

# **CITY OF GREATER SUDBURY INTEGRITY COMMISSIONER, DAVID G. BOGHOSIAN**

**Citation: Complaint re: Councillor Bill Leduc re: Facebook Posts–  
DGB – Greater Sudbury ICI -2024-05**

**Short Citation: Leduc, Bill Social Media Posts (Re)**

**Date:** September 19, 2024

## **REPORT ON COMPLAINT**

### **Introduction**

[1] On August 29, 2024, I received a Complaint from a Complainant (the “First Complainant”) who has asked to remain anonymous concerning a social media post allegedly made by Cllr. Leduc that is alleged to violate the Social Media Policy for Members of Council and Local Boards (the “Social Media Policy”) and s. 17 of the Greater Sudbury Code of Conduct (“the Code of Conduct,” “the Code” or “the COC”).

[2] On August 30, 2024, I received a subsequent Complaint concerning the same post allegedly made by Cllr. Leduc from a different Complainant who also wishes to remain anonymous.

[3] On September 8, 2024, I received a third Complaint from someone other than the first two Complainants concerning a different Facebook post allegedly made by Cllr. Leduc. This Third Complainant also indicated that they also desired to remain anonymous.

[4] On September 16, 2024, the Third Complainant further clarified the third Complaint, alleging that Cllr. Leduc had breached s. 15 (1)(a)(b), (2) and 17(a) of the Code. Despite multiple attempts to contact them, the First and Second Complainants did not respond my office’s requests for further clarification of their Complaints.

[5] As all three Complaints concern posts Cllr. Leduc allegedly made to his personal Facebook page around the same time period,<sup>i</sup> I am dealing with them together in this Report.

### **The Complaints**

#### **First and Second Complaints**

[6] The First and Second Complainants both provided screenshots of a post Cllr. Leduc allegedly shared via his personal Facebook account on August 29, 2024 (the “First Post”). My office was not able to independently confirm that the First Post was actually posted on Cllr. Leduc’s because it was not found on Cllr. Leduc’s Facebook account by the time I received the First Complaint. According to an article from *The Sudbury Star*, Cllr. Leduc stated that he did not make the post.<sup>ii</sup> The screenshots of the First Post provided by the Complainants are set out in Appendices A and B to this Report.

[7] The screenshots provided indicate that the First Post was originally posted on a Facebook site named “Kevin Gates Quotes,” which was allegedly then shared by Cllr. Leduc. The Post is an image with text overlaid that reads “My generation had WONDER WOMAN...y’ all generation is WONDERING if that’s a WOMAN,” followed by a female headshot emoji.

[8] The First Complainant alleged that the First Post was disparaging to gender non-conforming people and that sharing it was not appropriate behaviour for someone holding office and serving a diverse public. The First Complainant also noted that “memes”<sup>iii</sup> and jokes like the First Post only serve to stoke hatred and derision toward persons solely based on their gender identity or expression and that Cllr. Leduc had engaged in hateful expression by sharing it.

[9] The second Complainant alleged that the First Post was transphobic and that sharing it was “absolutely disgusting behaviour.”

### **Third Complaint**

[10] The Third Complainant submitted a screenshot of a post Cllr. Leduc shared via his personal Facebook account on September 8, 2024 (the “Second Post”). Like the First Post, the Second Post is an image with overlaid text that reads “I’m not f            stupid. I mean, I used to. But we broke up” along with a cartoon image of disembodied bright-red lips and teeth. My office was able to independently confirm that the Second Post was posted on Cllr. Leduc’s Facebook page. The screenshots of the Second Post provided by the Third Complaint are set out in Appendices C and D to this Report.

[11] The Third Complainant also shared a link to a Facebook post made by user “Rosie Beaulieu” to a group called “Sudbury Politics and News” (“SPN” or the “Group”). Ms. Beaulieu, who is listed as an administrator of the SPN group, posted a series of screenshots of other Facebook posts Cllr. Leduc allegedly made. Ms. Beaulieu also included a comment along with these screenshots which read:

Hey politics sweethearts, honeys and MLM Boss Babes, now I want you to not get hysterical reading this. You're going to probably need to be told by a man after reading this to calm down. You might feel more relaxed barefoot, in the kitchen and pregnant making me a sandwich. Because let's face it these B words are only good for three things right? Seeing the back of my hand, the kitchen and the bedroom ceiling, amirite? Wait why are you getting upset, let me mansplain to you why its not a big deal. Is it that time of the month already, geez you have to lighten up maybe you need to smile more? You're so much prettier when you smile you know...you're crazy, why are you being such a drama queen? This isn't a big deal i think youre just feeling emotional. You know how guys get, boys will be boys! Geez calm down it's just a joke.

[12] Included among the screenshots posted by Ms. Beaulieu in relation to the above comment is the First Post.

[13] The screenshots of other alleged posts made by Cllr. Leduc that were shared by Ms. Beaulieu in relation to the same comment, all similarly formatted as the First and Second Posts (i.e. they consisted of text overlaid on an image), include:

- “Hickies are outdated give your man a BlackEye [sic] so those chicks know you don’t mess around”;
- “When a woman laughs during an argument, please know that the psycho part of her brain has been activated. Abort mission!!!”;
- “A quiet man is a thinking man....A quiet woman is f [sic] pissed!”;
- “Two blondes were driving to Disneyland. The sign said: Disneyland Left..So they started crying and headed home.”

[14] Ms. Beaulieu’s post also included a link to an August 31, 2024 Sudbury Star article by Mary Katherine Keown titled “Post on Greater Sudbury councillor’s Facebook page called transphobic.”

### **Investigation**

[15] As stated above, following a review of his personal Facebook account, my office was not able to independently verify that Cllr. Leduc shared the First Post. My office was able to confirm that the Second Post was shared via Cllr. Leduc’s Facebook page. For reasons that will be explained below, my office did not confirm whether Cllr. Leduc’s Facebook account shared any of the other posts included in the screenshots posted to SPN by Ms. Beaulieu.

#### August 31, 2024 Sudbury Star

[16] The Sudbury Star article written by Ms. Keown about the First Post indicates the following:

- The First Post appeared earlier in the week of August 31, 2024;
- The Star contacted Cllr. Leduc via email for comment and he replied to it that “[he] didn’t post [the First Post].”;
- Aspen Groom, the director and communications lead for Sudbury Pride, said that Sudbury Pride was trying to collect as much information that it could on the context in which the First Post was made and called it transphobic;
- Mr. Groom also said that sharing transphobic posts “foments discord and can lead to violence against transgender individuals.”

#### Councillor Leduc’s Facebook Page

[17] My office reviewed Cllr. Leduc’s Facebook account. Cllr. Leduc does not identify himself as a member of Council for Greater Sudbury anywhere on his Facebook account, nor does he appear to use his account to post or share content related to his office or role as a City Councillor, at least based on its current content.

### **Response of Councillor Leduc**

[18] In his Response delivered on September 15, 2024, Cllr. Leduc stated as follows:

Let me start off with these two complaints should be dismissed automatically without prejudice for several facts !.)the application is uncomplete even from your e-mail trying to identify which code of conduct that I violated because once again your assuming which code without the complaint actually identifying which code I've broken and your reaching out too them for clarity. Let me point out that you can't except an in complete application of an allegation and trying to coach them through the process. 2.) this complaint is Frivolous and Vexatious and I'll be happy to prove this once we you identify the complaints. 3.) This is my personal Facebook account which has nothing to do with city council business as I have a separate account which clearly identifies the the separation between the two accounts. The most important issue is that when on my personal account people sent me friends requests, I would t5hink that these complaints are from individuals that creep my account or if they belong too my friends list then they have the option too unfriend me if they don't like what I've shared. 4.) on my personal account doesn't identify me as a city councillor. 5.) me sharing a post doesn't mean that I created the post. 6.) with Facebook now of days everyone is getting hacked so we obviously can't see these fake accounts. 7.) the first screen shot I didn't post that on my account nor is their anything that I can see from my side that would indicate that it was me, so I'm of the belief that I was hacked. 8.) the second post yes I posted it once again on my private/ personally account so if someone went in and creeped my account that not my issue but theirs. I personally saw nothing offensive with the post but maybe I miss interpreted the post as I saw this as I saw this nothing more then a funny joke, so as of tonight I've removed the post out of respect for the individual. But let me be clear these are only shared jokes and not me the creator of the post's. Final note is that only the creator of the post can really only remove them completely from Facebook/cyber world?? This is a complaint that should be dismiss completely.

[19] On September 15<sup>th</sup>, I emailed Cllr. Leduc asking him a question I had asked him in my original request for his Response, namely, whether he indicated on his FB page that he was Greater Sudbury councillor and whether he had ever discussed CGS Council business on his FB page. His response on September 16<sup>th</sup> indicated that he had not. I accept this at least in part because I have no efficient means of determining otherwise.

## **Relevant Legislation**

### **Code of Conduct**

[20] The relevant provisions of the Greater Sudbury's COC are as follows:

#### Purpose

A legislated Code of Conduct helps to ensure that the members of Council and members of Local Boards, as defined in sections 1 (1) and 223.1 of the Municipal Act, 2001, share a common basis of acceptable conduct in the individual conduct of their Official Duties. The Code of Conduct promotes public confidence that the City's elected representatives operate from a base of integrity, transparency, justice and courtesy.

...

#### Definitions

(m) "Member", means a member of Council, including the Mayor, or a member of a Local Board;

(n) "Official Duties" means the public duties or responsibilities of a Member in office and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the City's or Local Board's jurisdiction and which are done for the purpose of providing good government with respect to those matters; and

(o) "Social Media" means web-based applications and on-line forums that allow users to interact, share and publish content such as text, links, photos, audio and video.

...

#### General Principles

4.(1) (1) Every Member shall serve, and be seen to serve, the public in a conscientious and diligent manner.

(2) Every Member shall perform their functions with integrity, accountability and transparency and avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real.

(3) Every Member shall perform their Official Duties in a manner that promotes public confidence.

(4) Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario

Legislature, and the By-laws, rules, procedures and policies of Council pertaining to their position as an elected official.

(5) Members should act in a manner which recognizes that the public has a right to open government and transparent decision making, while acknowledging all rules regarding confidentiality contained in this Code of Conduct and in other legislation.

#### Discreditable Conduct

15.(1) Every Member shall:

(a) treat other Members, City officers and employees, and members of the public, appropriately, and without abuse, intimidation, harassment or violence; and

(b) make all reasonable efforts to ensure that their work environment is free from discrimination, harassment and violence.

(2) Every Member shall act in compliance with the Ontario Human Rights Code and the Occupational Health and Safety Act, and where applicable, the City's Workplace Violence, Harassment and Discrimination Prevention Policy and Program.

#### Social Media

17. Every Member shall:

(a) adhere to any and all City policies and guidelines, regarding social media use; and

(b) always identify themselves without any attempt to cover, disguise or mislead as to their identity or status as an elected representative of the City when using social media.

#### **Social Media Policy for Members of Council and Local Boards**

[21] The relevant provisions of the Social Media Policy are:

##### Purpose

Social Media technologies can permit for efficient and direct engagement between members of Council and Local Boards and the community. While Social Media can be a useful tool for communicating and sharing information it can also be the subject of abuse. The purpose of this policy is to provide clarification on the appropriate use and management of Social Media by members of Council and Local Boards ("Members") in order to elevate discourse with and within the community.

## Application

2. The Code of Conduct generally applies to the conduct of members of Council regardless of the medium being utilized including but not limited to activities on social media. This policy applies to members of Council where social media is being used by them or on their behalf. The provisions of this policy are not intended to restrict the application of the Code of Conduct but rather to augment the obligations of members vis-a-vis the use of Social Media.

## Respect for other Members, Staff and the Public

5. (1) The expectation for conduct of Members on Social Media shall be the same as the decorum that is expected from Members in meetings of the Council. When communicating on Social Media, Members shall act with respect, dignity, courtesy and empathy towards others, and adhere to the same requirements described in the Code of Conduct as they would for any form of communication. Members shall ensure that debate is constructive and does not include personal attacks, discrimination, harassment, intimidation or insults. Communications that are not respectful are inconsistent with the Code of Conduct and unbecoming of the office that Members hold as elected representatives.

...

- (3) Members shall not disrespect, bully, shame or insult other Members or the public through the use of Social Media.

## **Findings**

### **Preliminary Issue: Do I have Jurisdiction to Review Conduct that is not Related to a Member's Office or Role as a Member of Council?**

[22] Other Integrity Commissioners have held that codes of conduct do not apply to and Integrity Commissioners do not have jurisdiction over a member's personal activity that is not related to their "office, role, function, influence, authority, or responsibility [as a] Council Member" or that has "no connection to the interests or business of the Municipality."<sup>iv</sup>

[23] In *Gogos v Jones*, the Integrity Commissioner applied the proposition above - despite there being no section in the applicable Code that restricted its application to members' municipally-related conduct. In fact, at the time, the subject Code stated that every member shall comply with the Code "whether or not acting in his or her capacity as a Member of Council."<sup>v</sup> The IC questioned whether Council would want him to apply the Code to their personal lives and make findings about "whether somebody has been a good neighbour, friend, co-worker, spouse, parent, child, sibling, or community resident?"<sup>vi</sup> He noted that the sections of the *Municipal Act, 2001* that empower a municipality to establish a code of conduct or Ontario Regulation 55/18 – the regulations which require codes to include prescribed sections – do not expressly authorize a municipality to govern a member's private conduct. In fact, they make no mention of a member's private conduct. From this omission, the IC concluded that it is implicit in the statutory regime

enabling municipalities to establish Codes of Conduct that they are not meant to apply to the personal conduct of a member of council.<sup>vii</sup>

[24] The test to determine whether a member’s social media profile or account is sufficiently related or connected to their office or the business of the municipality – such that it is subject to the applicable code of conduct - is if the member identifies themselves as a member of council on their respective social media profile or if they post information and comments pertaining to City business on the page.

[25] Accounts where a member identifies themselves as such have been held to be within the scope of the applicable code of conduct because so identifying oneself on the account sufficiently relates it to the member’s role or office.<sup>viii</sup>

[26] In *Councillor Danko Tweet (Re)*, I held that Hamilton’s Code of Conduct applied to the social media accounts of its members of Council because of the ubiquity of social media in this day and age, despite its Code not explicitly mentioning social media.<sup>ix</sup> This finding was not determinative of whether Hamilton’s Code applied to a specific account held by a member of Council. Instead, it was a broad finding that Hamilton’s Code was *capable* of applying to members’ conduct on social media generally. I further found that section 8(1) of Hamilton’s Code, which required that “Every Member shall conduct him or herself with decorum in the course of his or her performance, or required performance, of his or her responsibilities as a Member...” applied to Cllr. Danko’s impugned tweet because, among other reasons, he had expressly acknowledged that his tweet was “beneath the dignity of my office.”<sup>x</sup> This acknowledgement by Cllr. Danko, together with others,<sup>xi</sup> was sufficient to link his social media conduct to his office as a member of Council.

[27] Under the heading “Purpose” in Part 1 of Greater Sudbury’s Code, it states that the Code is meant to help ensure that its members of Council “share a common basis of acceptable conduct in the individual conduct of their Official Duties.” The Code defines “Official Duties” as:

The public duties or responsibilities of a Member in office and includes functions performed by Members necessary to demonstrate responsible and accountable government with respect to matters within the City's or Local Board's jurisdiction and which are done for the purpose of providing good government with respect to those matters.

[28] Further, the “General Principles” heading of Part 1 imposes various obligations on members of Council by referring to how they perform their duties. These obligations require that members:

- “serve, and be seen to serve, the public”;
- “shall perform their Official Duties in a manner that promotes public confidence”;
- “shall seek to serve the public interest by upholding both the letter and spirit of...laws and policies...and the By-laws, rules, procedures and policies of Council pertaining to their position as an elected official.”;



[29] The Social Media Policy is included in the Code as Schedule “A”. Section 2 of the Social Media Policy, under the heading “Application”, states that the Code, not just the Social Media Policy, “applies to the conduct of members of Council regardless of the medium being utilized including but not limited to activities on social media.” I find that, based on Section 2 of the Social Media Policy and the fact that it is a Schedule to the Code, the Social Media Policy must be interpreted as only applying to the same conduct that the Code was meant to regulate. Conversely, I find that it must also be restricted in its application by the Code and only applies to conduct that the Code is meant to govern. When read as a whole, the Code only contemplates governing the conduct of members of Council when they are acting in their capacity as a member and when conducting business related to their functions as an elected representative of the City. As my jurisdiction to review members’ conduct is grounded in the Code, I find that I do not have jurisdiction to review conduct Cllr. Leduc engages in as part of his personal life and in his private capacity – including posts he shares via his personal Facebook account which does not identify him as a councillor and which does not directly relate to Council or municipal issues.

[30] As stated above, my office reviewed Cllr. Leduc’s personal Facebook account. No section of his account identified him as a member of Greater Sudbury’s City Council, nor were any of the posts from his account related to his role as a Councillor. There is nothing linking Cllr. Leduc’s personal Facebook account to his role or office as a councillor for Greater Sudbury.

[31] If I am wrong in my interpretation of Greater Sudbury’s Code and Social Media Policy, I conclude that I have no jurisdiction to find that Cllr. Leduc breached the Code based on the statutory scheme enabling municipal codes of conduct as found in the *Municipal Act, 2001* and Ontario Regulation 55/18. I note that other Integrity Commissioners have found councillors in violation of applicable codes of conduct as a result of posts they made to what was seemingly their personal Facebook page;<sup>xiii</sup> however, these decisions do not engage in a rigorous statutory analysis of the scheme enabling municipalities to enact codes of conduct nor did they state whether the respondent councillor identified themselves as such on their Facebook profile. As a result, I find those decisions less persuasive than the decisions that did engage in such analysis and rely on the findings contained in the latter decisions.

[32] For the reasons outlined above, I find that I do not have jurisdiction to investigate either the First or Second Posts.

### **Concluding Comments**

[33] I have found that I do not have jurisdiction to review the First and Second Posts. If Councillor Leduc did in fact share these posts, he did so in his personal capacity. The conduct alleged in the Complaints is not sufficiently related to the business of the City to warrant a finding of breach of the Code of Conduct.

[34] This conclusion should not, in any way, be construed as condoning any of the above-mentioned posts. The First Post is, without a doubt, transphobic and, to coin a phrase, “beneath the dignity of a sitting councillor,” or anyone for that matter, although I again note that Cllr. Leduc claims he did not post this and someone hacked into his account to set him up. This decision means that the Code of Conduct does not apply in the particular circumstances of this case but it does not

mean that Greater Sudbury residents do not have any recourse. This is a matter that can be addressed at the ballot box.

[35] This concludes my investigation.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "D. Boghosian", with a long horizontal flourish extending to the right.

David G. Boghosian,  
Integrity Commissioner.  
City of Greater Sudbury

## APPENDIX A

The image is a screenshot of a Facebook post. At the top, the user 'Bill Leduc' is identified with a profile picture and the text '1d · 🌐'. Below this is a quote from 'Kevin Gates Quotes · Follow' by 'David Wright · 2d · 🌐', which includes the hashtag '#BigFactz' and several emojis. The main content of the post is a meme with a yellow-to-red gradient background. The text on the meme reads: 'My generation had WONDER WOMAN... y'all generation is WONDERING if that's a WOMAN' followed by a woman emoji. A 'Send a gift' button is overlaid on the bottom left of the meme. Below the meme, the post shows 5 reactions (laughing face and thumbs up) and 1 comment. At the bottom of the post, there are buttons for 'Like', 'Send', and 'Share'. Below the main post, there is another post from 'Food Basics' with 16 reactions (shocked face, sad face, and angry face) and 12 comments. The 'Food Basics' post is marked as 'Sponsored' and includes a 'See more' link. The bottom of the screenshot shows a red banner with some text that is partially cut off.

Bill Leduc  
1d · 🌐

Kevin Gates Quotes · Follow  
David Wright · 2d · 🌐

#BigFactz 🙄 🏴‍☠️ 🤔

**My generation had  
WONDER  
WOMAN... y'all  
generation is  
WONDERING if  
that's a WOMAN** 🧑

🎁 Send a gift

😂👍 5 1 comment

👍 Like 🗨️ Send ➦ Share

😱😞😡 16 12 comments

👍 Like 🗨️ Comment 🗨️ Send

**Food Basics**

Sponsored · 🌐

Save big in-store and online with more ... See more

# APPENDIX B



# APPENDIX C



## APPENDIX D



Bill Leduc

21 hours ago · 🌐




Just a Little Naughty

September 1 at 6:37 PM · ⚙️

Yep. 😊🐱

😂👍 3

## APPENDIX E



**Bill Leduc** [Add friend](#) [Message](#)

Posts **About** Friends Photos Videos Check-ins More


### About

- Overview
- Work and education**
- Places lived
- Contact and basic info
- Family and relationships
- Details About Bill
- Life events

**Work**  
No workplaces to show

**College**  
No schools to show

**High school**  
Went to Sudbury Secondary School



**Bill Leduc** [Add friend](#) [Message](#)

Posts **About** Friends Photos Videos Check-ins More

### About

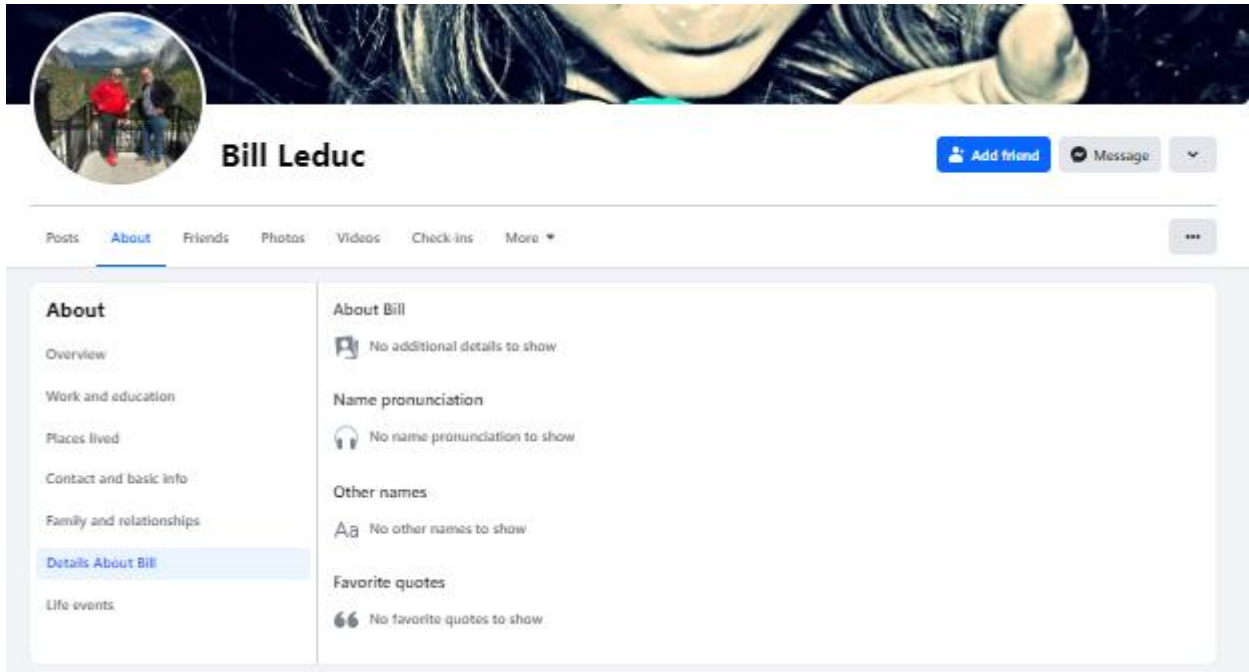
- Overview**
- Work and education
- Places lived
- Contact and basic info
- Family and relationships
- Details About Bill
- Life events

**Work**  
No workplaces to show

**College**  
Went to Sudbury Secondary School

**Places lived**  
Lives in Sudbury, Ontario

**Relationships**  
Single



The image shows a Facebook profile page for a user named Bill Leduc. At the top, there is a cover photo of a person's face and a circular profile picture of two people outdoors. Below the profile picture is the name "Bill Leduc" and buttons for "Add friend" and "Message". A navigation bar includes "Posts", "About", "Friends", "Photos", "Videos", "Check-ins", and "More". The "About" section is active, showing a sidebar with categories like "Overview", "Work and education", "Places lived", "Contact and basic info", "Family and relationships", "Details About Bill", and "Life events". The main content area under "About Bill" lists "About Bill", "Name pronunciation", "Other names", and "Favorite quotes", each with a "No additional details to show" or "No name pronunciation to show" message.

**Bill Leduc** [Add friend](#) [Message](#)

Posts **About** Friends Photos Videos Check-ins More

### About

- Overview
- Work and education
- Places lived
- Contact and basic info
- Family and relationships
- Details About Bill**
- Life events

**About Bill**  
No additional details to show

**Name pronunciation**  
No name pronunciation to show

**Other names**  
No other names to show

**Favorite quotes**  
No favorite quotes to show



---

<sup>i</sup> The First and Second Complaints concern the same post that they allege to be transphobic.

<sup>ii</sup> Mary Katherine Keown, “Post on Greater Sudbury councillor's Facebook page called transphobic”, *The Sudbury Star*, (31 August 2024), online: < <https://www.thesudburystar.com/news/local-news/post-on-greater-sudbury-councillors-facebook-page-called-transphobic>>.

<sup>iii</sup> Merriam-Webster online dictionary defines “meme” as “an amusing or interesting item (such as a captioned picture or video) or genre of items that is spread widely online especially through social media”, online at < <https://www.merriam-webster.com/dictionary/meme>>. By using the word “meme”, I assume that the First Complainant was relying on the secondary aspect of the above definition, meaning an item that is spread through social media. Based on their description of the First Post, I do not think that the First Complainant found it amusing or interesting.

<sup>iv</sup> *Ayotte v Therrien*, 2022 ONMIC 10 (CanLII) at [para 104](#). In *Ayotte*, Integrity Commissioner Guy Giorno cites *Gogos v Jones*, [2022 ONMIC 7 \(CanLII\)](#) and *Pinto v Anderson (No. 2)*, [2022 ONMIC 4 \(CanLII\)](#) for the proposition that a council member’s personal life (i.e. conduct that is unrelated to the office, role, or function of a Council Member, and to the interests and business of the Municipality) cannot be the subject of a Code of Conduct complaint.

<sup>v</sup> *Gogos v Jones*, 2022 ONMIC 7 (CanLII) at [para 160](#) and [para 164](#).

<sup>vi</sup> *Gogos v Jones*, 2022 ONMIC 7 (CanLII) at [para 164](#). Respectfully, I disagree with IC Giorno’s characterization of what his findings would be had he found that Clarington’s Code applied in the circumstances of *Gogos v Jones*. In the rhetorical circumstances described, IC Giorno would not have been making findings about whether a respondent was a good neighbor, friend or family member, but whether their conduct breached the Code.

<sup>vii</sup> *Gogos v Jones*, 2022 ONMIC 7 (CanLII) at [paras 161 to 162](#).

<sup>viii</sup> *Ayotte v Therrien*, 2022 ONMIC 10 (CanLII) at [para 105](#).

<sup>ix</sup> *Councillor Danko Tweet (Re)*, [2024 ONMIC 11 \(CanLII\)](#) at [para 16 to 17](#).

<sup>x</sup> *Councillor Danko Tweet (Re)*, [2024 ONMIC 11 \(CanLII\)](#).

<sup>xi</sup> Such that his X account explicitly identified him as a Hamilton councillor.

<sup>xii</sup> *Bartscher v Cardy*, [2018 ONMIC 28 \(CanLII\)](#). In *Bartscher*, Integrity Commissioner Melinda Munro found that Councillor Cardy breached the County of Brant’s Code of Conduct by posting a racial slur on his Facebook account. Councillor Cardy argued that his Facebook account had been hacked, but after reviewing the evidence submitted, IC Munro found that it did not support such a finding. Councillor Cardy also argued that his Facebook post was not made while he was conducting business as a Councillor and that therefore, the Code should not apply.

After referencing its statement of principles, IC Munro found that the Code did apply because it was meant to ensure that members share a common basis of acceptable conduct. IC Munro went on to find that it could not be the case that Council intended its members to behave in an “outrageous manner” out of chambers that would undermine public confidence in Council. IC Munro then, in my opinion, erroneously referenced employment law, which holds that Facebook posts can result in discipline or discharge, depending on the content of the post – noting that had a County employee made the impugned post, it would likely be considered very serious. I note that members of Council are not considered employees of a municipality. IC Munro acknowledged that the Code in *Bartscher* referred to the term “official duties”, but found that it was not reasonable to suggest that a Councillor can make inappropriate posts due to a narrow reading of the term “official duties” in the Code. Instead, IC Munro found that, once elected, all public activities of an elected Councillor become “official duties” for the purposes of behaving in a Code-consistent manner. I respectfully disagree with IC Munro’s analysis and submit that her expansive reading of the Code in *Bartscher* is not grounded in the enabling legislation for codes of conduct, namely the *Municipal Act, 2001* and Ontario Regulation 55/18.