

Use of Social Media by Members of Council

Purpose of the Bulletin

1. The purpose of this Interpretation Bulletin is to clarify how the [Code of Conduct for Members of Council](#) (the “Code of Conduct”) applies to a member's use of social media.
2. In addition to referring to this bulletin, members should consult the Integrity Commissioner for confidential advice when they have specific questions about these matters. The public and media are also invited to contact the Integrity Commissioner for general information but opinions about whether or not someone has complied with the requirements of the Code of Conduct will not be provided as such findings can only be made if an investigation is conducted.

Application of the Code of Conduct

3. Members use social media to promote themselves, their views and information they deem important to engage the public, media and their colleagues. Members use social media accounts in a variety of ways including:
 - posting content they have composed or created themselves, having others post content on their behalf or some combination of the two;
 - posting content that ranges from information about events in their community to their opinions about political issues of the day in Toronto and around the world; and,
 - providing a real-time narrative of meetings and events in which they are participating.
4. Like any activity or mode of communication in connection with their official role, the Code of Conduct applies to a member’s use of social media.

Relevant Legislation and Policies

5. Use of social media has the potential to engage provincial legislation and City policies, including the:
 - [Municipal Elections Act, 1996](#)
 - [Use of City Resources during an Election Period Policy](#)
 - [Constituency Services and Office Budget Policy](#)
 - [Corporate Identity Program](#) (intranet only)

Reminders

6. Members should note the following when using social media.

Guiding Principles

7. Members are expected to hold the highest standards of conduct to maintain and foster the City of Toronto's reputation and integrity. As the Preamble to the Code of Conduct describes, this includes members:
 - serving their constituents in a conscientious and diligent manner;
 - acting with integrity to avoid real and apparent conflicts of interest and the improper use of their influence;
 - performing their duties and arranging their private affairs in a manner that promotes public confidence and bears close public scrutiny; and,
 - serving the public interest by upholding both the letter and the spirit of federal and provincial laws and the bylaws and policies adopted by City Council.

Use of City Resources

8. A member's social media account uses City resources when it:
 - uses an "@toronto.ca" email address as a point of contact for registration purposes;
 - identifies the member as a current member of Toronto City Council in the handle name, the user name or the profile description;
 - is publicized on the member's constituency website or the City of Toronto's contact page for members of Council;
 - is publicized on business cards, newsletters or other publications eligible to be paid for out of the Constituency Services and Office Budget (CSOB);
 - uses the logo or any other proprietary mark of the City of Toronto;
 - contains contact information for the member at City Hall, a civic centre or constituency office or any other official contact information;
 - is used or managed using City of Toronto resources including computers, smart phones or tablets; or,
 - is managed or maintained by the member's staff or volunteers, or using services eligible to be paid for out of the CSOB.

9. In accordance with Article 15 (Council Policies and Procedures), when maintaining or promoting social media accounts using City resources, members are required to do so in accordance with City policies which include the policies listed at paragraph 5, above.

Re-election Activity

10. As required by Article 7 (Election Campaign Work), members are required to follow the provisions of the *Municipal Elections Act, 1996* governing municipal elections and referendum questions.
11. If a social media account is being used by a member to promote their re-election (or a particular outcome on a referendum question), it must not be maintained or promoted using City resources, which includes:
 - using or managing it from City office space or using it on City of Toronto computers, smart phones or tablets; or,
 - receiving support to use or manage it from: the member's staff during their prescribed working hours as City of Toronto employees; unpaid volunteers in the member's office; or, the services eligible to be paid for out of the CSOB.
12. Members should establish a separate account that does not use City resources for their re-election campaign activities from the date they file their nomination papers until December 31, 2022, which is the end of their election campaign period under the *Municipal Elections Act, 1996*.
13. If a member wishes to use a social media account that has been supported by City resources for their re-election campaign activities, a member needs to do the following:
 - a) consult the Integrity Commissioner with respect to their plan for implementing the steps outlined below;
 - b) cease producing and distributing any publication using City resources, including business cards, that includes account information (i.e. user names, handle names) for the social media account;
 - c) before filing their nomination papers:
 - i. remove any reference to the City of Toronto, City logos or images proprietary to the City of Toronto, and reference to the member's title from the account handle name, the user name, and the profile description;
 - ii. ensure that the account's registration information does not include any "@toronto.ca" email addresses or City of Toronto phone numbers;

- iii. remove all reference to the account from the member's website or the City of Toronto website;
 - iv. notify staff and volunteers who manage or contribute to the account that no City resources, including computers, devices and staff, may be used to maintain the account and proactively monitor staff and volunteers to ensure this is done;
 - v. notify social media users that the account will be used for re-election purposes, and refer them to a different contact for information about constituency services; and,
 - vi. label the account so it is clear the account is not an “official” account.
14. The requirements set out above need to remain in place until the end of their election campaign period under the *Municipal Elections Act, 1996* which is December 31, 2022.

Other Political Activity

15. On a social media account supported by City resources, members must not post content that promotes any candidate or political party in any election at the municipal, federal or provincial level, including nomination and leadership contests.

Improper Use of Influence

16. On a social media account supported by City resources, members must not post content regularly promoting the purchase of goods and services from a particular business rather than another. In promoting economic development in their communities, members should be careful to promote local businesses in an even-handed manner to avoid the appearance of favouritism and the appearance of commercially endorsing specific businesses over others in their community.

Conduct Respecting Others

17. When using social media, members should consider whether the requirements of Article 14 (Discreditable Conduct) and Article 12 (Conduct Respecting Staff) may, objectively and reasonably, apply to their communications if those messages:
- engage with others, including the public, City staff and other members, in a manner that is abusive, bullying, intimidating or derogatory, or
 - fail to ensure that their work environment at the City of Toronto is free from discrimination and harassment ((The Ontario *Human Rights Code* applies to a

member's activity and if applicable, the City's Human Rights and Anti-harassment/discrimination Policy and the City's Hate Activity Policy); or,

- maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of City staff, or does not respect their professional capacities.

18. Complaints about such communications may be submitted to, and investigated by, the Integrity Commissioner.

Confidential Information

19. Members should not post content on social media during confidential meetings, including Council, committee or board meetings considering *in camera* items, as it may be perceived, correctly or incorrectly, that confidential information is being disclosed.

20. The requirements in Article 5 (Confidential Information) prohibiting the use and disclosure of confidential information apply to a member's use of social media. For example, members should not use social media accounts to respond to service requests from a constituent about their private matters.

Gifts and Benefits

21. Article 4 (Gifts and Benefits) prohibits members receiving goods or services, directly or indirectly connected with the performance of their duties of office, unless permitted by the exceptions noted in the Code of Conduct. Members should not accept social media content:

- produced by a lobbyist regarding an issue to be decided by City Council to comply with Article 13 (Conduct Respecting Lobbyists); or,
- produced without payment from any one external source in a calendar year that is valued at greater than \$500.

Terms of Use

22. Members should adopt a terms of use policy for their social media accounts and make that policy publicly available.

23. The policy should identify:

- a) what content will be posted to the social media account;
- b) if City resources are being used to support the social media account;
- c) how the social media account will be moderated including:

- i. if the social media account will be open to others posting or responding to the member's posts;
 - ii. how service requests from constituents will be dealt with in order to respect their personal and confidential information;
 - iii. what content posted by others will be removed;
 - iv. when others will be blocked from accessing the social media account, why they will be blocked and the duration they will be blocked; and,
 - v. how someone can contact the member to complain about content the member or others post to the social media account, having their posts deleted or having their access restored if they have been blocked.
24. If a terms of use policy is implemented that addresses these matters, the use of the social media account should comply with the Code of Conduct unless there is evidence that Article 14 (Discreditable Conduct) has been infringed.

Commentary on Moderating Accounts

Members should consider the following when using social media and moderating their accounts.

Social media is a dynamic and evolving means of communication. It is powerful, easily-accessed and its users compete to advance their messages, influence others and attract followers. A minority of users adopt a “no holds barred” manner of communication that is harassing, threatening, hate-based, discriminatory or derogatory. While social media applications can be used for informed discourse, they are sometimes abused by individuals, organizations and governments intent on providing false information or harming others.

Members are always entitled to block and remove content from others that is harassing, threatening, hate-based, discriminatory or derogatory to themselves or others. Content that is contrary to the *Criminal Code*, or that threatens criminal activity, should be reported to the police.

Members are always entitled to block and remove false information from other users that, if relied on, could cause harm.

Members are always entitled to block other users who are spamming their social media accounts, trying to dominate its content or drown out or exclude others. Users who do this are abusing the rights of others to communicate.

As social media applications are hosted by private entities, these providers establish terms of use about how account-holders may interact and what content is unacceptable. Members should familiarize themselves with a social media provider's terms of use as it applies to their own use and when others should be reported to that provider.

Subject to the cautions expressed below, members are entitled to block access to, and posts from, others with whom they simply disagree.

Members use social media to express opinions on political issues as do those who respond to the content that is posted. Other users may follow a social media account to observe this exchange of opinion. The expression of political opinions is protected by section 2(b) of the *Canadian Charter of Rights and Freedoms* but the *Charter* only applies to “governmental action.” The law is clear that municipal bylaws and policies enacted by City Council as a legislative body are reviewable under the *Charter* as “governmental action” but, at present, no court in Canada has decided that the individual political comments of an elected municipal official on social media qualify as “governmental action.”

In contrast, human rights legislation governs both governmental action and private activity in the provision of goods and services. As noted in Article 14 (Discreditable Conduct) of the Code of Conduct, the Ontario *Human Rights Code* applies to the individual activities of members. While members have discretion to block posts from others with whom they disagree, this is denying someone the right to see what the member is communicating in their service of the public. On that basis, members need to be careful that blocking does not have a direct or indirect adverse effect on someone under one of the enumerated grounds in the Ontario *Human Rights Code*. If blocking or removal of content had such an effect, it could be reviewed under Article 14 (Discreditable Conduct) of the Code of Conduct. For this reason, members should have a terms of use policy and a process that permits people to contact the member if they are concerned about their posts being deleted or having their access restored if they have been blocked by the member.

As elected officials are accountable to the public, the public is entitled to use social media to question and criticize those whom they elect, especially if a member is engaging in political debate using a social media account. If the content that another user posts to a member’s account is not inappropriate or not abusive, it may reasonably be perceived as unfair if the member blocks that user. However, even then, members have discretion to block posts from others with whom they simply disagree if they do so in a way that is consistent with their obligations under the Code of Conduct and the Ontario *Human Rights Code*.

Contact Information

Office of the Integrity Commissioner
City of Toronto
375 University Avenue, Suite 202
Toronto, ON M5G 2J5
(416) 392-3826

integrity@toronto.ca

toronto.ca/integrity

Issue Date	August 8, 2022
Version	1.1
Notes	<p>This version updates the Article numbers to reflect the updated Code of Conduct, effective August 1, 2022.</p> <p>This bulletin replaces and supersedes interpretation bulletins previously issued to members of Council on the use of social media.</p>