



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

Integrity by Design: Report on the Review of the *Code of Conduct for Members of Council*

Date:	May 8, 2014
To:	Executive Committee
From:	Janet Leiper, Integrity Commissioner
Wards:	All
Reference Number:	

SUMMARY

On July 16, 17, 18 and 19, 2013, the Integrity Commissioner reported on the work of the office to City Council for 2012-2013 and goals for 2013-2014. One of these goals was to review the *Code of Conduct for Members of Council* ("*Code of Conduct*"). This review was undertaken in consultation with the offices of the City Clerk, City Solicitor and City Manager. As a result, this report recommends a number of amendments to the *Code of Conduct*.

RECOMMENDATION

The Integrity Commissioner recommends that:

1. City Council adopt the revised code of conduct as outlined in attachment 2.

FINANCIAL IMPACT

There is no financial impact.

DECISION HISTORY

Chapter 3 of the Toronto Municipal Code provides that the duties of the Integrity Commissioner includes providing opinions on policy matters and making reports to Council on issues of ethics and integrity. At the meeting of Council on July 16, 17, 18

and 19, 2013, the Integrity Commissioner advised Council of the plan to review the *Code of Conduct* and to report back to Council on that review.

COMMENTS

Background

The current version of the *Code of Conduct* was adopted by City Council on July 14, 17 and 17, 2008. It was subsequently amended by Council on July 6 and 7, 2010. The *Code of Conduct* sets standards for the conduct of members. Its statements of principle serve as a guide to the interpretation of the *Code of Conduct*.

This review has maintained the existing framework of the *Code of Conduct* and recommends minimal substantive change. These recommendations include clarifying and updating the language in the *Code of Conduct*.

This report includes a black-line version showing the proposed changes and a clean copy of the proposed *Code of Conduct*. The appendices include three forms for the use of members in reporting gifts and benefits (two of which are already in use by members), as well as a proposed *Code of Conduct* Declaration for members on taking office.

OVERVIEW OF THE CHANGES

Minor changes are not reported on in this report. The attached black-line version shows what has been changed, added or removed. The following eleven areas describe the primary changes.

1. Prominence of the Key Statements of Principle

The key statements of principle were formerly found within a section labeled "Preamble." The section has been re-titled as "Key Statements of Principle." The first paragraph reads:

The quality of public administration and governance depends on high standards of conduct on the part of all government officials. The public is entitled to expect the highest standards of conduct from the members that it elects to local government. Adherence to these standards will protect and maintain the City of Toronto's reputation and integrity.

This is the theme that was applied to the task of recommended changes to the *Code of Conduct*. The key statements of principle have not changed. They continue to represent values which support integrity and accountability in municipal government.

2. Statutory Provisions Regulating Conduct

A number of additional laws have been added to the list of provisions found in Part II of the present *Code of Conduct*. These include the *Ontario Human Rights Code*, the

Occupational Health and Safety Act, the Controlled Drugs and Substances Act and the Provincial Offences Act.

3. Definitions

For greater clarity, definitions have been added for "members of Council," "agencies," and "person."

4. Application - Declaration on Taking Office

The Application of the *Code of Conduct* which is described in Part III will require all members to acknowledge that they are bound by the *Code of Conduct*. This is in keeping with the key statements of principle and will demonstrate to the public that all members are expected to know and abide by the *Code of Conduct*.

5. Lobbying Provisions

These provisions are moved up to Part IV, to provide greater prominence to the responsibilities of members in upholding the lobbying by-law and abiding by these provisions.

6. Gifts and Benefits Declarations

The disclosure of gifts and benefits under Article V will be streamlined so that members will provide their disclosure forms to the Office of the City Clerk on one of the three forms attached to this report. The forms will be forwarded to the Office of the Integrity Commissioner for review and all disclosures will be posted alongside the office expenses of members of council. Presently, there are two forms in use: one for travel and one for community donations and sponsorships. The third form will be used for all other gifts and benefits that are reportable, that is, gifts and benefits over \$300.00.¹

7. Confidential Information

These provisions have been re-ordered for improved clarity. It is proposed to add a sentence that explains the expectation that members of Council will continue to protect confidential information after they have left office.

8. Improper Use of Influence

The improper use of one's status for the benefit of others is part of the current version of the *Code of Conduct*. The amendments include the opposite requirement: to avoid improperly using one's status to prejudice another person or to improperly influence a decision.

¹ These are found in subparagraphs (b) incidents of protocol or social obligation; (d) suitable memento of a function honouring the member; and (f) food and beverages consumed at receptions for a legitimate business purpose.

9. Conduct at Council and Committee Meetings

There have been ongoing complaints about decorum in Council from the public and members. Members of the public service who appear in Council and at Committee have also complained about disrespectful treatment by members of Council.

This subject has been discussed by two former Integrity Commissioners for the City and has continued during this term. I recommend stronger language in the *Code of Conduct* to remind all members of their obligations in this regard.

The proposed provision reads:

A member of Council does best when he acts in service of the people who elect him. She strives to speak clearly and honestly. He does not attack or demonize those who complain or do not agree with him. She is careful with the people's trust and resources. When faced with a complaint, he looks for what he can learn. She apologizes with generosity and forgives with equanimity. All members of Council can set a good example for the future leaders who are among them.

10. Reprisals and Obstruction

The *City of Toronto Act, 2006* requires the City of Toronto to give the Integrity Commissioner information required for an inquiry under s. 160(3). Article XVI of the *Code of Conduct* also requires that members not engage in reprisal against a complainant or anyone for providing relevant information, nor may they obstruct the Integrity Commissioner in carrying out his or her responsibilities.

For greater clarity and in keeping with the statements of principle and the *City of Toronto Act*, it is recommended that the obligation of members of Council to cooperate with investigations under the *Code of Conduct* be explicitly stated in Article XVI.

11. Other Remedial Measures

In keeping with the ruling of the Divisional Court decision in *Magder v. Ford*, 2012 ONSC 5615 (CanLII), it is recommended that "Other Actions" be replaced with the more descriptive title, "Other Remedial Measures." In addition, measures 3 and 4 are clarified to permit Council to request the return, repayment or reimbursement of gifts, benefits or monies either to the member or to another person at the direction of the member. Where such return or repayment is not made by the member, Council is further empowered to sanction the member by way of suspension of remuneration under the *City of Toronto Act, 2006*. This jurisdiction is more clearly described within the recommended amendments to the Remedial Measures provisions.

CONCLUSION

Once Council has considered these amendments, the next logical step will be to similarly update and revise the provisions in the two other Codes of Conduct for Local Boards and for Adjudicative Boards.

I wish to recognize the invaluable collaboration and input from the Offices of the City Clerk, the City Manager and the City Solicitor.

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SIGNATURE

Original signed

Janet Leiper
Integrity Commissioner

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Attachments:

1. Black-lined version of *Code of Conduct for Members of Council*
2. Clean copy of proposed amended *Code of Conduct for Members of Council*
3. Proposed Declaration to be signed by all Members of Council
4. Donor Declaration Form
5. Travel Declaration Form
6. Gifts and Benefits reporting form