

# **Report on an Inquiry Respecting the Conduct of Councillor Chiarelli**

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Integrity Commissioner

August 18, 2022

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# Executive Summary

## Commissioner's Mandate

As Integrity Commissioner for the City of Ottawa, I am responsible for the application of the Code of Conduct for Members of Council, which includes receiving and investigating complaints about whether a Member of Council has contravened the Code of Conduct. In this case, I received a formal complaint respecting the conduct of Councillor Rick Chiarelli (the Respondent) from a former employee of Councillor Chiarelli's Office.

Following an intake analysis, confirmation of my jurisdiction to investigate and submissions from the parties, I initiated an investigation under subsection 9(2) of the Complaint Protocol. This report is prepared pursuant to Section 11 of the Complaint Protocol and contains the findings and conclusions of my investigation.

## Code of Conduct for Members of Council

The Code of Conduct for Members of Council sets the standards of behaviour expected of Members of Ottawa City Council. The Code of Conduct has been in place for nearly a decade, coming into force on July 1, 2013.

Members of Council have an obligation to uphold the values and rules set out in the Code of Conduct.

## The Complaint

The formal complaint contained five specific allegations concerning the Respondent's conduct. During my intake analysis, I determined that the first allegation was outside my jurisdiction as it contained allegations related to conduct that took place prior to July 1, 2013, the date the Code of Conduct came into effect. Accordingly, this allegation was not investigated.

The four remaining allegations are, as expressed by the Complainant:

- (2) On the evening of Sunday, September 13, 2013 [sic], Councillor Rick Chiarelli (my employer at the time), provided me with a sheer and revealing shirt, which he requested that I wear to an event that evening at the International Animation Film Festival. Furthermore, he expected me to change my attire in his car while in his presence;
- (3) In the Fall of 2013, Councillor Rick Chiarelli (my employer at the time), requested and instructed me to attend a romantic date with a volunteer that we met at the

2013 International Animation Film Festival. Mr. Chiarelli drove me to and from the date;

- (4) In the Fall of 2014, Councillor Rick Chiarelli (my employer at the time), offered to pay me between \$200-\$300 in cash to perform sexual acts on random men that I was instructed to find at night clubs in Montreal. Mr. Chiarelli planned these trips and drove me to an[d] from Montreal on several occasions to meet men at night clubs; and
- (5) After confiding in Councillor Rick Chiarelli (my employer at the time) about a sexual assault that occurred to me, he discouraged me from reporting the assault to the proper authorities, threatened that my partner would abolish our relationship if he found out about the assault, and forbade me from seeking a licensed professional of my choosing to attend therapy and counselling for my mental health as a result of the assault. Furthermore, Mr. Chiarelli encouraged me to maintain a relationship with the only male witness of the assault for his own personal ... gain and amusement.

## **Investigation**

The formal complaint was filed with my Office on January 25, 2022.

As part of my intake analysis of the complaint, I determined the conduct in question was within my jurisdiction as Integrity Commissioner to examine. After reviewing the submissions of the parties, I determined there were sufficient grounds to proceed with an investigation.

The parties were notified on April 28, 2022 of my determination that further investigation was required and that I was proceeding to the next stage of the inquiry. As authorized under Section 223.3(3) of the *Municipal Act, 2001*, I delegated the authority to conduct the investigation, including conducting interviews and reviewing documentary evidence, to an independent investigator. Given the nature of the allegations, I sought an investigator with specific expertise in workplace and sexual harassment.

The Investigator conducted interviews with the Complainant, Respondent and five witnesses. The investigation also included a review of limited electronic records including e-mail correspondence and human resources documentation. The Investigator made factual findings on a balance of probabilities about whether the allegations were substantiated.

In preparing my report, I reviewed the Investigator's report, the recorded interviews and the documentary evidence collected. I conducted my own review of the Investigator's

conclusions to determine whether I accepted the factual findings and analysis, and then determined whether there had been breaches of the Code.

Upon completion of the investigation, and in accordance with subsection 11(2) of the Complaint Protocol, the Respondent was provided the opportunity to provide comments on a draft of this report. The draft report was provided to the Respondent, by way of a secure file transfer application to his legal counsel on August 8, 2022, and accessed that same day. On August 15, 2022, Councillor Chiarelli's legal counsel provided a letter which enclosed Councillor Chiarelli's comments on the draft report. I conducted a thorough review of the covering letter and enclosed comments, and took into consideration all matters raised therein when finalizing my report.

## **Summary of Findings**

The complaint alleges that the Respondent contravened the following sections of the Code of Conduct:

- Section 4 (General Integrity)
- Section 7 (Discrimination and Harassment)

Having completed the investigation, I conclude that Allegation 2 and Allegation 4 were substantiated and find, on a balance of probabilities, that the Respondent contravened Section 4 and 7 of the Code of Conduct in relation to both incidents.

## Background

### **Process: the Written Statements**

The Complaint Protocol sets out the process for receiving, investigating and reporting on formal complaints.

In my early communications with the Complainant, it was confirmed that she participated as a witness in an investigation of the Respondent's conduct completed by my predecessor in 2019/2020. Further, I became aware that conduct referenced in the formal complaint had been referred to the police by my predecessor under Section 223.8 of the *Municipal Act, 2001*.

Before I could proceed, I required confirmation that no active police investigation impeded my ability to investigate the formal complaint. On February 16, 2022, I received confirmation that there was no active police investigation into the conduct identified in the formal complaint. Accordingly, I proceeded to finalize my intake analysis of the formal complaint.

On March 10, 2022, I provided the Respondent, through his legal counsel, with a copy of the formal complaint with a request for his response to the allegations by March 24, 2022. The Respondent's legal counsel requested an extension to the end of April due to the Councillor's personal matters. I considered the basis for the request and extended the response deadline to Friday, April 22, 2022.

On April 22, 2022, the Respondent provided his response to the formal complaint, with the enclosures following on April 26, 2022. In accordance with the Complaint Protocol, the Respondent's response was issued to the Complainant for an opportunity to respond. The Complainant's response was received on April 28, 2022. That same day I notified the parties that I was proceeding to the next stage of the inquiry.

### **The Investigator's Process**

As authorized under Section 223.3(3) of the *Municipal Act, 2001*, I delegated the authority to conduct the investigation, including conducting interviews and reviewing documentary evidence, to an independent investigator. Given the nature of the allegations, I sought an investigator with specific expertise in workplace and sexual harassment. I considered a number of firms and retained a law firm with that particular expertise to conduct the investigation.

The Investigator provided the following detailed account of the remainder of the investigative process:

“An interview was then scheduled with the Complainant on May 4, 2022, with a further interview scheduled on May 6, 2022.

Following the Complainant’s interview, it was deemed necessary to interview the following four witnesses:

- (1) [Witness 1], a friend of the Complainant’s [information deleted].
- (2) [Witness 2], a friend of the Complainant’s and her classmate when she attended [college program] in September 2013.
- (3) [Witness 3], the Complainant’s current fiancé, and her boyfriend during the period she worked for Councillor Chiarelli.
- (4) [Witness 4], the Complainant’s ex-boyfriend.

These witnesses were all interviewed between May 9 and 10, 2022. An attempt was also made to reach out to [name redacted], a former employee of Councillor Chiarelli, however we understand that the OIC [Office of the Integrity Commissioner] left her a voicemail but was unable to reach [former employee], who never responded.

In the meantime, Councillor Chiarelli’s legal counsel, Mr. Sevigny, was contacted by email on May 9, 2022, to schedule an interview with Councillor Chiarelli. Following significant back and forth with Councillor Chiarelli’s legal counsel...he was ultimately interviewed on May 26, 2022, with a follow up interview held on June 10, 2022. Councillor Chiarelli attended on both dates with his [family member 1]. During our interviews with Councillor Chiarelli, [his family member 1] also provided evidence.<sup>1</sup>

Following Councillor Chiarelli’s interview, it was deemed necessary to interview the following persons:

- (1) [Family member 2], and
- (2) [Witness 5], a prior employee of Councillor Chiarelli.

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<sup>1</sup> The Investigator’s interview of the Respondent was attended by [family member 1], who also made comments during the interview.

We made a further attempt, through Councillor Chiarelli, to reach [the former employee], but were again unable to connect with her. Councillor Chiarelli further advised that his [family member 2], would not participate in the investigation due to her concerns with the lack of confidentiality..., but we were able to meet with and interview [Witness 5] on June 28, 2022.<sup>2</sup>

During our interview with him, and in his written submissions, Councillor Chiarelli did suggest several persons he believed should be interviewed as part of the present investigation. We considered the Councillor's suggestions carefully. However, given that witness interviews likely required the disclosure of the Complainant's identity and details of the allegations, we ultimately determined, given the specific and sensitive nature of the allegations in issue, that only those persons who were believed to have direct knowledge of any of the allegations made were relevant to our investigation."

I pause the Investigator's account of the process at this point to note that I discussed with the Investigator the matter of who should and should not be interviewed as part of the investigation. I considered the matter carefully, and, along with the Investigator, made the decision about who to interview.

The Investigator's account of the investigative process continues as follows:

"On July 5, 2022, the OIC received an email from Councillor Chiarelli's [current employee], stating that:

... While sorting through our files for the purposes of packing [in preparation for the renovation of Councillor's Row], I have come across new information relevant to some of the allegations raised against Councillor Chiarelli. I am therefore reaching out to you to voluntarily come forward to be interviewed.

I greatly appreciate you taking the time to schedule a time to meet with me.

In response to the OIC's request that [the current employee] submit the information to the OIC by noon on July 7, 2022, following which a determination

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<sup>2</sup> I have reviewed the evidence provided by Witness 5, and have determined that Witness 5 did not provide any evidence relevant to the specific allegations. Witness 5, a prior employee of Councillor Chiarelli, left the Councillor's office before the Complainant was hired.

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would be made if an interview was necessary, [the current employee] advised that:

Due to the extensive volume of information, my current schedule priority [namely, packing], ... as well as some of the information containing confidential information of non-staff members for which I have not obtained consent to share for this purpose, it would be impossible to provide this documentation by noon tomorrow. I believe it would be imperative that this be discussed with your investigator by myself in person in an official statement in order to properly reflect the materials and their significance.

A 15-minute phone call was initially scheduled with [the current employee] on July 8, 2022, but had to be rescheduled due to the nationwide outage of the Rogers Communication Network. We spoke with [the current employee] for a brief call on July 11, 2022, during which, she advised that, while packing up Councillor Chiarelli's office, she came across a significant volume of records related to employee contracts, volunteers, and various events from over the years.

[The current employee] was requested to provide us with the following categories of documents from the period of March 2013 – March 2015.

Based on your high-level description of the documents, we have tried to narrow the scope of what we are asking you to provide us with in a way which should cover relevant documents, in the event that any are in your possession.

- New employee hire packages or onboarding materials
- Letters of resignation or end of contract
- Staff or vendor sign-in or time sheets
- New volunteer sign-up sheets
- Photographs from events, and specifically the 2013 International Animation Festival

This request for documents was reiterated to [the current employee] via email on July 12, 2022, with the following instruction:

As discussed, the Integrity Commissioner has an obligation to complete the investigation in a timely manner so, in order for these documents to be

reviewed and considered, we will need them to be received by the Office of the Integrity Commissioner no later than noon on Friday, July 15, 2022.

By reply email also on July 12, 2022, [the current employee] confirmed that she would do her best to meet the deadline of July 15th “however this may prove difficult.” To the date of this report [July 29, 2022], [the current employee] did not deliver any additional records or information to our office or, to our knowledge, the OIC.”<sup>3</sup>

The Investigator prepared a final report on the investigation and provided it to me on July 29, 2022.

## **Duty of Confidentiality**

As a municipal Integrity Commissioner, I am bound by a duty of confidentiality set out in Section 223.5 of the *Municipal Act, 2001* as follows:

### **Duty of confidentiality**

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part.

In preparing this report, I am mindful of subsection 223.6(2) of the *Municipal Act, 2001* which provides that I may, “disclose in the report such matters as in the Commissioner’s opinion are necessary for the purposes of the report.”<sup>4</sup> I am aware that, in the course of the investigation, some witnesses expressed hesitation about their participation and requested that their identities not be disclosed. I have determined that disclosing the identity of witnesses is not necessary to establish the findings set out in the report. As such, I have exercised my discretion to remove all names and identifying information about the Complainant, witnesses, or others mentioned in the course of the investigation.

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<sup>3</sup> My Office did not receive any additional records or information from the current employee. In his response to the draft report, the Respondent wrote: “there seems to be a real wish to avoid any exculpatory evidence and to rush those witnesses whose evidence might support [the Respondent].” [The current employee] identified that she had records to provide, and I provided 10 days for [the current employee] to provide them to me. [The current employee] did not provide me with the records.

<sup>4</sup> [Subsection 223.6 \(2\)](#) of the *Municipal Act, 2001*.

## Concerns Raised by the Respondent during the Investigation

### (i) Confidentiality of the Investigative Process

During the Investigation, the Respondent, through his legal counsel, raised concerns about the confidentiality of the investigation. I considered the Respondent's concerns and responded to each of them in a timely manner. I also reiterated the importance of maintaining confidentiality to the Complainant.

The Respondent also raised concerns regarding confidentiality during his interviews with the Investigator. For example, the Respondent and (family member 1) (who participated in the Respondent's interview) raised the concern they had found tweets by [name redacted] posted on May 12, 2022 which referenced the Respondent and his family members. According to the Respondent, the only time he provided information about his family had been as part of his written submission to my Office. The Respondent speculated to the Investigator that [name redacted] had therefore received information either through my Office, the Investigator or the Complainant.

The Investigator followed-up on this concern through an additional interview with the Complainant. The Complainant voluntarily provided copies of correspondence she had engaged in with three witnesses to the investigation, as well as with two individuals who had participated in a previous Integrity Commissioner investigation respecting the conduct of the Respondent. After careful consideration, the Investigator ultimately found that, while two of the conversations the Complainant had taken part in gave rise to inadvertent collusion,<sup>5</sup> this did not greatly impact the reliability of the Complainant's evidence. The Investigator's report stated:

“[The Complainant] was a forthcoming witness and in many respects her evidence was corroborated by other witnesses, including Councillor Chiarelli, as well as the limited documentary evidence we received. In fact, she disclosed the above noted collusion without hesitation, including comprehensive records of private correspondence, and it was clear to us that she did so because she truly did not believe her conduct to be of consequence.”

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<sup>5</sup> The Investigator's report includes the following description of advertent and inadvertent collusion: “The caselaw distinguishes between ‘advertent collusion’, where witnesses fashion their evidence to appear to be reciting a consistent and reliable story (see R v CG, 2021 ONCA 809 (“R v CG”) at paragraph 28) and ‘inadvertent collusion’ or ‘inadvertent tainting’ where “one witness discusses the event with another with the consequence that the evidence of one or both may be altered” (see R v CG at paragraph 28).” The Investigator concluded, “In the present circumstances, we simply have no evidence, and decline to find that the Complainant colluded with the intention to “fashion” her evidence to align with anyone else.”

After careful review, I agree with this assessment that the inadvertent collusion did not greatly impact the reliability of the Complainant's evidence.

**(ii) Questions raised by the Respondent regarding the Qualifications of the Investigator and Request to Terminate the Investigation**

The Respondent through his counsel raised concerns about the qualifications of the Investigator. The first emails dated May 11, 2022 were addressed to the Investigator directly in response to the Investigator's email request to schedule an interview.

After the initial emails, I wrote to the Respondent to confirm my authority to delegate my powers and duties to an independent investigator under subsection 223.3(3) of the *Municipal Act, 2001*.

The Respondent's counsel and my Office exchanged further emails regarding the qualifications of the Investigator and requests for documentation. I endeavoured to respond to these concerns and requests in a timely matter while seeking confirmation of the Respondent's availability for an Interview. In his correspondence of May 18<sup>th</sup>, 2022, counsel confirmed the Respondent's availability for an interview on May 26, 2022.

On the morning of May 25<sup>th</sup>, 2022, my Office followed up with counsel to confirm that he and the Respondent would attend the interview scheduled for the following day. In response, counsel's Office confirmed that the Respondent planned to attend.

At 3:30 pm on May 25<sup>th</sup>, 2022, counsel filed a Motion for Termination of the Investigation on behalf of the Respondent. I carefully considered this request. I responded that evening that the motion request was denied and committed to provide additional reasons. On May 31, 2022, I issued my reasons for dismissing the Respondent's request to stay/terminate the investigation.

**(iii) The Respondent's Response to the Draft Report**

Upon completion of the investigation, on August 8, 2022, I provided the Respondent, through his legal counsel, with a copy of my draft report. The Respondent's legal counsel accessed the report on the same day. In accordance with subsection 11(2) of the Complaint Protocol, I invited the Respondent to provide comments on the draft report within five business days.

On August 15, 2022 the Respondent's legal counsel provided a three-page letter [attached as Appendix 1] enclosing the Respondent's comments on the draft report.<sup>6</sup> I

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<sup>6</sup> I have appended the covering letter from the Respondent's legal counsel, but have not appended the Respondent's comments. In his letter, the Respondent's legal counsel identifies he Respondent's

conducted a thorough review of the covering letter and enclosed comments, and took into consideration all matters raised therein in finalizing my report.

The response from the Respondent and his legal counsel raised a number of issues, including:

- The Respondent (through legal counsel) submitted that I have no jurisdiction to continue with the investigation process because I did not issue an interim report within 90 days of the commencement of the investigation. The language of the Complaint Protocol cannot and does not eliminate the jurisdiction of an integrity commissioner to investigate and report on complaints. The Complaint Protocol does not indicate what relief might flow if an integrity commissioner does not provide an interim report within 90 days. However, it does not eliminate the statutory authority of my Office to investigate and report on allegations of a breach of the Code. I find that there is no prejudice or unfairness to the Respondent for the five business day delay in providing an update to him on the status of the investigation. I produced my draft report to the Respondent on August 8, 2022. From his comments on that report, it is clear that the Respondent was aware as late as July 15, 2022 that the investigation was ongoing.
- That the Respondent had not had a “reasonable opportunity” to review the audio recordings of his interview before responding to the draft report. It is my position that the Respondent was provided a reasonable opportunity to review the recordings:
  - On May 13, 2022, I notified the Respondent’s legal counsel, by email, that I would be willing to give the Respondent access to the audio recording when I provided him with copy of my draft report at the completion of my investigation. Specifically, my May 13, 2022 email included: “Should your client wish to review the audio recording of the interview to ensure consistency between the evidence provided and what is documented in the draft report, I will make arrangements to provide Councillor Chiarelli with an opportunity to listen to the

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comments as “initial responding comments.” I note, however, that the Respondent’s comments make reference to detailed matters and specific elements of the investigation and report. The Respondent’s comments include a request that I include in my report his Motion for Termination of the Investigation. I have not included the content of that Motion. My decision not to append the Respondent’s comments to my report, and not to include the contents of the Motion for Termination in my report, is rooted in my duty of confidentiality, set out in Section 223.5 of the *Municipal Act, 2001* (“the Act”). I have also exercised my authority under Subsection 223.6(2) of the Act to disclose in my report such matters as, in my opinion, are necessary for the purposes of the report.

audio recording at a mutually agreed upon location and at his convenience during the 5 business day period.”

- I provided the Respondent, by way of a secure file transfer application to his legal counsel, with a copy of my draft report at 1:45 p.m. on Monday, August 8, 2022, requesting his comments on the draft report by 5:00 p.m. on Monday, August 15, 2022. The Respondent’s legal counsel accessed the report at 2:10 p.m. on Monday August 8, 2022.
- At 12:51 p.m. on Friday, August 12, 2022, the Respondent’s legal counsel expressed interest in making arrangements for the Respondent to access the recordings. At 4:53 p.m. that day, I responded that I had made arrangements for the Respondent to listen to the recordings in-person at my Office on that Friday evening, or over the weekend. I asked for confirmation of a time when the Respondent could attend the Office. I did not receive a reply.
- At 11:06 a.m. on Monday, August 15, 2022, I emailed the Respondent’s legal counsel, stating that I expected to receive any comments on the draft report by 5:00 p.m. that day, and that if the Respondent wished to attend at my Office to listen to the audio recordings of his interview before that time, to please advise. I did not receive a reply.
- The Respondent disagreed with my assessment, set out in my draft report, that evidence the Respondent’s [family member 1] provided to the Investigator during an interview was not directly relevant to the allegations.

In response to this comment, I conducted a thorough second review of all evidence provided by the Respondent’s [family member 1]. After my review I confirm my assessment that [family member 1]’s comments made during the Respondent’s interview do not change my findings on the evidence received.

In general, [family member 1]’s evidence can be characterized as denying the allegations. [Family member 1] gave largely unsolicited evidence and was not independently interviewed. Rather, as part of the flexibility offered to the Respondent, [family member 1] participated in the Respondent’s interview with the Investigator.<sup>7</sup> The Respondent and [family member 1] communicated throughout the interview, with [family member 1] offering commentary on the Investigator’s questions and the Respondent’s responses. For these reasons, the Investigator

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<sup>7</sup> It is not typical for a support person to be an active participant in an interview.

did not receive a significant amount of independent evidence from [family member 1].

The following are some examples of [family member 1]'s comments during the Respondent's interview:

- [Family member 1] said to the Investigator that the Respondent is “the biggest nerd, he gets . . . all nervous if a person tries to hug him he just tightens up...”
- “You know, [names redacted] laughed to think that [the Respondent] was giving anybody fashion advice”
- “You wouldn't even notice” (in a comment to the Respondent as the Respondent was answering the Investigator's question about whether he had seen the Complainant wear a specific black shirt)
- After the Respondent described that he picked up the Complainant a couple of times for events and had to have the directions, [family member 1] commented: “He's not joking, he's terrible. When we [reference to past event] he couldn't find the way to my house (laughing)”
- “I'm just going to interject because I do know that, because I was there a couple of times, part of the thing was that often . . . [the Respondent's staff] would try to always get you embarrassed, and they would say stuff and see how embarrassed you'd get. They did that a lot to you.”

The Respondent's response to the draft report stated that [family member 1] was campaign manager in 2014, knew where the Respondent was at all times during that period and denied that he ever went to Montreal in that period. On review of the audio recording of the interview, I note that the Respondent and [family member 1] both said it would have been “impossible” and “absolutely impossible” for the Respondent to have been regularly attending nightclubs on a regular basis during the campaign period. “It's not possible. There isn't that much time in a day” [family member 1] commented.<sup>8</sup>

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<sup>8</sup> This comment was made in reference to the campaign period in general. When the Investigator asked the Respondent about traveling to Montreal with the Complainant, the Respondent's evidence was similar: that in the Fall of 2014, his campaign schedule would not allow for such activity. According to the Respondent, “from the minute I wake up until I crash to sleep every minute is planned.” Commenting on the allegation that the Respondent took the Complainant to Montreal during the period of the 2014 campaign, [family member 1] said: “And again, what would it be for? . . . Except make you tired.”

As demonstrated in this example and those listed above, [family member 1]’s evidence was not independent from that of the Respondent. It is my opinion that [family member 1]’s evidence is consistent with the Respondent’s, which I have considered in full. On its own, [family member 1]’s evidence did not impact my analysis of the evidence.

- The Respondent commented that emails sent to the Complainant by "Jeff Thomas" before she was hired by the Respondent, describing the nature of the job with the Respondent, are not part of the complaint and should not be in the report.

In response, I note that the primary purpose of relying on those emails in the Investigator’s report and my own report was to corroborate information from the Complainant about how she became an employee in the Respondent’s Office. The emails also confirmed that the Complainant’s actual job duties were consistent with the way they were described to the Complainant in the Jeff Thomas emails. The Investigator’s report stated that the evidence is unclear as to who is Jeff Thomas, and that it was an issue the Investigator did not need to determine for the sake of the investigation. I agree with that determination, and this report makes no findings in respect of the emails sent to the Complainant by Jeff Thomas.

- The Respondent stated that I had failed to provide his legal counsel with copies of emails from Jeff Thomas; however, I confirmed that I provided the document by secure file transfer to the Respondent’s legal counsel on June 10, 2022. The Respondent’s counsel viewed the attachment on the same day.
- The Respondent disagreed with a number of my findings and determinations that, as they are already addressed in this report, I do not address separately here. These include the qualifications of the Investigator, and the Respondent’s allegation that the Complainant is part of a political conspiracy. I considered each of the Respondent’s comments on these findings and determinations and confirm that they have not altered my findings.
- Finally on this matter, I have included additional comments in the body and footnotes of this report to address other matters raised in the Respondent’s response to the draft report.



# Analysis and Findings

## Analysis

The Complaint identified five specific allegations, the first of which I ruled outside of my jurisdiction to investigate.

The four remaining allegations are, as expressed by the Complainant:

- (2) On the evening of Sunday, September 13, 2013 [sic], Councillor Rick Chiarelli (my employer at the time), provided me with a sheer and revealing shirt, which he requested that I wear to an event that evening at the International Animation Film Festival. Furthermore, he expected me to change my attire in his car while in his presence;
- (3) In the Fall of 2013, Councillor Rick Chiarelli (my employer at the time), requested and instructed me to attend a romantic date with a volunteer that we met at the 2013 International Animation Film Festival. Mr. Chiarelli drove me to and from the date;
- (4) In the Fall of 2014, Councillor Rick Chiarelli (my employer at the time), offered to pay me between \$200-\$300 in cash to perform sexual acts on random men that I was instructed to find at night clubs in Montreal. Mr. Chiarelli planned these trips and drove me to and from Montreal on several occasions to meet men at night clubs; and
- (5) After confiding in Councillor Rick Chiarelli (my employer at the time) about a sexual assault that occurred to me, he discouraged me from reporting the assault to the proper authorities, threatened that my partner would abolish our relationship if he found out about the assault, and forbade me from seeking a licensed professional of my choosing to attend therapy and counselling for my mental health as a result of the assault. Furthermore, Mr. Chiarelli encouraged me to maintain a relationship with the only male witness of the assault for his own personal ... gain and amusement.

## Allegation 2

*On the evening of Sunday, September 13, 2013, [sic] Councillor Rick Chiarelli (my employer at the time) provided me with a sheer and revealing shirt, which he requested that I wear to an event that evening at the International Animation Film Festival. Furthermore, he expected me to change my attire in his car while in his presence.*

The evidence of the Complainant in relation to the misconduct alleged in Allegation 2 was summarized by the Investigator as follows:

- The Complainant's evidence is that Councillor Chiarelli picked her up at her apartment in his red Honda Civic, which the Councillor confirmed that he drove in 2013. The Complainant then states that they drove down the block from her apartment on Augusta Street in downtown Ottawa, to the parking lot of an Econolodge motel on the same street, and parked. We were able to confirm that, down the street from the Complainant's apartment on 141 Augusta Street, there is an Econolodge. Once parked, the Complainant states that Councillor Chiarelli gave her a black sheer shirt with a plunging neckline down to the navel. She could not recall if he asked her explicitly to put it on or whether she did so because she understood he wanted her to put it on.
- A photo of this shirt was provided by the Complainant to us. Based on the photo, in which the Complainant is wearing the shirt, we agree with the characterization that the shirt is sheer with a plunging neckline.

The Complainant denied that Councillor's [family member 2], or anyone else from his office, was in attendance at that particular event during the 2013 OIAF [Ottawa International Animation Festival]. The Investigator noted that the Complainant's evidence differed from the evidence she had given in the course of a prior investigation. In considering this issue, the Investigator wrote:

- The Complainant stated during our interview that she put the shirt given to her by Councillor Chiarelli on over her bra. This evidence differed from the evidence she gave in the course of the prior investigation with the OIC, which was that she took her bra off to wear the shirt in September 2013. When this inconsistency was put to her, the Complainant explained that she wore the shirt without a bra at some point, but simply could not recall if it was the first time that she wore it. Specifically, the Complainant explained that, after the 2013 OIAF, Councillor Chiarelli, in the course of one of those text exchanges about her outfits in advance of an event,

would have asked her to wear the same black sheer shirt without a bra. According to the Complainant, these interactions were all via text message, which she no longer has in her possession. We make no adverse finding on the basis that the Complainant did not have texts from nearly nine years ago and note that neither Councillor Chiarelli nor other witnesses interviewed were able to retrieve cell phone text messages from 2013-2014.

The Investigator summarized the Respondent's evidence as follows:

- Councillor Chiarelli denied this allegation altogether. According to Councillor Chiarelli:
  - He did not pick up the Complainant and said that he recalled parking by the Bytowne Cinema in 2013.
  - He asserted that he attended this event with the Complainant and his [family member 2].
  - Similarly, while he acknowledged that he may have driven the Complainant home, Councillor Chiarelli states that it would have been with his [family member 2] in the car.
  - Councillor Chiarelli also asserted that other staff attended this event with him and the Complainant, including [staff member 1], [staff member 2], [staff member 3], but that the Complainant may have thought she was alone at the event because the staff did not always interact, and she may not have noticed other staff there.
  - Lastly, Councillor Chiarelli advised that photos are taken at all events he attends, which would confirm his recollection and/or the Complainant's attire.
  - ...
  - Councillor Chiarelli was also provided a copy of the photo of the shirt and, while he denied giving the shirt to the Complainant, he did not deny that he had seen her wear it.
  - Notwithstanding his evidence that he may have seen the Complainant in that shirt, Councillor Chiarelli intimated that the allegation ought to be dismissed on the basis that anyone could have bought that shirt at any time, and for that reason, the Complainant ought to be disbelieved.

- When we requested to speak with [family member 2] to clarify this, we were advised by Councillor Chiarelli and his [family member 1] that [family member 2] had [personal reasons and did not wish to get] involved. We were therefore never able to confirm the Councillor's evidence.

In response to the Complainant's evidence, the Investigator noted that:

- ...Councillor Chiarelli took significant issue with the fact that the Complainant identified the event in question as having taken place on September 13, 2013, when the 2013 Ottawa International Animation Festival (OIAF) actually took place from September 18-22, 2013. In our view, the error in date is more likely than not a simple mistake. When the error was identified for the Complainant, she corrected her recollection. We note that the event took place nearly nine years ago, during and since which time the Complainant suffered significant traumas. Moreover, the Complainant did not have the benefit of counsel guiding her through the complaints process.

I add that September 13, 2013 was not a Sunday as identified by the Complainant. This was clearly a mistake.

The Investigator also heard and considered evidence relevant to the context of the allegation, though it did not relate to the specific incident. In particular, this evidence relates to the Respondent's oversight of the Complainant's attire and his opinions about what she could wear to events. The Investigator stated:

- The Complainant's evidence was that Councillor Chiarelli often expressed opinions about what she wore to events. According to the Complainant, he would not tell her to wear a specific outfit, but he would make suggestions about her outfit, and she would take pictures of what she planned to wear, send them to him, and he would critique her choices or give her feedback.
- In addition to her evidence on this point having been consistent since her initial interview with the prior OIC, her evidence is entirely consistent with the email exchange between the Complainant and the individual identified as "Jeff Thomas" prior to her hire by the Councillor. Mr. Thomas is the individual who initially described the job with Councillor Chiarelli (who was unidentified until the Complainant's interview). In that exchange, Mr. Thomas spent a significant amount of time discussing the outfits the Complainant would be willing to wear to events, if she got the job, in addition to providing suggestions on what to wear to her interview with the Councillor. The Complainant's description of the way in which Councillor Chiarelli would discuss her outfits after she was hired is very similar to

the nature of the discussion had with Mr. Thomas. While the evidence is unclear as to who is Jeff Thomas (an issue we do not need to determine for the sake of this investigation), the fact that the Complainant's appearance was central to her employment seems to be a consistent thread in the Complainant's evidence and one that is corroborated by some of the only documentary evidence that we received regarding her role and work with Councillor Chiarelli. It is also worth noting that, in his email exchange with the Complainant describing the job she would be interviewing for, Jeff Thomas raises the possibility of the Complainant being assigned outfits when he writes, "So what do YOU consider the skankiest top/bottom you would normally wear to a party at a club? Or would you like it being assigned?"

- In our interview with [Witness 2], she confirmed that the Complainant would often send pictures of her outfits to Councillor Chiarelli, and said that she knew this because she took many of those pictures and was in several of those pictures. While we note the reliability concerns in respect of the evidence [Witness 2] and the Complainant discussed prior to [Witness 2's] interview, nowhere in their Facebook Messenger conversation is there any mention of the Councillor Chiarelli's comments concerning the Complainant's attire. We therefore decline to make any adverse finding in respect of the reliability of [Witness 2's] evidence in that regard.
- Councillor Chiarelli did acknowledge that the Complainant (and others) may have texted him photos of her outfits to elicit his feedback. According to the Councillor, however, this feedback would usually have been with reference to the formality of the event and what constituted appropriate attire. Councillor Chiarelli's evidence is that he would typically refer the Complainant (and other staff) to the website of the event, or direct them to [staff member 3], who was a design student.

After reviewing this evidence, the Investigator accepted that "it is more likely than not that the Respondent did get pictures of and comment on the Complainant's attire prior to her attending events."

In weighing the evidence of the Complainant and of the Respondent, including the date error, the Investigator concluded:

#### Complainant's Credibility

- The Complainant's evidence in respect of this allegation was otherwise [other than the date error] clear and detailed. Where her evidence differs from Councillor Chiarelli's, we accept the evidence of the Complainant in respect of this allegation:

she recalled numerous and specific details about the event, including the time of day, the location of the event, and the sequence of events leading to her wearing the shirt in question.

- In particular, the Complainant was able to remember that she attended the event in the evening, at an event space known as St. Brigid's Centre for the Arts ("St. Brigid's"). The Complainant was able to provide us with the schedule for the 2013 OIAF and we note that, on September 21, 2013, the Awards Ceremony as well as the Awards After Party were held at St. Brigid's. Councillor Chiarelli did not deny that he attended the 2013 OIAF with the Complainant, including an Awards Ceremony and After Party at St. Brigid's. We conclude therefore that it is more likely than not that the Complainant was in attendance at an evening event at St. Brigid's the weekend of September 21, 2013.
- As noted above, we find the Complainant to be credible and, but for the bald assertion that the evidence could be contrived, there is no evidence that the Complainant fabricated the evidence in respect of the shirt. We also note that, in light of the Councillor's concession that he may have seen the Complainant wear the shirt while she was employed with him, we reject his attempt to undermine her credibility by suggesting that she later bought the shirt to fabricate this story.

#### Respondent's Credibility

[in reference to the Respondent's evidence that the Complainant may not have known that three other staff members were present at the Awards Ceremony and After Party at St. Brigid's]:

- While simply not credible, in particular because the Complainant and [staff member 1] worked at the Councillor's constituent office together once a week, this evidence is contradicted by the Councillor's own evidence that staff decided together who would attend various events and seems inconsistent with his description of staff's roles and responsibilities when attending events.
- Ultimately, we have a number of concerns with the credibility of Councillor Chiarelli's evidence in respect of this issue, and the Councillor had a number of opportunities to put forward corroborating evidence in support of his version of events, but did not do so.
- ...Councillor Chiarelli was unable to provide any documentary evidence of his version of events at the 2013 OIAF, whether through email, messages, calendar

records, or photo evidence from the event itself. In light of the credibility concerns we have outlined herein, we are unable to accept Councillor Chiarelli's evidence.

The Investigator concluded that “[o]n a balance of probabilities, ... this allegation has been substantiated.” The Investigator further wrote:

- Having consideration for the entirety of the evidentiary record in respect of this allegation, we find that it is more likely than not that Councillor Chiarelli provided the Complainant with the shirt depicted in the photo delivered with the Complaint after he picked her up to attend an evening event of the OIAF in September 2013.
- While the Complainant's evidence is not equivocal about whether the Councillor explicitly requested that she wear the shirt, or whether he explicitly asked her to change, we note that at the time in question, the Complainant was a 20-year-old [student] who was an employee of the Councillor's. Given his position of power, and the resultant vulnerability of the Complainant, compounded by her youth and complete inexperience in politics relative to his decades of political experience, we accept the Complainant's evidence that she interpreted the Councillor having pulled over and parked in a parking lot to give the Complainant the shirt as him indicating, as her boss, that she wear the shirt to the event they were about to attend in the course of her employment.”

In addition to the Investigator's Report, I have carefully reviewed the evidence in relation to Allegation 2, including the recorded interviews and documentary evidence. I accept the evidence of the Complainant and agree that, on a balance of probabilities, Allegation 2 is substantiated.

### **Allegation 3**

*In the Fall of 2013, Councillor Rick Chiarelli (my employer at the time), requested and instructed me to attend a romantic date with a volunteer that we met at the 2013 International Animation Film Festival. Mr. Chiarelli drove me to and from the date.*

The Investigator highlighted areas of agreement between the Complainant and the Respondent's evidence:

- the Complainant did in fact meet up with someone she met at the 2013 OIAF [Ottawa International Animation Festival]; and
- the Complainant communicated this to Councillor Chiarelli.

Accordingly, as set out by the Investigator, “the dispute turns on whether Councillor Chiarelli instructed the Complainant to [attend the date]”.

The Investigator's summary of the Complainant's evidence, in relevant part, is set out below:

- The Complainant's evidence is that, while at the OIAF in 2013, she met an individual named [name] who was connected to [company] in some fashion (her evidence is that she initially believed him to be an employee but later learned that he was a volunteer). At the time she met [name], the Complainant states that she was not with Councillor Chiarelli. She explains that her and [name] did not speak for long, but that she gave him her number.
- The Complainant's evidence is that she told Councillor Chiarelli about [name] on their way home from the 2013 OIAF event that evening. A couple of days later, [name] texted her and asked her to go on a date. The Complainant's evidence is that, when she told Councillor Chiarelli about [name] asking her on a date, he was "enthusiastic and encouraging" of her going on the date. The Complainant did not provide any evidence that Councillor Chiarelli explicitly requested or instructed her to attend a date with [name].
- The Complainant could not really recall any details about the date, including the month, day or time of the encounter, other than to speculate that it took place in the evening. One of the only details the Complainant was certain about was that Councillor Chiarelli drove her to and from the [restaurant], where she met [name].
- The Complainant did deliver in the course of our investigation, a Facebook Messenger message from an individual identified as "[name]" dated October 27, 2013. The Complainant's evidence, which we accept, is that [name] is the individual she met at the 2013 OIAF who asked her on a date. The Complainant thought the date occurred after this message. However, the Complainant's evidence in respect of the timing of this incident was unreliable. She initially described the Facebook message as having been received the weekend after she met [name], which, if at the 2013 OIAF, would have been the last week of September 2013. As the Facebook message is dated for the end of October 2013, she clarified during our interview confirming that the Facebook message must have been sent a month after she met [name]. The Complainant did not revise her evidence in respect of the timing of the date. However, if she went on the date after the Facebook message, that would have been over a month after [name] texted her asking to go on the date, which is not her evidence.
- The Complainant also states that she was "hesitant" to go on a date with [name], given that she was in a relationship, but agreed to go because of the Councillor's



enthusiasm. According to the Complainant, Councillor Chiarelli was adamant about driving her to and from the date, picked her up for her apartment, and dropped her off at the [restaurant] in Ottawa. Lastly, the Complainant's evidence is that, during the date with [name], she learned that he was only a volunteer with [company], which "upset" Councillor Chiarelli when she told him. According to the Complainant's evidence in the prior investigation, Councillor Chiarelli was "furious" in response to this information. The Complainant previously gave evidence that she "had never seen him so angry." When in our investigation, the Complainant described Councillor Chiarelli's reaction as being "upset," we put her prior evidence to her. In response, the Complainant's evidence was that she did not remember what Councillor Chiarelli said or what his actions were, but she remembered that he was disappointed and angry.

The Investigator summarized the Respondent's evidence as follows:

- Councillor Chiarelli's evidence is that he remembers the Complainant telling him that she met someone from [company] at the OIAF in 2013, who she was going to go for drinks with. Councillor Chiarelli does not specifically recall the Complainant telling him that she was asked to go on a date and denies encouraging the Complainant to do so. Councillor Chiarelli's evidence was that the Complainant seemed to perceive this person reaching out to her as a "success" and he was supportive of her. According to the Councillor, he did not dissuade her from going for drinks because it was not his place to do so. Councillor Chiarelli doubted that he drove the Complainant to the date but was not sure. He denied being adamant about taking the Complainant to the date and denied picking her up from her apartment. According to Councillor Chiarelli, if he drove her, it would have been from the office. His evidence (which was consistent with that of the Complainant as well as [Witness 2] was that he frequently drove around employees: he offered to and did pick up employees and drive them home, particularly if they had been drinking. Councillor Chiarelli also denied being upset about [name] being a volunteer with [company], and not an employee. He stated that "at worst, I would laugh."
- Councillor Chiarelli's own evidence is that he supported the Complainant's decision to attend the date, and that it was not his place to dissuade her.

The Investigator carefully considered the evidence and considered whether the Complainant was recasting this interaction with the benefit of hindsight. The Investigator wrote:

- Contrary to the evidence of those who interacted with her at the time who described the Complainant as proud, excited, and enthusiastic about her work with Councillor Chiarelli, the Complainant does not recall her experience with pride or enthusiasm. Having realized or come to understand some of her experiences with Councillor Chiarelli as manipulative or exploitative, this understanding seems to now inform her recollections of all of her interactions with Councillor Chiarelli.
- Having thoroughly considered the evidence, we conclude that it is more likely than not that Councillor Chiarelli did not instruct the Complainant to go on a romantic date with [name].
- At its highest, the Complainant's evidence is that Councillor Chiarelli was so enthusiastic about her having met a man who worked at [company], that she felt obligated to attend. The Complainant's own evidence falls short of describing Councillor Chiarelli as having requested or instructed her to attend the date with [name].
- Moreover, there is no corroborating evidence to support the Complainant's assertion that she was required or expected to attend a romantic date. While not determinative, given the following concerns with the Complainant's evidence, in the absence of corroborating evidence we cannot substantiate this allegation. Specifically:
  - Unlike other events described during the course of her evidence, the Complainant was unable to recall virtually any details about this event.
  - The Complainant's recollection about this event seems to be described with the benefit of hindsight, in light of her subsequent traumatic experiences in 2014. Specifically, her evidence that she was "hesitant" to go on a date is at odds with the balance of the evidence concerning her state of mind at the time in respect of her job with Councillor Chiarelli and her enthusiasm for the aspect of the job which involved going out and meeting men. Councillor Chiarelli's recollection that the Complainant viewed [name] reaching out to her as a "success" is consistent with the evidence of the Complainant's friends and boyfriend.
  - ...
  - The evidence of the Complainant concerning Councillor Chiarelli's reaction to finding out [name] was a volunteer, and not an employee, of [company] was

inconsistent with her evidence from the prior investigation.<sup>9</sup> This inconsistency is noteworthy, because, with few exceptions, her evidence in our investigation is nearly entirely consistent with her evidence in the prior investigation.

The Investigator concluded “[o]n a balance of probabilities, ... that this allegation is not substantiated.”

- On a balance of probabilities, we conclude that the preponderance of probabilities is that the Councillor Chiarelli did not instruct or request that the Complainant attend a romantic date with [name].
- Allegations #3 and #5 are prime examples of the impact of this change in perception. ... In both cases, however, the parties’ evidence is not entirely inconsistent. The crux of their divergence seems to be on the interpretation of the Councillor’s behaviour or alleged commentary. The Complainant, with the benefit of many years of separation, seems to have recast the interactions that underlie these allegations with the perception that the Councillor intended to abuse, exploit, and take advantage of her. There may very well be good reasons for her perception. However, we are required to make findings on a balance of probabilities in respect of these specific allegations and, on that basis, in light of the totality of the evidence we do have, we do not have the requisite evidence to substantiate this allegation.
- In addition to the concerns with the Complainant’s evidence noted above, there is no plausible reason that Councillor Chiarelli would have had an interest in the Complainant following up with [name], but failed to take a similar interest in any other man the Complainant met at bars, nightclubs, or events over the course of her employment.

I have carefully reviewed the Investigator’s report, interview recordings, and limited documentary evidence in relation to this allegation. I agree with the Investigator’s conclusion that on a balance of probabilities, this allegation is not substantiated. I am not persuaded that the Respondent required the Complainant to attend this date.

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<sup>9</sup> In the previous investigation, the Complainant had stated that Councillor Chiarelli was “furious” and she “had never seen him so angry” and in the current investigation, she stated that Councillor Chiarelli was “upset”.

## **Allegation 4**

*In the Fall of 2014, Councillor Rick Chiarelli (my employer at the time) offered to pay me between \$200-\$300 in cash to perform sexual acts on random men that I was instructed to find at nightclubs in Montreal. Mr. Chiarelli planned these trips and drove me to an[d] from Montreal on several occasions to meet men at night clubs.*

The Respondent denied this allegation in its entirety.

Analysis of this Allegation requires discussion of several factors. I will first set out the evidence regarding the specific allegation, and then consider evidence relevant to the context of the incident at the core of the allegation.

### **The Complainant and Respondent's Evidence about Allegation 4**

The Investigator summarized the Complainant's evidence as follows:

- The Complainant says that, in the midst of this period when he was harassing her about the [Nightclub] incident [as described below], Councillor Chiarelli came up with the idea to go back to Montreal where the Complainant was to find a man and do the same thing: perform oral sex in an effort to prove that she could this time make him ejaculate. The Complainant's evidence is that Councillor Chiarelli said that he would pay her approximately \$250 if she could get a man to ejaculate this time. The Complainant says that she initially rejected the suggestion, saying "We don't need to do that" or that she made up excuses to avoid going to Montreal, whether it was family visiting or her school exams.
- The Complainant states that, at this point, she had been to Montreal with the Councillor 1 or 2 other times to attend nightclubs and late-night bars as she routinely did in Ottawa.
- In terms of the details of the evening in Montreal where the Complainant alleges that she again performed fellatio on a man, this time at Councillor Chiarelli's request or in response to his "dare", the Complainant's evidence is that Councillor Chiarelli picked her up in his red van from her apartment and they drove to Montreal. According to the Complainant, Councillor Chiarelli dropped her off at the nightclub and he stayed outside. She recalls that she was wearing a sleeveless shirt, cut out on the sides, without a bra, and a short black skirt. The Complainant described the shirt as having a photo of a woman's breasts wearing a bra with a zombie hand. After her interview, the Complainant forwarded to us a picture of the shirt.

- The Complainant says she remembers going to the bar and meeting two men, one of whom commented on her shirt because it was revealing on the side. She recalls texting with Councillor Chiarelli who told her to bring one of the men outside and Councillor Chiarelli would meet them at the entrance. The Complainant says that it still bothers her that it took a lot of convincing to get the man to come out of the club with her, as he did not want to come. She said she explained to the man that her boss would pick them up and that the man he was nervous and frightened. She did convince the man to go with her but could not recall how she ultimately persuaded him. According to the Complainant, the man did not understand that she was going to perform oral sex on him, she does not believe he understood what was happening. The Complainant states that the other man stayed behind at the nightclub.
- The Complainant recounts that they did the same thing as they had done the night Councillor Chiarelli picked her up from [Nightclub] in Ottawa: her and the man started kissing in the back seat of Councillor Chiarelli's van and she performed oral sex on him while Councillor Chiarelli drove around downtown Montreal. According to the Complainant, the man eventually said he was not going to ejaculate, and Councillor Chiarelli dropped him off back at the nightclub. The Complainant states that she then got into the front seat of the van and changed her shirt to a black sheer top, which she also provided a picture of in the course of her evidence. Councillor Chiarelli then dropped her off at another nightclub, but it was closed. According to the Complainant, they then drove home and arrived in Ottawa between 4am-7am. The Complainant could not recall any discussion between Councillor Chiarelli and her on the drive back, and does not recall if they ever discussed the trip again. According to the Complainant, Councillor Chiarelli never harassed her about being bad at oral sex again.
- The Complainant did not recall the names of either nightclub they attended on this trip to Montreal, or the names of the men she was speaking with, and she could not recall if she got their contact information. The Complainant similarly could not recall what, if any, discussion took place between her, the man, and Councillor Chiarelli in the van . . . After she began to perform oral sex, the man told her that he was not going to be able to ejaculate, though the Complainant could not remember if he told her why, and they dropped him back at the nightclub. The Complainant says she felt uncomfortable, embarrassed, ashamed, and disgusted. She said she was afraid because she had "failed" to do what she was supposed to

do (by failing to make the man ejaculate) and was scared that Councillor Chiarelli's harassment would continue.

- The Complainant says that she has some memory of turning around during her sexual interactions with this man and again seeing Councillor Chiarelli's eyes in the rearview mirror, but she states that he was not reacting in any way. She also recalled that, at one point while she was kissing the man, she was sitting on his lap and her skirt was pulled up over her hips. According to the Complainant, she was aware and uncomfortable that Councillor Chiarelli had seen that.
- When asked about why she agreed to participate in this trip, the Complainant said that she was hoping that once she agreed to participate "the harassment would stop." When asked about whether she reflected on this being a normal relationship with a boss, the Complainant explained that the whole time she knew that this was not normal. According to the Complainant, this event occurred after she had been sexually assaulted and her mental health was very poor at the time: she had no regard for her well-being or safety, and she believed that she was worthless and a bad person. The Complainant states that, at that point, she was just numb to everything and did not care anymore.
- The Complainant's evidence about the timeline of this trip was not clear. Initially she said that she put off the trip for months, but that at one point, she thought in the summer of 2014, Councillor Chiarelli picked a date and told her they would go to Montreal on that date. She thinks he picked a date 2-3 months later, and likely in September 2014. When it was put to the Complainant that there was a municipal election in October 2014, she explained that they must have gone in September because her boyfriend, [Witness 3], discovered that she had been sexually assaulted in October 2014, right after Thanksgiving. According to the Complainant, she would not have gone to Montreal with the Councillor after that as her relationship was too rocky.
- When this [the Councillor's explanation that he would have had no time because he was in the middle of an election campaign] was put to the Complainant, her explanation is that all of this happened at night, and he had time to do this in the middle of the night and continue with his election work the next day. The Complainant explained, and Councillor Chiarelli agreed, that he does not require a lot of sleep.
- We pressed the Complainant about the timeline of the incidents that took place in the Summer/Fall 2014, but the Complainant simply could not remember dates or in

what proximity to other events things took place. According to the Complainant, she cannot recall much from that period other than the traumatic events themselves, such as her sexual assault (discussed further below) which likely occurred on June 27, 2014. She was fairly confident that the trip to Montreal took place in the Fall of 2014, and that it was a couple of months after the incident at [Nightclub] because she tried to avoid going for a period of time. She also said that she believed all of the sexual encounters described in the course of this investigation from 2014 came after her sexual assault, which she believes was the catalyst of her increasingly risky behaviour.

The Investigator summarized the Respondent's evidence as follows:

- Councillor Chiarelli denies that he offered to pay the Complainant for oral sex and denies her account of the incident entirely.
- Councillor Chiarelli's evidence is that all of this allegation is very improbable given that, in the run up to an election, which there was in October 2014, there is no time to be going to Montreal to attend nightclubs. He does not recall any meetings being set up during the election period and says he tried to avoid meetings anywhere after 5pm because, during that time, he needed to be knocking on doors, canvassing. He doubted very much that he had any time to travel to Montreal between August and October 2014.

#### **Background to Allegation 4 – Key Contextual Information**

In considering this allegation, the Investigator considered relevant evidence in relation to a number of contextual factors.

First, the Investigator determined that there was significant corroborating evidence that attending nightclubs with the Respondent was part of the Complainant's job. The Complainant's evidence is that she was required "to regularly attend nightclubs with Councillor Chiarelli to meet people, though mostly men, and to get their contact information for future use by his office or campaign." The Respondent disputed that this was part of her job.

The Investigator summarized the Complainant's evidence as follows:

- According to the Complainant, she attended nightclubs with Councillor Chiarelli once a week for the majority of her employment – usually on Friday or Saturday night – and about 20% of the time, she attended nightclubs with Councillor Chiarelli on both Friday and Saturday night.

- The Complainant's evidence is that she worked on average 15 hours per week for the Respondent, with the arrangement being that she would work 10 hours during the week at the Office and the balance of her hours on the weekends attending events, including going to nightclubs. In the summer, she increased her hours to full-time.<sup>10</sup>
- The Complainant's evidence is that a typical evening would start with Councillor Chiarelli picking her up from her apartment around 10 pm either in his red Honda Civic or a red van. She did not recall the make and model of the van. She says that she would normally wear a short skirt or short dress with a sheer top and high heels. Councillor Chiarelli would drop her at the door of the club, she would go in alone, and he would follow her in after he parked the car. According to the Complainant, she most often went to a nightclub in Ottawa called [Nightclub]. At the club, the Complainant said that she would stand at the bar and wait for someone to approach her. They may offer to buy her a drink and she would chat with them. She explained that she did occasionally meet other women but usually she met men. According to the Complainant, her job was to use her sexuality to get contact information from these people because Councillor Chiarelli wanted to use them as volunteers in the election.
- The Complainant's evidence is that Councillor Chiarelli would typically be at the nightclub and would order a diet Coke and stand on the second floor to watch her. She believes that Councillor Chiarelli liked going to [Nightclub] in part because it had a second-floor balcony from which he could watch her on the main floor of the club. Her evidence is that they would be texting throughout the evening, which would last about 3 hours. After they left the nightclub, The Complainant's evidence is that either Councillor Chiarelli would drive around downtown Ottawa for hours or they would go get food and then drive around for a bit before he would drop her at home.

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<sup>10</sup> Records obtained during the investigation confirmed that, outside of the summer months when her hours increased to 35 hours weekly, the Complainant was paid on average for 20-25 hours per week of work and that her pay fluctuated fairly regularly. In light of the Complainant's evidence and no contrary evidence from the Respondent that the Complainant committed to 10 hours of office work and the balance of time at events including bars and nightclubs, the Investigator concluded that the pay records are consistent with the Complainant's evidence that, as part of her job with the Respondent, she went out once or twice a week regularly to bars and nightclubs with the Respondent.



The Investigator summarized the Respondent's evidence as follows:

- Councillor Chiarelli evidence is that he “did not think” that he attended any nightclubs or bars with the Complainant, other than to attend political events that were hosted at nightclubs or bars. According to Councillor Chiarelli, there were few of these, but he did provide some examples. Councillor Chiarelli also states that, as the Complainant was a part-time employee, she was not his primary choice to attend events. If they did attend events at nightclubs, Councillor Chiarelli said that they were usually over by 11pm, after which he would normally drive staff home or may occasionally go get food. He denied regularly attending [Nightclub] with the Complainant, and initially denied driving her around Ottawa after nights out, but said that he might have driven around with the Complainant “because [his] directions aren't that great” or, if the Complainant wanted to, to brief her on issues since, according to Councillor Chiarelli, the Complainant had a lot of questions.<sup>11</sup>
- Councillor Chiarelli is adamant that the Complainant's evidence on her being required to attend nightclubs as part of her job with his office does not make sense because attending nightclubs and flirting with men does not work as a political volunteer recruitment tool.

The evidence of other witnesses corroborated the Complainant's version of events. As noted by the Investigator:

- [Witness 3], who lived with the Complainant from 2013-2015 except when he was up north working as a [job title] in the summer months, said that the Complainant went out to [Nightclub] and other “late night bars” with the Councillor 2-3 times per month, pretty consistently in the first year of her employment. [Witness 3] said that the Complainant explained that it was her job to go to events, including nightclubs and bars, approach people, try to have a conversation, share contact information, and try to keep in touch for the purpose of recruiting volunteers for the Councillor's campaign.

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<sup>11</sup> In his response to the draft report, the Respondent stated that “driving around and answering the complainants [sic] questions should not be used as proof that [he] expected her to attend night clubs as part of her job and . . . it was inaccurate to characterize after-work-hour events as trips to clubs or bars since they were very infrequent and, when they occurred it was simply because those were the venues of specific events.” The Respondent also provided examples of fundraisers that took place in bars. I see no problem with the notion of official fundraising events that happened to take place at bars. As set out in this report, however, the evidence in support of Allegation 4 indicates that it was part of the Complainant's job, as a staff member for the Respondent, to attend nightclubs and bars to flirt with men in an attempt to recruit volunteers for the Respondent.

- According to [Witness 3], who was at their home on occasion when the Complainant would go out in the evenings, she would get picked up by Councillor Chiarelli around 9 or 10pm and would return home between 2am-4am. According to [Witness 3], he understood that Councillor Chiarelli also dropped off the Complainant at the end of the evening. [Witness 3] said that he would sometimes be awake or coming off a shift from the [place of employment] as the Complainant was coming home, so they would meet up at the end of the night.
- Both of the Complainant's friends, [Witness 1] and [Witness 2], understood the Complainant's job to be to attend bars and meet people on behalf of Councillor Chiarelli. Specifically:
  - [Witness 2] said that the Complainant would invite her to bars by telling her that she was asked to "work" that evening, which [Witness 2] understood to mean going to the bar for Councillor Chiarelli. As noted above, [Witness 2] said that she was told by the Complainant at the time that her job was to go to bars to meet different men and good-looking women and get their contact information by flirting with them at the bar, sharing her business card with them, or adding them on Facebook. [Witness 2] understood that Councillor Chiarelli, the Complainant's boss, had asked her to do this to "get constituents".
  - [Witness 1]'s evidence is that she understood that Councillor Chiarelli was looking for the Complainant to help get the younger demographic to vote for him and had asked the Complainant to do this by going to bars. [Witness 1] accompanied the Complainant on one occasion when they went to a bar in the Byward Market, which she thought was [Nightclub 2], though she could not recall. [Witness 1]'s evidence is that Councillor Chiarelli was at the bar, and that she understood the outing to be a type of "try out" to see if she could successfully get people to vote or talk to Councillor Chiarelli. If she was successful, [Witness 1] understood that this could lead to continuing to work for Councillor Chiarelli in a similar capacity.
- Both, [Witness 1] and [Witness 2] attended bars with the Complainant, while she was working and while Councillor Chiarelli was in attendance for some or all of the evening

The Investigator accepted the evidence of the Complainant in regard to the nightclub attendances and concluded that “the Councillor’s evidence in this regard is simply not credible. The preponderance of evidence is very much that the Complainant was in essence hired (at least in part) to attend events and, in large part, these ‘events’ turned out to be nights out at the bar or nightclubs with the Councillor.”

In reaching that conclusion, the Investigator relied on the statements of the witnesses, as well as the following evidence:

- The description of the role set out in the email conversation between the Complainant and Jeff Thomas highlights the importance of attending events. While Mr. Thomas talks about there only being a couple of “wild parties” per year, he also references, distinct from the conversation about “wild parties,” having the Complainant go to the “club” – asking if she is “good at initiating contact with guys at clubs?” and whether her boyfriend, [boyfriend’s name], will “mind if/when [she is] sent to a club?” In our view, it is clear that attending clubs was one of the responsibilities contemplated for the Complainant even prior to her hire by Councillor Chiarelli.
- In deciding whether she was appropriate for “this job,” Councillor Chiarelli suggests in his email on June 23, 2013, that the Complainant attend “trial events,” suggesting that attending events would be an important part of her employment.
- Councillor Chiarelli’s own evidence that:
  - he did not drive the Complainant around downtown Ottawa, and simultaneously his evidence that the Complainant had a lot of questions, and that he would sometimes drive around and brief her on issues, if she wanted to.
  - on one occasion he drove the Complainant home from a bar they were attending with a man who she had a sexual encounter with, in his back seat. Councillor Chiarelli’s concession in this regard is entirely inconsistent with his evidence that he never attended nightclubs with the Complainant past 11pm.
- Given the preponderance of the evidence, whether or not the explanation provided to the Complainant for why she was asked to attend nightclubs on behalf of Councillor Chiarelli makes sense [to flirt with men and recruit volunteers], is not determinative of this allegation.

I agree with the Investigator’s conclusion that “...we simply do not accept Councillor Chiarelli’s evidence that he did not attend nightclubs with the Complainant, outside of political events, as part of her job with his office. We conclude that it was part of the

Complainant's job, as a staff member for Councillor Chiarelli, to attend nightclubs and bars to flirt with men in an attempt to recruit volunteers for future use by the Councillor."

Second, the Investigator accepted the Complainant's evidence that the genesis of the Councillor's proposal to pay her to perform fellatio on a man was a joke. The Complainant's evidence was that she had met a man at a bar who wanted to go home with her. When she told the Respondent, he said words to the effect of "'no, you're not going home with him". However, the Respondent proposed to give them both a ride home. The Complainant and the man got in the back of the Respondent's van and were kissing. In summary of the Complainant's evidence, the Investigator wrote:

- The Complainant's evidence is that they got into the van, in the back seat, and started kissing while Councillor Chiarelli drove them around downtown Ottawa. According to the Complainant, she was slightly intoxicated. She says she then began to perform oral sex on the man, but he was unable to ejaculate because he was frightened and nervous, given Councillor Chiarelli's presence. The Complainant could not recall how the sexual interaction was initiated but states that Councillor Chiarelli did not say anything at all while it was happening. She said that she thought Councillor Chiarelli was watching her perform fellatio on this man in the backseat of his car because she remembers turning her head and seeing his eyes in the rearview mirror. The Complainant states that she does not recall Councillor Chiarelli having any reaction, but that he just kept driving.

The Investigator summarized the Respondent's evidence as follows:

- Councillor Chiarelli did recall that, on one occasion, the Complainant asked if he could drop off a man who she had met at a club. He thought they may have been making out in the back seat but was not sure because he was not watching. He said he "doubted" that the Complainant performed oral sex on the man in the back seat of his car, but did not know for certain. Councillor Chiarelli concurred that they dropped the man off and the Complainant did not go with him. Councillor Chiarelli could not remember what event they were attending or when the event took place. He also could not recall where they dropped the man off that evening.

The Investigator concluded that:

- It seems highly improbable that the Councillor would remember driving the Complainant and an unknown man around downtown Ottawa after leaving a nightclub, remember that they might have been kissing, but would lack certainty as to whether or not his 20-year-old female employee was in the back seat of his van performing fellatio on that strange man. For Councillor Chiarelli's evidence to be

that he “doubts” but is not sure that she was engaging in such sexual conduct is simply not credible. Similarly, to not recall the political event after which this occurred, given his evidence that he only attended political events with the Complainant, is also not credible. In light of the Complainant’s evidence that this was one of their routine nights out at [Nightclub], and not a particular political event, in addition to the corroboration by three other witnesses that the Complainant routinely ‘worked’ at bars for and with Councillor Chiarelli, we prefer the Complainant’s evidence in this regard.

- Moreover, we note that it was noticeably difficult and painful for the Complainant to disclose that, while she was in a relationship with her now fiancé, she met a man and engaged in a sexual encounter in the back seat of her boss’s van. This was not an encounter she looked back on with pride or enthusiasm. In fact, the Complainant was noticeably uncomfortable, remorseful, and experiencing significant shame when describing this incident in her interview and confirmed that she still has not shared information about this event with her now fiancé. The purpose of her disclosing this incident is, as is elaborated below, to explain the context for the Councillor’s subsequent offer to pay her to perform fellatio on another man.

### **Further Background to Allegation 4 – the Respondent’s Teasing of the Complainant**

After this incident, the Complainant alleges that the Respondent began to make jokes about her inability to get the man to ejaculate. The Investigator summarized the Complainant’s evidence about writing to her ex-boyfriend to have him contact the Respondent and (hopefully) end the teasing:

- According to the Complainant, after this first incident of performing fellatio on a man in the backseat of Councillor Chiarelli’s van, Councillor Chiarelli teased her through text message constantly about being unable to get the man in the back of his van to ejaculate and about being bad at oral sex. She says the teasing got so bad at some point that she sent her ex-boyfriend, [Witness 4], a text with Councillor Chiarelli’s phone number and asked [Witness 4] to send a message to that number to confirm that the Complainant was not bad at oral sex. According to the Complainant, she made up a story for [Witness 4], saying that a friend was teasing her about being bad at oral sex. The Complainant’s evidence is that [Witness 4] did not know who he was texting, but she thought that he did send the text because

she remembers Councillor Chiarelli telling her that a “random number” texted him saying that the Complainant was good at oral sex.

- The Complainant advised that her and [Witness 4] have stayed in occasional contact, the last time they spoke being about a year ago. The Complainant did not have any texts with [Witness 4] from the relevant period of time, however, she was able to provide us with [Witness 4]’s contact information and we were able to interview [Witness 4], who currently lives abroad.

The Investigator summarized the Respondent’s evidence with regards to the alleged teasing as follows:

- Councillor Chiarelli denied joking with the Complainant about her being bad at oral sex. He also states that he could not remember anyone texting him about her being good at oral sex and was unaware that she had reached out to her ex-boyfriend asking him to text Councillor Chiarelli.

The Investigator summarized the evidence of the Complainant’s ex-boyfriend:

- [Witness 4] was a very compelling witness. Due to the passage of time, it was clear that [Witness 4] struggled to recount specific details, but he seemed to make a genuine and concerted effort to provide us with clear, honest, and direct answers to our questions, even when that meant simply confirming that he did not know or could not recall something. We have no concerns concluding that [Witness 4] was a credible witness.
- [Witness 4] advised that he and the Complainant met in high school and had a relationship that would have been sometime between 2009 and 2010.
- From 2013-2015, [Witness 4] said that he and the Complainant would sporadically reach out to one another, usually once or twice a year. They had been through difficult times together, which [Witness 4] described as “sort of the reason for [their] annual or semi-annual check-ins, to see how we were doing.”
- According to [Witness 4], if he was in Canada, he and the Complainant would communicate through text message. After he left Canada for [abroad] in 2019, they would communicate by Facebook Messenger and, on one occasion, when he was in Ottawa, they went for a walk and the Complainant did talk about her work with Councillor Chiarelli. He described their current relationship as friends and acquaintances, stressing that they do not keep in constant communication – they sporadically check in.

- [Witness 4]’s evidence is that he did remember the Complainant reaching out to him to ask whether she was good at oral sex. He could not remember when, other than it would have been prior to the Summer of 2016 as he remembered being in a prior relationship at the time she reached out. [Witness 4] said that he believed her request came via text message and he did not think it was part of their periodic check-ins. He remembers being surprised because the message seemed out of character for the Complainant. He remembers answering her and asking her why she was asking. [Witness 4] could not remember what the Complainant said other than he thinks she said that she had concerns that she was not good at oral sex. [Witness 4] inquired if the question related to her relationship (with [Witness 3]...), but he could not recall if there was much conversation beyond that. [Witness 4] thought it seemed familiar but could not specifically remember the Complainant asking him to do anything as part of that request for feedback on whether she was good at oral sex. When it was put to him directly that the Complainant states that she asked him to text a phone number to confirm that she was good at oral sex, [Witness 4] could not recall or confidently confirm that this happened. [Witness 4] said that he did not have copies of this correspondence and would have deleted that conversation in any event as he was in an active relationship at the time.

The Investigator concluded that [Witness 4] was a credible and reliable witness, and wrote:

- While [Witness 4] could not confirm that he texted Councillor Chiarelli, or any phone number, after the Complainant’s inquiry, he was able to confirm that the Complainant reached out to inquire about her fellatio skills. Given the passage of time, and [Witness 4]’s clear and genuine attempts at recalling specific details from the exchange, we are confident that [Witness 4] is a reliable witness, and accept his evidence in full.

The Investigator determined that it was more likely than not that the Respondent teased the Complainant about her ability to perform fellatio:

- Given [Witness 4]’s ability to corroborate the Complainant’s anxiety around her inability to successfully perform fellatio, and in light of the credibility concerns we have about Councillor Chiarelli’s evidence in this regard, we prefer the Complainant’s evidence and accept that it is more likely than not that after the sexual encounter with a man in Councillor Chiarelli’s van after a night out at [Nightclub], Councillor Chiarelli teased the Complainant about her ability to perform fellatio.

Having accepted the Complainant's evidence that she did often go to nightclubs for work and that the Respondent had teased her about her ability to perform fellatio, I turn to the details of Allegation 4.

### **Analysis of Allegation 4**

The Respondent denied the allegation and raised issues about the timing of the alleged trip to Montreal. The Investigator considered the Complainant's evidence and analysed this issue as follows:

- In respect of this allegation, the Complainant's timeline is the most concerning. There was a municipal election on October 27, 2014. The Complainant's evidence is that this event most likely took place before Thanksgiving (October 13, 2014) as right after that is when [Witness 3] went through her phone and discovered that the Complainant had a relationship with [band member] (which is discussed below). [Witness 3] also learned about the Complainant's sexual assault at this time, and there seems to be consensus among the parties that, after the election, the Complainant made it clear that she was not going to stay on with Councillor Chiarelli.
- Though bizarre, it seems possible that Councillor Chiarelli, more than two weeks and possibly a full month prior to an election, left Ottawa for an evening to attend a night club with his young staffer. Our skepticism of his evidence in respect of his outright denial is informed by the Councillor's unreliable evidence on the related issues of the Complainant's role in attending events, and notably bars and nightclubs, and her performing oral sex in his van after a night out at [Nightclub] (both canvassed above). We similarly have concerns with the Councillor's response to the Complainant's assertion that they attended Montreal on a number of occasions to attend nightclubs, as they had in Ottawa. In particular, the Councillor does not deny that they went to Montreal together (though he was not sure whether they had or not) or that they attended nightclubs. Rather, his evidence is that *he did not think* that he had been to a nightclub with the Complainant in Montreal, but he recounted that on one occasion he needed to use the washroom and, because most places had closed their washrooms, he went into a club to use the washroom. He could not recall if the Complainant did the same, and *did not think* that the Complainant attended clubs in Montreal without him, as *he did not think* he would have waited for her. Given Councillor Chiarelli's otherwise problematic evidence on this issue, it is highly unlikely that he would not



know whether he attended a nightclub in Montreal or whether he drove around for hours while the Complainant did.

The Investigator determined that “on a balance of probabilities, ... this allegation is substantiated”.

- In respect of the specific allegation that Councillor Chiarelli offered to pay the Complainant to perform fellatio on a man at a nightclub, we find the allegation to be substantiated.
- As with all of the allegations, much of the Complainant and Councillor Chiarelli’s communication occurred over text, for which there is no record 8-9 years later. There is similarly no corroborating evidence in respect of Councillor Chiarelli’s offer to pay the Complainant if she could make a man ejaculate after fellatio, or the second incident of the Complainant performing fellatio. However, there is sufficient corroboration of the circumstances that the Complainant says led to this event, including her regular attendance at nightclubs with Councillor Chiarelli and her being teased or harassed about being bad at oral sex. Having consideration for the totality of the evidence, including the lack of credibility in the Councillor’s position that the Complainant did not attend nightclubs as part of her job (in Ottawa as well as in Montreal) and that he did not ‘think’ she performed fellatio in the back seat of his van, we conclude that it is more likely than not that the Complainant’s evidence that Councillor Chiarelli in effect dared her to perform oral sex on a second man in Montreal, is true and accurate.
- We want to be clear that we have no evidence that performing fellatio was a part of the Complainant’s job, a routine occurrence, or that Councillor Chiarelli did in fact pay the Complainant any money. The Complainant’s evidence is very much that Councillor Chiarelli capitalized on her lapse of judgment following the incident after [Nightclub] during which she voluntarily performed oral sex on a man she had just met. Councillor Chiarelli, whether maliciously or not, which we do not need to determine, teased the Complainant about the experience, and convinced the Complainant, his young and vulnerable employee at the time, to engage in such behaviour again.”
- Councillor Chiarelli denies that he offered to pay the Complainant for oral sex and denies her account of the incident entirely. Councillor Chiarelli was adamant that this allegation was improbable, if not impossible, because it was said to have occurred in the early Fall of 2014, in the run up to the municipal election. Councillor Chiarelli repeated on a few occasions that he needed to be knocking on doors

every evening and could not be attending night clubs with the Complainant, let alone driving her to nightclubs in Montreal. However, we note that the Complainant's evidence was that her evenings out with Councillor Chiarelli did not begin until 10 pm and that they would be back in Ottawa by 7am the next day, well outside the time when a politician could be canvassing door to door.

I have carefully reviewed the Investigator's Report, the recordings of the interviews, and the limited documentary evidence. I conclude, on a balance of probabilities, that Allegation 4 is substantiated.

## **Allegation 5**

*After confiding in Councillor Rick Chiarelli (my employer at the time) about a sexual assault that occurred to me, he discouraged me from reporting the assault to the proper authorities, threatened that my partner would abolish our relationship if he found out about the assault, and forbade me from seeking a licensed professional of my choosing to attend therapy and counselling for my mental health as a result of the assault. Furthermore, Mr. Chiarelli encouraged me to maintain a relationship with the only male witness of the assault for his own personal... gain and amusement.*

The Investigator noted that there are "many points of agreement between the Complainant and Councillor Chiarelli" in respect of the evidence on this allegation. As noted by the Investigator, there is no dispute that:

- Councillor Chiarelli was aware of the Complainant having gone to a party after a [band] concert in [location] at the end of June 2014;
- Councillor Chiarelli was aware that the Complainant engaged in some intimate contact with a member of the [band] at a hotel after the concert;
- The Complainant disclosed to Councillor Chiarelli having been sexually assaulted by a separate person affiliated with the band at the same hotel after the [concert];
- Councillor Chiarelli and the Complainant discussed her disclosing the sexual assault to her boyfriend at the time;
- Councillor Chiarelli had concerns that the Complainant's boyfriend would not react well to the disclosure; and
- Councillor Chiarelli did offer to help find a counsellor for the Complainant to speak to after her sexual assault.

The Investigator described the area of dispute: “[t]he crux of this allegation turns on the characterization of Councillor Chiarelli’s words and actions” and “[w]here the evidence diverges between Councillor Chiarelli and the Complainant is in respect of what Councillor Chiarelli told the Complainant in response to her disclosure of being sexually assaulted.” There is no corroborating evidence in respect of the oral conversation between the Complainant and the Respondent, so the Investigator had to determine whose version of events was more likely than not to have taken place.

The Investigator noted that they “must determine whether it is more likely than not that Councillor Chiarelli:

- Discouraged the Complainant from reporting the assault to the proper authorities,
- Threatened that her partner would abolish their relationship if he found out about the assault;
- Forbade her from seeking a licensed professional of her choosing to attend therapy, and
- Encouraged her to maintain a relationship with [band member] for his own personal gain and amusement.

In addition to the above agreed-upon evidence, the Investigator summarized the Complainant’s evidence:

- According to the Complainant, she decided to reach out to Councillor Chiarelli about the assault because she was having a hard time and her mental health was declining. She states that she did not know what else to do and, at that time, saw Councillor Chiarelli as “a father figure...”. The Complainant’s evidence was that she trusted Councillor Chiarelli and that, at the time, he was the person she spoke to the most. She says that, because he was in his late 40s and had daughters around her age, she thought that he would be able to give good advice about what she should do. According to the Complainant, she told Councillor Chiarelli what happened, and expressed to him that she thought that she needed to seek out counselling. She says that she also told the Councillor that she was “struggling” to decide whether she should tell her boyfriend, [Witness 3], and asked for Councillor Chiarelli’s advice.
- The Complainant’s evidence is that, in response, Councillor Chiarelli told her that she probably should not tell her boyfriend about the sexual assault because “men don’t deal well with things like that.” The Complainant says that she was worried about her boyfriend leaving her, which Councillor Chiarelli agreed was a possibility.

According to the Complainant, based on Councillor Chiarelli's response, she decided not to tell her boyfriend that she was sexually assaulted at that time.

- The Complainant further states that Councillor Chiarelli purportedly expressed that he did not want her to seek counselling from someone of her choosing. According to the Complainant, Councillor Chiarelli was worried that the story of her sexual assault would get out because of it being associated with a high-profile person or celebrity and that he did not want to be associated with that. The Complainant's evidence is that Councillor Chiarelli said that, if she "really" wanted to speak to someone, he would find someone for her to speak to. She assumed he wanted to find someone he trusted.
- The Complainant confirmed that she did not, at that time, have any specific person in mind that she wanted to speak to and that she never took Councillor Chiarelli up on his offer to find her someone to speak to. She ultimately did not disclose the details of the sexual assault to a mental health professional until very recently in 2021.
- According to the Complainant, Councillor Chiarelli did not express any concern for her well-being but allowed her to take two weeks off, with pay.
- As part of her evidence, the Complainant described and delivered an email exchange with [Witness 2] dated July 4, 2014, wherein the Complainant discloses to [Witness 2] that she "fooled around with the bass player" of [band]. The Complainant explains to [Witness 2] that "I used to have a HUGE crush on him back in like grade 5 ...". The Complainant is, in the course of this email exchange, what can only be described as excited about her interaction with [band member]. To be very clear, [band member] is not the man who assaulted the Complainant. The Complainant's clear evidence is that, on the night she attended the hotel after party with the band and gave [band member] her phone number, she engaged in consensual sexual encounter with him and was also assaulted by a crew member of the band. This contemporaneous email exchange is consistent with Councillor Chiarelli's recollections of what she disclosed to him at that time (set out below).
- The Complainant's evidence is that Councillor Chiarelli encouraged her to maintain contact with [band member], even though the Councillor knew that [band member] was a witness to her sexual assault, but she could not recall how he encouraged her.
- According to the Complainant, Councillor Chiarelli was impressed by her relationship with [band member]. She explained that, when Councillor Chiarelli was

happy with her, he would treat her like the favourite and, when all of this was taking place, he was treating her like the favourite which encouraged her to keep going as it was getting her a lot of attention and approval from Councillor Chiarelli.

The Investigator summarized the Respondent's evidence:

- Councillor Chiarelli recalled the Complainant telling him about an after party she attended with the band. He thought she told him that it was really wild and that she was the only or one of the only women with about five men at the party. He could not recall how she told him this; he did not remember if he was texting with the Complainant that evening, and thought the Complainant phoned him. According to Councillor Chiarelli, the Complainant idolized the band as a teenager and was quite excited about this experience. Councillor Chiarelli could not specifically recall the name of the band member and said that the Complainant would simply refer to him as [band name] in their discussions. Councillor Chiarelli recalls that the Complainant was concerned about her boyfriend finding out about this romance, to which Councillor Chiarelli purportedly responded something to the effect of, "You should be."
- Councillor Chiarelli recalled the Complainant also telling him that she had sex with someone at the after-party that she later realized was rape, because she did not believe she had given consent. Councillor Chiarelli said that the Complainant "said she was going into it [the party] to do this [engage in sexual conduct], and then she said she did not give consent to this guy."
- Councillor Chiarelli did not remember who assaulted the Complainant, but thought it was another member of the band. While he could not remember if the Complainant told him that [band member] was there during the assault, the Councillor thought the band members were all there together so [band member] may have been present.
- Councillor Chiarelli denies telling the Complainant that she should not report the assault or that she should not tell her boyfriend.
- He says that, in response to the Complainant repeatedly asking whether she should tell her boyfriend, he always responded to the effect of, "that is completely up to you, but you might have to explain all this [sex] stuff was going on and why you were there while all this [sexual conduct] was going on... If you can do that, fine, but if you can't, I don't know how he would react and it's up to you." Councillor Chiarelli conceded that he may have said that the Complainant's boyfriend might not handle the disclosure well. He explained that what he was referring to was the

Complainant having to explain to her boyfriend why she went to a party where people were having sex when she and her boyfriend were exclusive. According to Councillor Chiarelli, attitudes around sexual assault were just starting to shift in and around 2014. He empathized that he believed the Complainant and accepted the incident as a sexual assault which, according to him, not everyone in 2014 would have done. Councillor Chiarelli's evidence is that he was not sure if the Complainant's boyfriend would also view the incident as sexual assault, and that she was regularly expressing fear over her boyfriend leaving her for all sorts of reasons.

- Councillor Chiarelli also denies that he told the Complainant not to seek out counselling. In fact, he believes that, if she wanted counselling, he would have offered to help find it for her, as there are ways to get counselling that are far less costly through the City of Ottawa's programs. He states that, he would have offered assistance (which is consistent with the Complainant's evidence), but that did not mean she could not seek out counselling on her own. Councillor Chiarelli's evidence is that he has had several people disclose sexual assaults to him and that he "always offers to help them get counselling and tells them how to report it."
- Councillor Chiarelli thought the Complainant may have confided in him because [Witness 2] was not around. Councillor Chiarelli stated that, aside from [Witness 2], the Complainant did not seem to have a lot of friends. He also thought it may also have been because of proximity: he was the only one there and was the only guy she knew who disclosing the assault to was not going to have an impact on her personal life.
- In response to the Complainant's account of this incident, Councillor Chiarelli believed it was a reframing of what actually happened. He was surprised to hear that the Complainant considered him a father figure, which he says he did not become intentionally. Councillor Chiarelli also thought her story about his desire to keep her quiet due to the potential political backlash was part of an attempt to weave a story to fit a broader theme that Councillor Chiarelli is selfish and a conspiracy theorist – themes that he said have been developed by other women who have come forward with complaints about him.
- Councillor Chiarelli denies encouraging the Complainant to stay in touch with [band member], saying that he didn't care whether she did or didn't stay in touch with him.

The Investigator reviewed the evidence and preferred the evidence of the Respondent. The Investigator wrote:

- We pause here to acknowledge that the Complainant experienced an extremely traumatic event that we have no concern concluding had a profound and devastating impact on her. The impact of trauma on memory and cognition more generally is well-documented and outside the scope of this report. We note this solely to underscore that our conclusion is not a matter of disbelieving the Complainant. In fact (and as noted above), we have no concerns about the Complainant's sincerity, or her willingness to tell the truth as to how she now recalls and understand events to have occurred. However, "[t]he evidence of a credible, that is honest witness, may, however, still be unreliable," and we are required to assess the evidence we have to determine whether it is more likely than not that this allegation occurred.
- In doing so, it becomes apparent that there are a series of internal inconsistencies with the Complainant's evidence in respect of her recollection of Councillor Chiarelli's reaction to the disclosure of her sexual assault:
  - The Complainant is emphatic that Councillor Chiarelli encouraged her to keep in touch with [band member], yet she cannot recall how.
  - The Complainant did not explain how Councillor Chiarelli discouraged her from reporting the sexual assault.
  - The Complainant says that Councillor Chiarelli forbade her from seeking mental health support, yet concedes that, consistent with Councillor Chiarelli's evidence, he offered to help find her someone to speak with, which the Complainant says she never pursued.
- Moreover, in respect of her assertion that Councillor Chiarelli threatened her that disclosing her sexual assault to her boyfriend could negatively impact her relationship, we note that the parties' evidence is consistent. The Complainant's evidence is that Councillor Chiarelli told her that her boyfriend may leave her because "men don't deal well with knowing that/with things like that." Councillor Chiarelli concedes that he may have used language to that effect, but Councillor Chiarelli's evidence, which we accept, is that he did not discourage the Complainant from telling her boyfriend about the sexual assault, but did acknowledge that her boyfriend may not have reacted well to learning that the Complainant attended a party where people were having sex.

- Perhaps most importantly, some of the only documentary evidence that we do have from this period of time is inconsistent with the Complainant’s account of her state of mind, but entirely consistent with Councillor Chiarelli’s recollection of the Complainant’s reactions and disclosures during this period. In particular, the Complainant now states that she was not personally excited for her relationship with [band member], except for how it positively impacted her relationship with Councillor Chiarelli. Her contemporaneous exchange with [Witness 2], which she herself initiated, corroborates Councillor Chiarelli’s recollection of his conversations with the Complainant at that time, namely that:
  - The Complainant advised that she had been a big fan of [band] when she was younger; and
  - The Complainant was very excited about her ... encounters with [band member].
- Similar to our concerns about the Complainant’s recollection in respect of Allegation #3, it seems that the parties agree on a high level as to the conversations that took place, but the Complainant’s interpretation of Councillor Chiarelli’s words and actions are cast with the benefit of hindsight having now come to the realization or conclusion that many of her interactions with Councillor Chiarelli were exploitative. In 2022, the Complainant has very little, or no, positivity left in respect of any of her experiences as a member of the Councillor’s staff and similarly no positivity or excitement about her ... encounters with [band member]. While there may certainly be good reasons for that, her current perception or description of events is, at times, at odds with the contemporaneous evidence concerning the Complainant’s state of mind and the way that she reacted to and described these events to others. This seems to be one of those times.
- We reiterate that Councillor Chiarelli did not deny having these conversations with the Complainant concerning her sexual assault, including its potential impact on her relationship with her now fiancé, and that his description of his responses to the Complainant’s disclosures and questions were believable.

The Investigator concluded “[o]n a balance of probabilities, ... that this allegation is not substantiated” and stated:

- As with Allegation #3, the Complainant and Respondent have very different understandings of this particular series of communications, and this allegation is determined based on the preferred interpretation of events. While we accept the Complainant’s belief in how she perceived these interactions, after careful



consideration of the totality of the evidence delivered, we find Councillor Chiarelli's evidence to have a more probable air of reality.

I have carefully reviewed the Investigator's report, interview recordings, and limited documentary evidence. I agree with the Investigator's conclusion that on a balance of probabilities, this allegation is not substantiated.

## Findings

### Credibility and Reliability Assessments

In considering two-witness cases, the assessment of the credibility and reliability of the two witnesses, here the Complainant and the Respondent, is integral to reaching a factual finding on a balance of probabilities. The evidence of other witnesses and documentary evidence was largely to corroborate or test the evidence of the Complainant or the Respondent.

In *Re Novac Estate*, the Nova Scotia Supreme Court sets out the following helpful summary of the available tools for assessing credibility:

36 There are many tools for assessing credibility:

- a) The ability to consider inconsistencies and weaknesses in the witness's evidence, which includes internal inconsistencies, prior inconsistent statements, inconsistencies between the witness' testimony and the testimony of other witnesses.
- b) The ability to review independent evidence that confirms or contradicts the witness' testimony.
- c) The ability to assess whether the witness' testimony is plausible or, as stated by the British Columbia Court of Appeal in *Faryna v. Chorny*, ...it is "in harmony with the preponderance of probabilities which a practical [and] informed person would readily recognize as reasonable in that place and in those conditions", but in doing so [not relying] on false or frail assumptions about human behavior.
- d) It is possible to rely upon the demeanor of the witness, including their sincerity and use of language, but it should be done with caution.
- e) Special consideration must be given to the testimony of witnesses who are parties to proceedings; it is important to consider the motive that witnesses may have to fabricate evidence.

37 There is no principle of law that requires a trier of fact to believe or disbelieve a witness's testimony in its entirety. On the contrary, a trier may believe none, part or all of a witness's evidence, and may attach different weight to different parts of a witness's evidence. (Citations omitted)<sup>12</sup>

In *FH v McDougall*, the Supreme Court explained:

As ... in the context of the criminal standard of proof, where proof is on a balance of probabilities there is likewise no rule as to when inconsistencies in the evidence of a plaintiff will cause a trial judge to conclude that the plaintiff's evidence is not credible or reliable. The trial judge should not consider the plaintiff's evidence in isolation, but must look at the totality of the evidence to assess the impact of the inconsistencies in that evidence on questions of credibility and reliability pertaining to the core issue in the case.

....

...in civil cases in which there is conflicting testimony, the judge is deciding whether a fact occurred on a balance of probabilities. In such cases, provided the judge has not ignored evidence, finding the evidence of one party credible may well be conclusive of the issue because that evidence is inconsistent with that of the other party. In such cases, believing one party will mean explicitly or implicitly that the other party was not believed on the important issue in the case. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant ...<sup>13</sup>

The Ontario Court of Appeal in *R v Morrissey*<sup>14</sup> noted the difference between the assessment of credibility and that of reliability:

Testimonial evidence can raise veracity and accuracy concerns. The former relate to the witness's sincerity, that is his or her willingness to speak the truth as the witness believes it to be. The latter concerns relate to the actual accuracy of the witness's testimony. The accuracy of a witness's testimony involves considerations of the witness's ability to accurately observe, recall and recount the events in issue. When one is concerned with a witness's veracity, one speaks of the witness's credibility. When one is concerned with the accuracy of a

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<sup>12</sup> 2008 NSSC 283, at paragraphs 36-37

<sup>13</sup> [2008] 3 SCR 41, at paragraphs 58 & 86

<sup>14</sup> (1995), 1995 CanLII 3498 (ON CA), 97 C.C.C. (3d) 193 (C.A.) at p. 205

witness's testimony, one speaks of the reliability of that testimony. Obviously a witness whose evidence on a point is not credible cannot give reliable evidence on that point. The evidence of a credible, that is honest witness, may, however, still be unreliable.

I have applied the tools for assessing credibility and considered the reliability of the evidence of each witness, recognizing that I may “attach different weight to different parts of a witness’s evidence.”

The Investigator noted in assessing the credibility and reliability of the Complainant noted that:

We acknowledge the impact of the passage of time on the ability of all parties and witnesses to recall events, and we take particular care in assessing the evidence of the Complainant in light of the impact which contemporaneous traumas have on an individual’s ability to accurately recall specific events.

I appreciate this assessment and have kept it in mind as I reviewed and considered the evidence.

The Investigator summarized the credibility and reliability assessments of the Complainant, in relevant part:

The Complainant was clear, honest, and detailed in her evidence, and we have no difficulty concluding that the Complainant believes her evidence. The Complainant’s credibility is supported by the fact that she made extremely sensitive disclosures.

Moreover, while there are limited documentary records available to corroborate the evidence in this investigation, some of the only direct evidence as to the nature of the Complainant’s job with Councillor Chiarelli are set out in a series of email exchanges that lead to her hire which do seem to corroborate the Complainant’s description of her work with the Councillor. These records indicate that the Complainant’s sexuality, and in particular her willingness to use her sexuality by dressing and acting provocatively with men at events, was part of the job as communicated to her in advance of her hire as a member of the Councillor’s staff.

That is not to say that there are no concerns with the Complainant’s evidence. It is clear that the Complainant has a significant amount of unresolved trauma concerning the period during which she was employed by Councillor Chiarelli. It is also clear that the Complainant’s recollection of her employment today is at

odds with her contemporaneous descriptions and enthusiasm for the role at the time. ... This inconsistency in the evidence impacts the reliability of the Complainant's current perception of her interactions with Councillor Chiarelli at that time, including her evidence that she was very much uncomfortable and a reluctant participant in accompanying Councillor Chiarelli to various events and engaging with men in a sexually provocative way.

I agree with the Investigator that the Complainant's evidence was largely credible but that the reliability of her evidence had to be carefully considered with each allegation. For this reason, I ultimately determined that the Complainant's evidence with respect to Allegations 3 and 5 was not reliable (as set out below).

After nine years, there are details that the Complainant did not recall, or that she simply got wrong. Some of them were minor details which were likely due to the passage of time. For example, the Complainant stated that she did not get paid for her "Job Trial"; however, there were documentary pay records confirming that she did. Unlike in her 2020 interview in the prior investigation, the Complainant could not recall whether she wore a bra under the shirt the Respondent gave her prior to the 2013 Ottawa International Animation Festival. When the prior inconsistent statement was put to her, the Complainant explained that she wore the sheer black shirt that the Respondent gave her without a bra at an event, and could not recall if it was that event.

The Investigator noted that other inconsistencies "may very likely be the consequence of the trauma experienced by the Complainant in the Summer of 2014. We underscore that the Complainant's unresolved trauma from this period in her life, and her own acknowledged lack of support in dealing with the impact of these experiences, can impact the Complainant's recollection."

On the issue of the Complainant's motivation to fabricate evidence, the Respondent alleged that she was part of a conspiracy by his political adversaries. I found no evidence to support this suggestion. I agree with the Investigator that the Complainant was clear, honest, and detailed in her evidence. The Complainant does not live in Ottawa and has no reason to be involved in a political conspiracy nearly a decade after she ended her employment. This allegation about her motivation is nothing more than speculation.

The Investigator provided the following credibility and reliability assessment of the Respondent, in relevant part:

He had little independent recollection or evidence regarding the interactions and evidence described by the Complainant and offered mostly anecdotes and political context during the course of his interviews.

For example, the Councillor had no recollection of the Complainant's hire, or how she became known to him other than that someone told the Councillor that he should meet the Complainant. Councillor Chiarelli simply denied that he knew Jeff Thomas and the associated email address with which the Complainant corresponded prior to her hire by the Councillor. There is no question that the Councillor met with the Complainant for an in-person interview in and around the date set in the email exchange between the Complainant and Jeff Thomas, and the Councillor was unable to provide any other explanation as to how that was arranged. We accept the email exchange with Jeff Thomas as the communication which led to the Complainant's interview with Councillor Chiarelli.

The Councillor was also presented with his own email from June 23, 2013, from his "rick@rickchiarelli.com" email address, in which he proposed to have the Complainant attend Ottawa to do a few "trial events." In this email the Councillor states:

That means the one [person] I pick for this job needs to be more than necessarily just the best out there, but she also needs to have the specific elements I need to make all of that happen and in a way that can win. If, both short term and long term, you really are able and willing to do all that you said -all of it, then you may well be the one for this job.

The Councillor provided no explanation for what he meant when he said, "she also needs to have the specific elements I need to make all of that happen..." or when he said "if...you really are able and willing to do all that you said -all of it...".

...Councillor Chiarelli could not recall sending the June 23, 2013 email, and did not think he would have signed an email with the letter "R," but did not deny that he did. Councillor Chiarelli did not offer any alternative evidence as to how the Complainant's job trial was arranged. According to the Councillor, he thought he had a hacking issue, but not with respect to that email account, and he could not explain how the Complainant knew to and did attend in Ottawa on the Canada Day long weekend in 2013.

There are numerous examples of similar issues in the Councillor's evidence. While not an exhaustive list, we highlight that:

...

- He denied that the Complainant attended any nightclubs or bars, other than when political events were hosted in such venues, as part of her job. This is inconsistent with the Complainant's evidence, the contemporaneous documentary evidence, as well as the evidence of three witnesses.
- He said he recalled taking the Complainant home from a nightclub with a man she had just met, and said he recalled the Complainant and the man kissing in the back seat of his van. The Complainant's evidence is that she proceeded to perform oral sex on the man while in the back seat of Councillor Chiarelli's van, which Councillor Chiarelli said he doubted but could not recall.
- Councillor Chiarelli's evidence is that The Complainant talked to him about sex and oral sex specifically, but that he did not reciprocate or participate in these conversations.
- Councillor Chiarelli's evidence was that staff members might attend the same events as other staff members but not know that the other staff were in attendance because they would not see or speak to each other, which is somewhat inconsistent with his description of the role of his staff member when attending events.

As with the Complainant's evidence, there were other things that Councillor Chiarelli simply got wrong:

- According to Councillor Chiarelli, [location] is very different from Ottawa and cannot be accessed by highway, "you had to fly in." A quick Google search confirmed this to be inaccurate.
- Councillor Chiarelli routinely confused which staff worked for him during the period under investigation (July 2013-February 2015).

We do note that Councillor Chiarelli informed us that he has gaps in his memory resulting from a heart surgery that he had in December 2019, which unfortunately led to a stroke in late 2020. According to Councillor Chiarelli, this has resulted in the rapid decline of his executive function, including a more sporadic memory of things he would have otherwise remembered. He made sure to clarify that this does not result in false memories, and so long as he follows his rehab, which he says he is, his cognitive health is and will continue to improve. Councillor Chiarelli did not deliver any medical evidence to support this disclosure.

However, we appreciate his transparency, and agree that some of the details he could not recall – like who worked in his office when – may very well be a function of his disability. In assessing the reliability of his evidence, we bear this in mind.

The above is not intended to suggest that Councillor Chiarelli's evidence was entirely unhelpful. Throughout the course of our investigation, there were many issues on which the Complainant and the Councillor's evidence is rather consistent. In those circumstances, on a few occasions (detailed below) we accept that the Councillor's recollection is more consistent with the preponderance of probabilities, having regard for the limited documentary evidence we did receive and the balance of the evidence, including the Complainant's evidence.

I agree with the credibility and reliability assessment noted above by the Investigator regarding the Respondent's evidence. I also accept that some of the Respondent's ability not to recall certain details might be because of the gaps in his memory caused by his medical condition or the passage of time.

## **Integrity Commissioner's Determination on the Allegations**

In determining findings of fact, this investigation has been guided by the standard of proof required of fact finders in civil cases, the balance of probabilities. The balance of probabilities standard requires that the evidence be "clear, convincing and cogent"<sup>15</sup> and that I "scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred."<sup>16</sup>

In his comments on my draft report, the Respondent indicated that I was using my position to get around the fact that the police did not lay charges regarding the Complainant's allegations. In response, I note, first, that I have no information from the police, aside from the confirmation that there was no active police investigation. Second, the standard of proof in allegations of a breach of the Code of Conduct is different than allegations of breach of the Criminal Code.. I considered all evidence, applying the balance of probabilities standard required for civil cases, and have reached my conclusions.

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<sup>15</sup> F.H. v. McDougall, 2008 SCC 53 at paragraph 46

<sup>16</sup> Ibid. at 49

To determine whether the Respondent's alleged actions or behaviour breached the Code of Conduct for Members of Council, the first step is to determine whether the allegations were substantiated, on a balance of probabilities.

As noted in the previous section of this report ("Analysis"), I agreed with the Investigator's factual findings that, based on a balance of probabilities, two allegations were substantiated (allegations 2 and 4), and two were not (allegations 3 and 5). In doing so, I reviewed the allegations and carefully listened to the audio recordings of the interviews of the Respondent, the Complainant and the five witnesses. I have also reviewed the documentary evidence and carefully considered the report of the Investigator.

I have determined that allegations 2 and 4 are substantiated, and allegations 3 and 5 are not substantiated, on a balance of probabilities.

Allegation 2:

*"On the evening of Sunday, September 13, 2013, [sic] Councillor Rick Chiarelli (my employer at the time) provided me with a sheer and revealing shirt, which he requested that I wear to an event that evening at the International Animation Film Festival. Furthermore, he expected me to change my attire in his car while in his presence."*

Allegation 4:

*"In the Fall of 2014, Councillor Rick Chiarelli (my employer at the time) offered to pay me between \$200-\$300 in cash to perform sexual acts on random men that I was instructed to find at nightclubs in Montreal. Mr. Chiarelli planned these trips and drove me to an[d] from Montreal on several occasions to meet men at night clubs."*

Regarding the two substantiated allegations – allegation 2 and allegation 4 – I examined whether the actions and behaviour of the Respondent, as established by the investigation, breached Sections 4 and 7 of the Code of Conduct for Members of Council.

## **Section 7 of the Code of Conduct (Discrimination and Harassment)**

For the reasons set out below, **I find that the Respondent has breached Section 7 of the Code of Conduct** in respect of each of allegation 2 and 4.

Section 7 reads as follows:



All members of Council have a duty to treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies and, where applicable, the City's *Workplace Violence and Harassment Policy*.

My predecessor brought two reports to Ottawa City Council in 2020 on an Inquiry Respecting the Conduct of Councillor Chiarelli. Except to consider the issue of prior inconsistent statements, I have not considered the allegations or factual findings in those reports. However, I have reviewed those reports to inform my legal analysis of the Code of Conduct provisions.

In reaching my conclusions, I have considered the definitions and policy considerations applicable to Section 7 during the relevant period of time (2013/14). Specifically:

- The *Ontario Human Rights Code* ("OHRC") s. 10 (1) defined harassment as:  
"harassment" means engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome;
- The City of Ottawa's *Harassment in the Workplace Policy* relied on the following definitions:

Harassment – a type of discrimination; any unwanted physical or verbal conduct that offends or humiliates you. Harassment shall be considered to have taken place if a reasonable person ought to have known that the behaviour was unwelcome. (Source: *Canadian Human Rights Act*)

Workplace Harassment – engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome. (Source: *Ontario Occupational Health and Safety Act*)

- Section 1(1) of the *Occupational Health and Safety Act* defined workplace harassment as:

"workplace harassment" means engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome<sup>17</sup>

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<sup>17</sup> There is no meaningful difference in the interpretation of the language in the current provisions of the relevant legislation and policies.

Allegation 2, which I have found to be substantiated, is that the Respondent provided the Complainant, who, at the time, was a member of his staff, with a “sheer and revealing shirt” which he requested the Complainant wear to an event, and that he expected the Complainant to change her attire while in his presence.

Allegation 4, which I have found to be substantiated, is that the Respondent offered to pay the Complainant, then a member of his staff, cash to perform sexual acts on random men that he instructed the Complainant to find at night clubs in Montreal. The Respondent planned the trips, and drove the Complainant to and from Montreal on several occasions to meet men at night clubs.

The Investigator found that the Respondent’s actions in respect of the substantiated allegations included:

- Teasing the Complainant about her “inability to successfully perform oral sex”;
- Engaging in “a course of conduct to encourage the Complainant to perform oral sex on a man, including driving her to another city to find said man”; and
- Commenting on the Complainant’s appearance and clothing and purchasing a revealing shirt for her to wear to a work event.

The Respondent should have known that his conduct was inappropriate and unwelcome. I agree with the Investigator’s report: “There is no doubt that a reasonable third party would view it as inappropriate for a boss to engage in the behaviour described [in allegations 2 and 4].”

The Complainant was young, and needed a job. She had no experience in politics. She wanted to ensure that, when she left her job working for the Respondent, it would be on good terms. The Respondent, as the Complainant’s boss, was in a clear position of power over her.

I find that the Complainant, who was in a vulnerable position as a direct employee of the Respondent, felt pressure to put on the revealing shirt that he had purchased for her and wear it to a work event. Similarly, I find that the Complainant, after having been teased by the Respondent about her ability to perform oral sex and encouraged by him to perform oral sex, felt pressured to engage in the behaviour again.

In his report to Council on an Inquiry Respecting the Conduct of Councillor Chiarelli (considered by Council on November 25, 2020), Commissioner Marleau commented on the power relationship as follows:

“In a 2017 case in the City Vaughan, the Integrity commissioner aptly described the power relationship:

*“There is a substantial power imbalance between the Complainant and the Respondent which must be considered. Courts and tribunals now recognize that a substantial power imbalance can erode, if not impede, a Complainant's belief that they can refuse unwanted advances. The victim fears unforeseen consequences which could be either personal or work-related. In these cases, it is not uncommon for victims of harassment to tolerate unwanted behaviour longer than expected. The Ontario Human Right's Commission notes that a person does not have to object to the harassment at the time it happens for there to be a violation, or for the person to claim their rights under the Code. Even though a person being harassed may take part in sexual activity or other related behaviour, this does not mean they consent.”<sup>18</sup>*

In the case now before me, there is no evidence that points to unwanted advances or touching, but the Respondent deliberately and systematically exploited the power dynamic of the employer/employee relationship.”

I have considered the facts and evidence specific to the current complaint. I find that the Respondent knowingly and continuously exploited the power dynamic of the employer/employee relationship.

It is my determination that the above-noted actions of the Respondent constitute *harassment* under Section 7 of the Code of Conduct. I find that the Respondent's actions also constitute *bullying* under Section 7. As detailed in this report, the Investigator found that the Respondent teased the Complainant about her “inability to successfully perform oral sex”. In the context of this teasing, the Respondent came up with the idea to go to Montreal so the Complainant could prove she could get a man to ejaculate by performing oral sex. I found that the Respondent said he would pay her if she could get a man to ejaculate. It is clear to me that the Complainant did not want to go as she made up excuses to avoid the trip and that she only agreed to attend as a result of the Respondent's bullying. I found that the Complainant performed oral sex on a man in the back seat of the Respondent's van while the Respondent drove around Montreal. The Complainant told the Investigator she felt:

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<sup>18</sup> Di Biase (Re), 2017 ONMIC 22 (CanLII), <<http://canlii.ca/t/j9sfh>>.

“uncomfortable, embarrassed, ashamed, and disgusted. She said she was afraid because she had “failed” to do what she was supposed to do (by failing to make the man ejaculate) and was scared that Councillor Chiarelli’s harassment would continue.”

The Respondent’s teasing of the Complainant constituted bullying. The Complainant went to Montreal as a direct result of the Respondent’s bullying, and her belief that doing so might end the bullying.

For these reasons, I find that the actions detailed in this report in respect of allegations 2 and 4, the Respondent breached his obligation, as set out in Section 7 of the Code of Conduct, to “treat members of the public, one another and staff with respect and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.”

I find the Respondent in breach of Section 7 of the Code of Conduct for Members of Council.

## **Section 4 of the Code of Conduct (General Integrity)**

Section 4 of the Code of Conduct sets out a series of principles Members are expected to uphold. In establishing the Code of Conduct, City Council adopted a high standard of ethics and included the set of principles as a rule within the Code of Conduct.<sup>19</sup>

I find that **the Respondent breached Section 4 of the Code of Conduct.**

Section 4 reads as follows:

1. Members of Council are committed to performing their functions with integrity, accountability and transparency.
2. Members of Council are responsible for complying with all applicable legislation, by-laws and policies pertaining to their position as an elected official.
3. Members of Council recognize that the public has a right to open government and transparent decision-making.
4. Members of Council shall at all times serve and be seen to serve the interests of their constituents and the City in a conscientious and diligent manner and shall approach decision-making with an open mind.

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<sup>19</sup> [ACS2013-CMR-CCB-0028](#)

5. Members shall avoid the improper use of the influence of their office and shall avoid conflicts of interest, both apparent and real.
6. Members of Council shall not extend in the discharge of their official duties preferential treatment to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was solely for the purpose of advancing a private or personal interest.
7. For greater clarity, this Code does not prohibit members of Council from properly using their influence on behalf of constituents.

To determine whether Section 4 of the Code has been breached, I focussed my analysis on subsections 4(1) and 4(4) of the Code of Conduct as I believe they are the most pertinent (or relevant ones) for this investigation.

#### **Subsection 4(1)**

*Members of Council are committed to performing their functions with integrity, accountability and transparency.*

My predecessor's previous reports to Ottawa City Council referenced the definition of "integrity". In making my findings in relation to Subsection 4(1), I have given consideration to the term. As Commissioner Marleau noted, the Merriam-Webster dictionary defines "integrity" as "firm adherence to a code of especially moral or artistic values."<sup>20</sup>

The same Dictionary defines "moral" as:

- Expressing or teaching a conception of right behaviour; and
- Conforming to a standard of right behaviour.<sup>21</sup>

In considering the totality of the evidence related to the substantiated allegations 2 and 4, as detailed in this report, I find the Respondent's actions demonstrated a clear lack of integrity. For this reason, I find that the Respondent breached Subsection 4(1) of the Code of Conduct for Members of Council.

#### **Subsection 4(4)**

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<sup>20</sup> "Integrity." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/integrity> as cited in Marleau, Robert (Integrity Commissioner, City of Ottawa) "Report to Council on an Inquiry Respecting the Conduct of Councillor Chiarelli" (November 3, 2020).

<sup>21</sup> "Moral." Merriam-Webster.com Dictionary, Merriam-Webster <https://www.merriam-webster.com/dictionary/moral>

*Members of Council shall at all times serve and be seen to serve the interests of their constituents and the City in a conscientious and diligent manner and shall approach decision-making with an open mind.*

It is clear that the conduct of the Respondent with respect to the substantiated allegations 2 and 4, as detailed in this report, was not in the interests of the Respondent's constituents or the City of Ottawa. In reviewing the evidence and considering section 4, I note the following inappropriate behaviour by the Respondent:

- Paying staff to attend nightclubs for no official purpose;
- Encouraging and requiring a young female staff member to wear revealing clothing at work events, and to nightclubs; and
- Teasing a young female staff member, to the point of bullying, about performing a sexual act, and offering to pay her to perform a sexual act.

This is a non-exhaustive list.

In no way can it serve the interests of the Respondent's constituents, and/or serve the interests of the City of Ottawa, for the Respondent to have undertaken those actions.

I also note that, in reviewing the evidence of the Complainant's schedule and the record of her hours worked, I accept that the Complainant was paid for the hours spent at nightclubs. Using City resources to pay for staff to regularly attend nightclubs is not fiscally responsible and does not serve the City or its constituents.

For these reasons, I, find that the Respondent breached Subsection 4(4) of the Code of Conduct for Members of Council.

## Conclusion

Section 15 of the Code of Conduct for Members of Council and Section 223.4(5) of the *Municipal Act, 2001* authorize the Integrity Commissioner to make recommendations to Council regarding sanctions and other remedial action when the Integrity Commissioner is of the opinion that there has been a violation of the Code of Conduct.

Section 15 of the Code of Conduct reads as follows:

"Section 15 - Compliance with the Code of Conduct

1. Members of Council are expected to adhere to the provisions of the Code of Conduct. The *Municipal Act, 2001* authorizes Council, where it has received a

report by its Integrity Commissioner that, in his or her opinion, there has been a violation of the *Code of Conduct*, to impose one of the following sanctions:

- a) A reprimand; and
  - b) Suspension of the remuneration paid to the member in respect of his or her services as a member of Council or a local board, as the case may be, for a period of up to 90 days.
2. The Integrity Commissioner may also recommend that Council impose one of the following sanctions:
- a) Written or verbal public 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 chair of a committee.
3. The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial action at his or her discretion.”

As detailed above, I have found that the Respondent breached Sections 4 and 7 of the Code of Conduct. I have found that the Respondent’s actions in respect of the allegations constituted harassment and bullying of a young female staff member. I have also found that the Respondent knowingly and continuously exploited the power dynamic of the employer/employee relationship. The Respondent should have known that his behaviour was inappropriate and unwelcome. Given the seriousness of these findings, I recommend that Council impose the most severe sanction under the legislation: suspension of the remuneration paid to the Respondent in respect of his service as a Member of Council for 90 days.

This is not the first incident of misconduct of this nature by the Respondent. As noted in two public reports of my predecessor (which were considered by City Council on July 15, 2020 and November 25, 2020), the Respondent was found to have breached Sections 4 and 7 of the Code of Conduct. I recommend that the Respondent make a written or verbal public apology for his actions.

Therefore, I recommend that City Council:

1. Receive this report, including the finding that the Respondent, Councillor Chiarelli, has contravened Sections 4 and 7 of the Code of Conduct for Members of Council;

2. Suspend the remuneration to be paid to the Respondent in respect of his service as a Member of Council for 90 days; and
3. Require that the Respondent make a written or verbal public apology for his actions.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'KES', with a long horizontal line extending to the right.

Karen E. Shepherd  
Integrity Commissioner

**Erratum to final report filed with the City Clerk on August 18, 2022**

This report has been formatted to meet the City of Ottawa's accessibility standards.

**Erratum Date: October 25, 2022**