



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

**Report on Violation of Code of Conduct for Members of
Council: Councillor Doug Ford**

Date:	October 23, 2012
To:	City Council
From:	Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

On May 9, 2012, a member of Toronto City Council filed a formal complaint with the Office of the Integrity Commissioner alleging that Councillor Doug Ford violated Article XII (Conduct Respecting Staff) of the *Code of Conduct for Members of Council* ("*Code of Conduct*") as a result of comments made by Councillor Ford on a radio program about the Medical Officer of Health ("MOH") for the City of Toronto.

An investigation was conducted into the complaint. This report concludes, and recommends that Council find that Councillor Doug Ford breached Article XII of the *Code of Conduct*.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. Council adopt a finding that Councillor Ford breached Article XII of the *Code of Conduct*.
2. Council adopt the recommendation that Councillor Ford be reprimanded.

Financial Impact

This report will have no financial impact on the City of Toronto.

DECISION HISTORY

On May 9, 2012, a City of Toronto Councillor filed a complaint with the Office of the Integrity Commissioner pursuant to the *Code of Conduct Complaint Protocol for Members of Council* (the "*Complaint Protocol*") and section 160 of the *City of Toronto Act, 2006*.

An investigation was conducted into the complaint. This is a report on that complaint in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006*.

ISSUE BACKGROUND

Investigation

The formal complaint alleged that on April 29, 2012, Councillor Ford, along with Mayor Ford, were hosts of a radio program to discuss City affairs. During the program, they discussed a report commissioned by Toronto's MOH entitled "*Road to Health: Improving Walking and Cycling in Toronto*" (the "Walking and Cycling Report"). The report, among other recommendations, discusses the value of lower speed limits on City of Toronto streets in the context of preventing pedestrian and cyclist injuries and deaths. During a discussion about the report, Councillor Ford questioned the findings in the report, the cost of the report and the MOH. Councillor Ford referred to the MOH as "this guy" and asked on two separate occasions, "Why does he still have a job?"

A copy of the complaint was provided to Councillor Ford who responded by letter dated June 4, 2012. In his reply, Councillor Ford asserted that his comments were his personal opinion and fully complied with the *Code of Conduct*. He expressed the view that the report fell outside the mandate of Toronto Public Health. Councillor Ford wrote that he had not intended to be malicious or falsely injure the MOH. Councillor Ford said that he had received numerous inquiries from his constituents regarding the report and that he felt it necessary to address the matter. He said that his comments reflected his honest assessment.

A copy of the response was provided to the complainant, who noted that the Councillor had not responded to the substance of the complaint, which concerned personal criticism of the MOH. The complainant wrote that, "Clearly, if he had restricted his comments to a disagreement about the recommendations in Dr. McKeown's report, there would have been no complaint. This is not what happened."

The investigative steps taken in the matter were as follows:

- Review of affidavit and material filed in support;

- Review of broadcast and transcription of the recording;
- Meeting with the Medical Officer of Health;
- Review of the Walking and Cycling Report;
- Review of Public Health Standards;
- Review of text on the history of Public Health programs in Toronto (1883-1983);
- Meeting with complainant;
- Meeting with Councillor Ford;
- Follow-up correspondence to Councillor Ford for reconsideration of his comments and the foundation for his comments.

A meeting was held with Councillor Ford to discuss the complaint. He acknowledged that he had not read the Ontario Public Health Standards, 2008 (the “Health Standards”) published by the Ministry of Health to guide Ontario mandatory health programs. Councillor Ford agreed to review the Health Standards and to consider making an apology once he had informed himself about the mandate of the Toronto Public Health office.

FINDINGS

The Report

The Walking and Cycling Report was released in April 2012.¹ It was prepared as a result of collaboration between Toronto Public Health and the City of Toronto Transportation Services and describes the link between transportation and health. It addressed the costs to the City of chronic disease from physical inactivity, injury and fatalities arising from collision between cyclists and cars, and pedestrians and cars. The report discussed strategies for improving active transportation in Toronto, the health risks involved in certain forms of transportation and the economic benefits to certain policies encouraging active transportation and traffic interventions, including speed limits. The project advisory committee for the report included representation from the Ontario Medical Association, the Heart and Stroke Foundation of Ontario, and the YMCA of Greater Toronto.

The Mandate of Public Health: Ontario Public Health Standards 2008 (Health Standards)

The City of Toronto has a history of public health programs dating back to 1883. The first *Public Health Act* was passed in 1884.² Over the years, medical officers tackled problems of sanitation, water quality, infectious disease, health promotion and air quality. By the 1930s, the focus had shifted to the use of research and

¹ Available at: <http://www.toronto.ca/legdocs/mmis/2012/hl/bgrd/backgroundfile-46483.pdf>

² Heather MacDougall, *Activists and Advocates: Toronto's Health Department 1883-1983* (Toronto, 1990, Dundurn Press) 16.

connecting medical research to policies for prevention of ill health.³ As the challenges and needs of the community evolved, so has the nature of the work done by public health.

The present version of public health legislation is found in the *Health Protection and Promotion Act*, R.S.O. 1990 (the "HPPA"). Section 7 of the HPPA, provides for a set of Health Standards which set out the expectations for boards of health. The Health Standards recognize that "the health of individuals and communities is significantly influenced by complex interactions between social and economic factors, the physical environment and individual behaviours and conditions." These factors are known as the "determinants of health."⁴ The standards acknowledge that addressing the determinants of health is "fundamental to the work of public health in Ontario."⁵

The determinants of health include social and physical environments. Decision-making and programs are required to be based upon data and information to inform decision making at the local level.⁶ Needs are established by "assessing the distribution of determinants of health, health status, and incidence of disease and injury."⁷ Public health research is mandated and may include collaboration with other organizations, as was done in the case of the Walking and Cycling Report.

One of the stated goals of the Health Standards is the reduction in the burden of chronic disease and to increase awareness about factors associated with chronic disease that may inform policy development, including the importance of creating healthy environments.⁸ The Health Standards direct boards of health to work with municipalities to support public health policies that create or enhance supports in the built environment taking into account physical activity.⁹

Another specific aspect of the Health Standards is the requirement for boards of health to work with community partners to influence policies that address "road and off-road safety" and the prevention of injury in the area of road and off-road safety.¹⁰ In this case, the report collaborates with community partners and makes recommendations relating to road safety. A link to the Health Standards may be found at:

http://www.health.gov.on.ca/english/providers/program/pubhealth/oph_standards/ophs/progstds/pdfs/ophs_2008.pdf

³ *Ibid*, 33 and 35.

⁴ Ontario Public Health Standards, 2008, 1.

⁵ Ontario Public Health Standards, 2008, 2.

⁶ Ontario Public Health Standards, 2008, 12.

⁷ Ontario Public Health Standards, 2008, 12.

⁸ Ontario Public Health Standards, 2008, 18.

⁹ Ontario Public Health Standards, 2008, 20.

¹⁰ Ontario Public Health Standards 2008, 23

In all of the circumstances, the repeated question "Why does he still have a job?" suggests that the competence of the MOH was being questioned. The tone of the conversation was mocking. The complaint is not about whether or not the specific recommendations were valid. The complainant did not challenge the Councillor's ability to comment on policy. Rather, it was the criticism of the professional capability of the MOH that is the subject matter of this complaint.

The suggestion that Councillor Ford's comments were justified by an opinion that the Walking and Cycling Report was outside the mandate of Toronto Public Health is contradicted by the specific provisions of the Health Standards. The policy recommendations and discussion contained in the Walking and Cycling Report address "road safety," "healthy environments" and physical activity." As such, these are all areas that are explicitly described as falling within the Toronto public health mandate, and by extension, an appropriate concern for the MOH.

I therefore conclude that the words spoken by Councillor Ford were a breach of Article XII of the *Code of Conduct* and recommend that Council adopt this finding.

The Analysis

Article XII of the *Code of Conduct* speaks to the fact that staff serve Council as a whole. Members are required to "be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation of the prospects or practice of staff, and all members shall show respect for the professional capacities of staff." A copy of Article XII is attached to this report.

The goal of these standards is to ensure that all staff feel able to make recommendations that are based on evidence, consultation and without political implications. Public name-calling and/or personal attacks on staff can have a chilling effect on the public service to make good faith recommendations in accordance with their individual mandates. A non-partisan, professional public service deserves respectful treatment. In this case, the comments fell below the standard expressed in Article XII.

Recommendation on Sanction

In the absence of an apology, Council must uphold the importance of these principles. The *City of Toronto Act, 2006* permits Council to impose sanctions, including a reprimand or suspension of remuneration for up to 90 days. The *Code of Conduct* further provides for additional penalties including a request for an apology.

I recommend that Council impose a reprimand to express the view of Council that the words spoken by Councillor Ford were a breach of the *Code of Conduct*. This

will allow Council to emphasize the importance of respect for staff. It will recognize that the failure to offer an apology in circumstances where it is warranted, will lead to consideration of sanctions. Finally, a reprimand will underline Council's expectations for all of its members that the public service are entitled to expect that members of Council will meet the "highest standards of conduct" from members of Council.

CONTACT

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SIGNATURE

Original signed by Janet Leiper

Janet Leiper
Integrity Commissioner

JL/ww

ATTACHMENT:

Article XII (Conduct Respecting Staff) – *Code of Conduct for Members of Council*

Article XII – Code of Conduct for Members of Council

CONDUCT RESPECTING STAFF

Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, members shall direct requests outside of Council-approved budget, process or policy, to the appropriate Standing Committee.

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as Standing Committee members, participating as Chairs of Standing Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council.