meeting with the Respondent. There was some difficulty contacting some members of Council, specifically, **Section 17(1)**, which resulted in ^{Section} interview being conducted last.

During various interviews, supporting material was requested and time allowed to the various parties and witnesses to provide the requested material. Not all of the material requested was received, however, the outstanding information was requested by no later than May 16, 2024 or as soon as possible. By May 17, 2024, I determined that I must move forward with the investigation, although as noted elsewhere in this

Report, my findings are limited by the lack of complete evidence provided and could be subject to change on this basis.

I requested policy documents and information from **Section 17(1)** at the Town, which was provided and reviewed. **Section 17(1)** assisted in advising various witnesses that they may be contacted, as well as the Complainant and Respondent, and provided me with their contact information. The Confidentiality Agreement signed by the Respondent was obtained with the assistance of **Section 17(1)**.

After all interviews were conducted, I reviewed my notes and memoranda regarding witness interviews, as well as the documentary evidence and communications provided to me, prior to making my final determination.

5. Findings and Analysis

The key areas that I inquired into were drawn out of the Complaint, policy documentation provided by the Town and evidence obtained in interviews with the Complainant, the Respondent and witnesses. I will address each of the specific points raised in the Allegations and, in turn, consider the relevant evidence and then draw a conclusion as to the merit of each point.

My conclusions in regard to the interaction between the parties are based on the incomplete evidence I have received through the investigation, particularly with respect to the text and/or email communication between the parties at the time. This results in limitations in my conclusions and, on this basis, in the event that new information is provided, these conclusions could change.

I will now address my findings with respect to the specific allegations.

The Allegations pertain to several categories, all arising while the Respondent was a member of Council for the Town. On a general basis, the Allegations included that the Respondent created an atmosphere of fear and toxic working environment for staff and others of the Town of Cochrane over a period of a year. More specifically, first, the Allegations included that the Respondent engaged in hostile physical posturing directed toward the Complainant, including gestures and glaring at the Complainant. Second, the Respondent engaged in reactive and hostile behaviours towards **Sec.17(1)** **Section 17(1)**, including physical reactions, but also social media posting and email responses following an unrelated investigation into a Town employee.

Allegations regarding the Complainant

There are Allegations concerning inappropriate gestures and physical responses engaged in by the Respondent. My findings are as follows:

- On the balance of probabilities, I find it more likely than not that the Respondent stared down the Complainant while walking into a public Council meeting on January 22, 2024, locked eyes with the Complainant, smiled at **Section** and then gestured toward the Complainant while placing her middle finger against her cheek, giving **Section** the middle finger. The Complainant gave a detailed recollection of what took place, and the sequence of events as between **Section** and the Respondent and further explained that this incident was also the “catalyst” for **Section** making the Complaint in the first place. I prefer **Section** evidence over that of the Respondent in this regard, as it was specific, factual and clear.
- I find that the Respondent did gesture towards the Complainant, by placing her middle finger against her cheek and giving **Section** the middle finger during a Council meeting on November 23,

2023. While the Respondent reported that she may work in this position while using a laptop, she did not deny placing her finger against her cheek. I found the specific evidence of the Complainant more compelling on a balance of probabilities, particularly when taking into account the finding below and the evidence of the witnesses regarding the presentation of the Respondent during meetings and towards the Complainant and administrative team generally.

- I find that the Respondent did engage in glaring toward the Complainant during Council meetings over the last year. This evidence was overwhelmingly supported by various witnesses as well as the Complainant's evidence. These glares were described by various witnesses as "death stares", "holding stares", "if looks could kill" and looks that could "melt your face off". I prefer the evidence of the involved witnesses over the Respondent in this regard. I also find that the behaviour occurred over a period of many months and numerous meetings, to the extent that some witnesses expressed that it occurred more often than not during Council meetings and directly observed hostility towards the administration table. This also demonstrates a pattern of aggressive physical behaviour towards a staff member.

As stated above, I find it more likely than not that the Respondent engaged in hostile physical posturing towards the Complainant ("the Hostile Posturing"). The evidence supports that the Hostile Posturing was undertaken following an unrelated investigation into a town employee, known to the Respondent and coincided with that investigation and an unrelated Code of Conduct investigation into the Respondent. The Complainant was **Sec. 17(1)**. The Hostile Posturing, as a whole, reflects inappropriate responses from the Respondent towards the Complainant. More importantly, however, the behaviour occurred when the Respondent ought to have known that it would be unwelcome.

While any one of these gestures, alone, may not constitute harassment, and would seem "petty", or "microaggressions", the evidence is clear that the Hostile Posturing happened more often than not during Council meetings, which occur on a weekly basis. In behaving in such a manner, over an extended period of time, the Respondent failed to appreciate the power dynamic and imbalance as between her and the Complainant. The Respondent further demonstrated disregard for her position of power and trust within the community as an elected official, and failed to appreciate the impact of her behaviour on the constituents that placed their trust in her. The Hostile Posturing, in this context, is highly inappropriate and improper.

Each instance of the Hostile Posturing outlined above is likely to have negatively impacted both the psychological and social well-being of the Complainant and would be individually (and also collectively) viewed as contrary to Town policies on that basis. Furthermore, however, it would also be viewed as a threat and contrary to the Town's Workplace Violence Policy as a result and require that the Town's Health and Safety Coordinator make recommendations for corrective measures that may be made.

I find this Hostile Posturing, over the period of a year, rises to the level of general harassment (repeated instances of unwelcome conduct that the Respondent knew or ought to reasonably have known would cause offence and adversely affect the Complainant). In particular, the Hostile Posturing negatively affected the working environment and caused psychological harm or injury to the Complainant in light of her evidence. It was improper generally, but also in light of the power imbalance between the parties and the Respondent's position of authority.

Allegations regarding **Section 17(1)**, **Section 17(1)**

There are numerous Allegations concerning both reactive and hostile behaviours towards **Section 17(1)**, **Section 17(1)**, as well as social media posting and email communication following an unrelated investigation into a Town employee since May 2023. My findings are as follows:

- I find that the Respondent did treat **Section 17(1)** with contempt while **Sec.1** was speaking during a Council meeting of September 25, 2023 and left the Council meeting abruptly at minute 37. I find the evidence of the witnesses, as a whole, compelling in this regard, including the general consensus among them that the Respondent “slammed” the door when leaving and began to pack up her belongings while **Section 17(1)** was speaking. I find that the video feed of this meeting depicts the Respondent loudly and disruptively gathering her belongings in the minutes during which **Section** **Section 17(1)** is speaker, tossing her cellular phone charging cable across the Council desk, and stating “I’m done” in a raised voice, while **Section 17(1)** continues to make **Section** **Section** points. She then is depicted leaving the meeting, and slamming the anti-chamber door on her way out of the Council Chambers. I find that this behaviour is contrary to the outlined expectations of Council members, as outlined by the Code of Conduct, and specifically, treating one another with courtesy, dignity and respect.
- I find that the Respondent engages in eye rolling while **Section 17(1)** is speaking. This behaviour was confirmed by several witnesses during their interviews. I am unable to make any findings about when this eye rolling occurred, as the Complainant and witnesses were not specific in this regard. As I am unable to comment more fully on this allegation, I am unable to address whether it constitutes a breach of Town policies.
- I find that the Respondent responds to **Section 17(1)** with an aggressive tone of voice during Council meetings. In this regard, I found the evidence of the witnesses compelling, in terms of describing the reactionary nature of the Respondent and the manner in which she communicates in meetings. Furthermore, this aggressive tone of voice was readily apparent during the Council meeting of September 25, 2023 and the video footage provided in that regard. This conduct, in and of itself, would not be considered a breach of Town policies, but is inappropriate and improper in the context of Town Council meetings.
- I find that the Respondent engaged in glaring towards the Complainant and **Section 17(1)** during the majority of Council meetings from May to October 2023. This allegations was, again, as noted above, supported by numerous witnesses over the course of their interviews. One of the witnesses referred to behaviour by the Respondent during Council meetings as “unhinged” generally. Many others reported the glaring occurred with intensity and frequency. I do find that this constitutes a breach of Town policies impacting on the social and psychological wellbeing of staff members.
- I find that the Respondent provided an August 1, 2023 response stating “This is very interesting” in response to a social media posting by **Section 17(1)** in which confidential information was shared about an ongoing investigation into a Town employee. I am unable to make any findings about the appropriateness of this response, as the context was not clear and intent cannot be inferred by the message alone. Similarly, I am unable to find that this falls outside applicable policies.
- I find that the Respondent provided an email response dated August 16, 2023 stating “I am beyond disgusted” in response to an email sent by **Section 17(1)** advising that a Town employee was no longer employed following an investigation. I also find that the Respondent was advised that, if she was contacted by members of the public or media to inform them “I am not at liberty to comment on specific personnel matters”. I find the email response from the Respondent, in the circumstances, inappropriate from a Council member, particularly in light of the power dynamic at issue between the Respondent, **Section 17(1)** and staff included on the email. I further find that this email communication was improper given that the Respondent is one of **Section 17(1)**’s superiors and does not constitute reasonable conduct of a supervisor in the context of managing an employee. Rather, it suggests personal involvement of a Councillor in issues properly to be addressed by the Town administration. The statement is insulting and inappropriate and violates a number of the expectations of Council set out in the Code of Conduct.

- I find that the Respondent did bring forward a Notice of Motion regarding the leadership of **Section 17(1)** of the Town, however, I am unable to find that this occurred within weeks of a positive performance review of **Section 17(1)**. Rather, the evidence establishes that it occurred many months after a March 2023 positive review of **Section 17(1)**, which was conducted anonymously through submission of online performance review forms by staff and separate review by Council. I find that the evidence does, however, establish that this Notice of Motion was brought only weeks after the Respondent was advised that the employee involved in the unrelated investigation was terminated and she voiced her “disgust” in response to **Section 17(1)**’s email as noted above. While I understand and appreciate the evidence from the Respondent with respect to the reaction of the public to this meeting of September 25, 2023 and the fact that she brought the Notice of Motion to satisfy the public, the public was not aware of the internal communication involving the Complainant, in which she was advised of the impropriety of the information she wished to include in her Notice of Motion, as outlined by the various witnesses, nor would they have been entirely aware of other circumstances, such as ongoing investigations involving the Respondent and authorized by **Section 17(1)**. The evidence supports that the content of the Notice of Motion could have been put to Council through proper performance management avenues, rather than the public discourse which occurred, at the instigation of the Respondent. This conduct, viewed in these overall circumstances, may also be viewed as a violation of Town policies. Frankly, this conduct appears to also possibly violate a number of expectations of Council members set out in the Code of Conduct, and also demonstrates that the Respondent was using her authority and influence to impact upon **Section 17(1)**’s employment duties. Undoubtedly, having a superior raise this type of conduct issue in the public forum, when it is properly a confidential HR matter, would be viewed as a violation of Town policies.
- I also find that the Respondent left a meeting on September 25, 2023, abruptly, while her Notice of Motion was being discussed by Council. Prior to leaving, I find that the Complainant voiced that she felt “caught off guard” and “frustrated” as she did not think she would have to discuss the Notice of Motion at the meeting. This conduct, in the context of the above finding, is also contrary to the Code of Conduct and expectations of Council members.
- I find that the Respondent engaged in social media posts that were contrary to email instructions from **Section 17(1)** regarding the unrelated investigation. In this regard, in light of the email instructions noted above of August 16, 2023, I find that the social media posting “I agree” was not an appropriate, Town sanctioned response to a comment stating “[t]oo bad we are missing a member with over 23 years of experience. He should be in this picture” was made by the Respondent and did not reflect the position of the Town with respect to the employee. In posting in this manner, the Respondent failed to appreciate the fact that posting using her personal social media account may still reflect upon the Town, given her position as an elected official. This conduct suggests that the Respondent engaged in matters related to Town administration online, when this does not fall within the purview of Council. It also demonstrates a departure from the expectations of Council as outlined by the Code of Conduct.

As outlined above, several findings have been reached concerning the Allegations and those raised with respect to the Respondent’s conduct towards staff members and **Section 17(1)**. These findings illustrate that the Respondent treated staff and fellow members of Council with contempt and responded on social media in a manner contrary to the best interests of the Town and certainly contrary to direct email instructions from **Section 17(1)** (collectively, the “Hostile Posturing towards Others”).

I find that the Hostile Posturing Towards Others discloses contravention of the Town Policies with respect to the safe working environment as it demonstrates that the Respondent was aware of her influence over staff and generally failed to appreciate the nature of her comments online and how they may reflect upon

the Town, generally. In engaging in the Hostile Posturing Towards Others, the Respondent failed to recognize that the conduct was unwelcome, improper and contrary to Town Policies.

Once again, the conduct as between the Respondent, the Complainant and **Section 17(1)** as well as the conduct towards **Section 17(1)** may be viewed as general harassment, as it occurred over an extended period of time, and the Respondent ought to have known it was unwelcome. Her conduct towards **Section 17(1)** was clearly unprofessional and a departure from the expected obligations and responsibility of Council members.