



OFFICE OF THE INTEGRITY COMMISSIONER

**INTEGRITY COMMISSIONER REPORT
REGARDING CONDUCT OF
THEN-MAYOR ROB FORD**

**Valerie Jepson
Integrity Commissioner
Date March 25, 2015**

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NATURE OF COMPLAINT

On July 8, 2014, a complaint was made by a resident alleging that then-Mayor Rob Ford violated Article XIV (Discreditable Conduct) of the *Code of Conduct for Members of Council* ("Code of Conduct") because on two occasions he used racial slurs.

Specifically, it is alleged that on March 17, 2012, while in the presence of his staff, Mr. Ford called a racialized person who was providing him a taxi service a "p---" and "made mocking fake language sounds." It is further alleged that on March 5, 2014, Mr. Ford said, "Nobody sticks up for people like I do, every f----ing k---e, n----r, f----ing w-p, d-go, whatever the race. Nobody does. I'm the most racist guy around. I'm the mayor of Toronto." Mr. Ford was not in the presence of any staff or city officials when he made the March 2014 statements.

Mr. Ford responded promptly to the complaint and accepted the underlying facts. In response, he took responsibility for his actions and said that he had previously apologized for all of this conduct when he made a public apology (reproduced below in the Analysis section) in June 2014.

The complainant was not the direct subject of Mr. Ford's statements or conduct and he seeks no personal remedy in response to the complaint. He made this complaint because the words used by Mr. Ford were hurtful to him and others as members of Toronto's racialized communities. The complainant said that Mr. Ford's conduct fell below the standards of conduct required of him in the Code of Conduct and were worthy of sanction unless Mr. Ford meaningfully acknowledged his misconduct.

SUMMARY OF FINDINGS

I find that Mr. Ford breached Article XIV of the Code of Conduct by making statements in the presence of his staff that were harmful and contrary to the principles embedded in the *Ontario Human Rights Code*.

FACTS

Mr. Ford does not deny that he made the statements alleged. I therefore accept as fact that:

- On March 17, 2012 and March 5, 2014, Mr. Ford made statements that included offensive racially abusive words.
- The statement made in March 2012 occurred while Mr. Ford was accompanied by his city hall staff. Mr. Ford directly addressed a racialized person, by using a racial slur and mocking the person's language.

- The statement made in March 2014 occurred while among Mr. Ford's personal acquaintances and arguably on his own time.

The fact of the statements and Mr. Ford's admission to the misconduct has been widely publicized in the media.

ANALYSIS

CODE OF CONDUCT STANDARDS

The issue is whether Mr. Ford's conduct breached the Code of Conduct. The Code of Conduct sets out a series of standards that must be interpreted in a broad and purposive manner and with due regard for the objectives set out in the preamble.

The applicable provisions are:

PREAMBLE

Improving the quality of public administration and governance can be achieved by encouraging high standards of conduct on the part of all government officials. In particular, the public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the City of Toronto's reputation and integrity.

...

The key statements of principle that underline the Code of Conduct are as follows:

...

- Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament and Ontario Legislature and the law and policies adopted by City Council.

...

XIV. DISCREDITABLE CONDUCT

All members of Council have a duty to treat members of the public, one another, and staff appropriately 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 if applicable, the City's *Human Rights and Anti-harassment Policy*, and *Hate Activity Policy*.

DOES THE CODE OF CONDUCT EXTEND INTO A MEMBER'S PRIVATE TIME?

I considered whether the Code of Conduct can regulate a member's conduct in his or her own private time. There is an argument that statements made to personal acquaintances on one's private time cannot attract Code of Conduct sanctions. On the other hand, there is an argument that a person holding the Office of Mayor is always representing the City and therefore always bound by the Code.

I have concluded that in this case I do not need to decide the reach of the Code of Conduct into one's personal time because the activity that occurred on March 17, 2012 happened in the presence of Mr. Ford's city staff. I find that there was a sufficient nexus to require that in relation to the March 2012 circumstance, the then-Mayor was required to have been compliant with the Code of Conduct.

DID THE CONDUCT BREACH THE CODE OF CONDUCT?

The statements and conduct of Mr. Ford were inappropriate. The conduct was not just inappropriate – it was abusive, harmful and agreed by society to be unacceptable. Our society's commitment to avoid this kind of conduct is enshrined in the *Ontario Human Rights Code*, which prohibits actions that discriminate against people on the basis of prohibited grounds like ancestry, colour and race. The *Ontario Human Rights Code* is incorporated into the Code of Conduct.

With specific reference to the use of racial terms, the Ontario Human Rights Commission advises as follows:

Tribunals have accepted the particular impact that racial terms have on racialized persons. When White people in positions of power insult Black or other racialized individuals in racially abusive terms, their words reflect society's judgments about the superiority of White people and the inferiority of others. Racist language has this effect, whether or not it is intended, because these judgments are built into the meanings of the words.

In many situations it should be obvious that the racially based conduct or comments will be offensive or unwelcome. The following types of behaviours would in most instances be considered "a course of comment or conduct which ought reasonably to be known to be unwelcome":

- racial epithets, slurs or jokes
- being subjected to racial name calling or nicknames
- racial cartoons or graffiti
- comments ridiculing individuals because of race-related characteristics, religious dress, etc.

- singling out an individual for teasing or jokes related to race, ancestry, place of origin or ethnic origin
- being subjected to inappropriate references to racist organizations such as the Ku Klux Klan
- circulating racially offensive screensaver jokes, pictures or cartoons by e-mail or having a racially offensive screensaver. ...¹

Considering Article XIV and the requirement that members of City Council strive to achieve the highest standards of conduct, I find that Mr. Ford's conduct clearly fell below the standards expected of him and were contrary to the Code of Conduct. Considering the position he held at the time, his actions were egregious and wholly unbecoming of the Office of the Mayor.

CONSEQUENCES OF FAILING TO COMPLY WITH THE CODE OF CONDUCT

REMEDIES FOR ENGAGING IN DISCRIMINATION

The misconduct at stake in this case is grounded in the *Ontario Human Rights Code*. It is therefore useful to consider the types of consequences that flow from a finding of discrimination by the Ontario Human Rights Tribunal.

If a service provider, like the City of Toronto, engages in conduct contrary to the *Ontario Human Rights Code*, it can be subject to a variety of remedial orders by the Ontario Human Rights Tribunal. The Tribunal can order the service provider to provide financial compensation to the person who was discriminated against and it can order the provider to take a wide range of remedial action designed to promote compliance with the *Human Rights Code*.²

These latter types of remedies are referred to as "public interest remedies" and are intended to have an impact on the community at large and beyond the specific circumstances of a particular case. Public interest remedies include such measures as mandatory education, posting information about the *Human Rights Code* in the office, making a donation or publicizing the fact of the complaint and finding. This backdrop informed my consideration of an appropriate response.

¹ Ontario Human Rights Commission, Policy and Guidelines on Racism and Racial Discrimination (2009) at 25. (accessed online:

http://www.ohrc.on.ca/sites/default/files/attachments/Policy_and_guidelines_on_racism_and_racial_discrimination.pdf;

The City of Toronto Human Rights and Anti-Harassment Policy is consistent with the *Ontario Human Rights Code* and the above-noted policy statement.

<http://wi.toronto.ca/intra/hr/policies.nsf/9fff29b7237299b385256729004b844b/c8c007fd9cd24c6585257d4e00653676?OpenDocument>

² *Human Rights Code*, RSO 1990, c H.19, s 45.2(1).

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90h19_e.htm - s45p2s1

WHAT WAS THE RESPONSE?

In response to this complaint, Mr. Ford did not dispute the allegations or defend his actions. Nor did he dispute the jurisdiction of this Office to deal with the matter. In specific response to this complaint, Mr. Ford said:

In response to [the resident's] complaint, I direct you to an excerpt of the statement I made the day of my return from leave [June 30, 2014], which was broadcast and published on multiple media outlets:

'When I look back on some of the things that I said, some of the things I did under the influence, I'm ashamed. I was wrong, and I have no one to blame but myself. I want to apologize, not just to the people of Toronto but to everyone who was hurt by my remarks and my actions. It was never my intention to embarrass the city or offend my fellow members of council. I deeply regret some of the personal choices I have made.'

While I realize that I am unable to erase the past and the errors I may have made, I have taken full responsibility, and apologize for my hurtful comments.

Mr. Ford has admitted his misconduct, apologized, offered an explanation, taken responsibility and said that he was ashamed of his conduct. I take Mr. Ford at his word and trust that he will act differently with respect to his use of language in the future. I acknowledge his cooperation by responding to this inquiry promptly and particularly his acceptance of responsibility for his actions.

The complainant was not satisfied with the response because it referred to a previously-provided apology. As noted above, he sought a more specific response and an acknowledgement that Mr. Ford understood the harm that his comments caused.

IS MORE REMEDIAL ACTION NECESSARY?

I agree that in this case a more specific response is necessary. Mr. Ford's harmful conduct was widely publicized in the media. Should any person ever wonder whether Mr. Ford's conduct was in accordance with the standards of conduct expected of the Mayor of Toronto there should be a formal public record that the conduct fell short and that there was accountability for these actions.

I therefore asked Mr. Ford to make a formal specific apology to Council and the public on the Council floor for using racial slurs that were harmful and unbecoming of his Office.

Three public interest objectives will be served by an apology. It will allow Mr. Ford to be directly and formally accountable for these specific actions before his Council colleagues and the

public, including the complainant; it is an opportunity for Mr. Ford to acknowledge that he understands and commits to the principles in the *Ontario Human Rights Code*; and, it will put the matter on the public record leaving no uncertainty that Council expects its members to meet the highest standards of conduct.

I am advised by his Chief of Staff that Mr. Ford has made arrangements with the Speaker to address this matter as a point of personal privilege at the meeting of City Council on March 31 and April 1, 2015.

Should Mr. Ford apologize, I recommend no further remedial action but urge Mr. Ford to demonstrate through his future actions that he regrets his conduct and that he will act differently in the future. Making a sincere, specific and public apology to Council as a response to this report is evidence of his commitment to act differently in the future.

I spoke with the complainant to inform him of the planned response. He welcomes Mr. Ford's decision to deal with the matter proactively and is optimistic, as am I, that this will allow the matter to be addressed in a productive and meaningful way.

I do not recommend any other remedial action or penalty because Mr. Ford cooperated and accepted responsibility. The incidents at issue happened several months prior to the complaint and Mr. Ford's June 30, 2014 statement which signalled that he intended to act differently. However, should Mr. Ford engage in similar conduct in the future, it may be necessary to consider more significant penalties.

CONCLUSION

I find that Mr. Ford breached Article XIV of the Code of Conduct for using harmful racial slurs. I recommend that Council accept this report and conclusion that Mr. Ford contravened the Code of Conduct. In so doing, Council will make it clear that such conduct is not acceptable and falls well short of the standards of conduct expected by the public and Council itself.

In light of Mr. Ford's plan to address this matter before Council, I recommend no further action but I urge him to demonstrate through his future actions that his apology is sincere and that he commits himself to the standards set out in the Code of Conduct.

Valerie Jepson
Integrity Commissioner
March 25, 2015