

To: Chairs of Local Boards (Restricted Definition)

From: David Mullan, Integrity Commissioner

Re: Code of Conduct and Complaint Protocol

Date: September 3, 2008

At its July 2008 meeting, City Council adopted a recommendation that there be separate Codes of Conduct for Members of Local Boards (Restricted Definition) as well as a separate Complaint Protocol. Previously, Members of Local Boards (Restricted Definition) were subject to the same Code of Conduct and Complaint Protocol as applied to Members of Council.

In fact, there are now two Codes of Conduct for Members of Local Boards (Restricted Definition): a general one (<http://www.toronto.ca/integrity/pdf/code-conduct-local-boards.pdf>) and one for those Local Boards that perform adjudicative functions (<http://www.toronto.ca/integrity/pdf/code-conduct-adjudicative-boards.pdf>). However, there is only one Complaint Protocol (<http://www.toronto.ca/integrity/pdf/complaint-protocol-local-boards.pdf>) though its provisions on Informal Complaint Resolution do not apply to Local Boards that adjudicate.

In my capacity as the outgoing Integrity Commissioner, I urge you to both familiarize yourself with the details of both these documents and to distribute copies to all of your members and ensure that they are familiar with their contents. Knowledge of members' ethical obligations and the processes for handling complaints of violations of the Code of Conduct is an integral part of the responsibilities of those that the City has appointed to be members of local boards (restricted definition). You should also be aware that one of the central functions of the Integrity Commissioner is to give advice to Members of Council and Members of Local Boards (Restricted Definition) on their responsibilities under the applicable Code of Conduct. Therefore, do not hesitate to contact the Integrity Commissioner's Office if you have any questions about the meaning of the Code of Conduct and the Complaint Protocol, and particularly if any specific issues arise as to your obligations under the Code of Conduct. Once again, also make your members aware of this resource.

My term as Integrity Commissioner ends on September 30, 2008. However, my successor, Geri Sanson (416-397-7770) and her Assistant Carol Birkett (416-392-3826; cbirket@toronto.ca) will be equally available to you. The City Manager's Office in conjunction with the Integrity Commissioner will also be organizing a programme some time in the fall to assist you and your members in a more detailed understanding of the terms of your Code of Conduct and the Complaint Protocol.

David Mullan,
Integrity Commissioner

DM/cb



**CODE OF CONDUCT FOR MEMBERS OF
LOCAL BOARDS (RESTRICTED DEFINITION)
CITY OF TORONTO**

TABLE OF CONTENTS

AUTHORITY	2
PREAMBLE	2
I. DEFINITIONS.....	3
II. STATUTORY PROVISIONS REGULATING CONDUCT	4
III. APPLICATION	4
IV. GIFTS AND BENEFITS	4
V. CONFIDENTIAL INFORMATION	6
VI. USE OF BOARD AND CITY PROPERTY, SERVICES AND OTHER RESOURCES.....	7
VII. ELECTION CAMPAIGN WORK	7
VIII. IMPROPER USE OF INFLUENCE.....	7
IX. BUSINESS RELATIONS	8
X. CONDUCT RESPECTING CURRENT AND..... PROSPECTIVE EMPLOYMENT	8
XI. CONDUCT AT MEETINGS.....	8
XII. CONDUCT RESPECTING STAFF	9
XIII. CONDUCT RESPECTING LOBBYISTS	9
XIV. DISCREDITABLE CONDUCT.....	10
XV. FAILURE TO ADHERE TO COUNCIL OR LOCAL BOARD POLICIES..... AND PROCEDURES	10
XVI. REPRISALS AND OBSTRUCTION.....	10
XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER	10
XVIII. COMPLIANCE WITH THE CODE OF CONDUCT	10

Note: This document is a modified version of the “Code of Conduct for Members of Council” for members of local boards (restricted definition), other than adjudicative boards.

There is a separate version of the Code of Conduct for members of local boards (restricted definition) that adjudicate.

AUTHORITY

Consolidated Code of Conduct for Members of Council, including:

Historic

- (1) “Code of Conduct for Members of Council Inclusive of Lobbyist Provisions” adopted, as amended, by City Council on September 28 and 29, 1999 (Clause 2 of Report 5 of the Administration Committee) and as amended by:
 - (a) “Amendments to Code of Conduct for Members of Council” approved by City Council on September 25, 26 and 27, 2006 (Clause 26 of Report 7 of the Policy and Finance Committee) that under Council action (2) came into force on February 8, 2007 following City Council’s approval on February 5, 6, 7 and 8, 2007 of the appeal mechanisms and legal support program in CC2.5 “Amendments to the Code of Conduct Complaint Protocol under Members Code of Conduct”; and
 - (b) “Report on Congruence between Lobbying By-law and Obligations under Members Code of Conduct” approved by Council on April 28 and 29, 2008 (EX 19.7, motions 1 and 2).

Current

- (2) This Code of Conduct for Members of Council was amended and adopted by City Council on July 15, 16, and 17, 2008 (2008) EX22.6, as amended by Council) and amended by Council on July 6 and 7, 2010.

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 members of Council and the citizen members who are appointed to local boards by Council to act on its behalf. In turn, adherence to these standards will protect and maintain the City of Toronto’s reputation and integrity.

To these ends, during its first term as a unified City, the City of Toronto, as one of several initiatives, adopted a *Code of Conduct for Members of Council*. Although the title refers to Members of Council, it was also binding on citizen members of local boards.

Subsection 157(1) of the *City of Toronto Act, 2006* now requires the City to establish codes of conduct for members of Council and of certain local boards of the City. In response to this requirement, the City has revised and updated the original *Code of Conduct* and developed two separate versions for local boards. Each Code of Conduct is intended to supplement and be compatible with the laws governing the conduct of members.

This Code of Conduct is based on the following principles:

- Members of local boards shall serve and be seen to serve the City and community in a conscientious and diligent manner;
- Members of local boards should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real;
- Members of local boards are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of local boards shall seek to serve the City's and the public's interest by upholding both the letter and the spirit of applicable laws of the Federal Parliament and Ontario Legislature, and the laws and policies of Council and of the local board of which they are a member.

I. DEFINITIONS

In the *Code of Conduct*:

- (a) the following terms shall have the meanings indicated:

“Council” means the Council of the City of Toronto;

“local board” means a local board as defined in section 156 of the *City of Toronto Act, 2006*; and

“member” means a member of a local board.

- (b) the terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

“parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child; and

“spouse” means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage.

II. STATUTORY PROVISIONS REGULATING CONDUCT

This *Code of Conduct* operates along with and as a supplement to the existing statutes governing the conduct of members of local boards. The following provincial legislation governs the conduct of members:

- the *City of Toronto Act, 2006*, and, where applicable, Chapter 27, Council Procedures, of the Municipal Code (the Council Procedures By-law) passed under section 189 of that Act;
- the *Municipal Conflict of Interest Act*; and
- the *Municipal Freedom of Information and Protection of Privacy Act*.

The *Criminal Code* of Canada also governs the conduct of members of local boards.

III. APPLICATION

This *Code of Conduct* applies to members of local boards other than adjudicative boards.

Members of adjudicative boards are governed by the *Code of Conduct for Members of Adjudicative Boards*.

Members of Council are bound by the *Code of Conduct for Members of Council*. However, when a Member of Council is acting in her or his capacity as a member of a local board, the Member of Council is also bound by provisions of this Code that are specific to the requirements of a local board.

IV. GIFTS AND BENEFITS

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office, unless permitted by the exceptions listed below.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member’s knowledge to a member’s spouse, child, or parent, or to a member’s staff that is connected directly or indirectly to the performance of the member’s duties is deemed to be a gift to that member.

The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law, in the case of members running for office;
- (d) services provided without compensation by persons volunteering their time;
- (e) a suitable memento of a function honouring the member;
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (g) food and beverages consumed at banquets, receptions or similar events, if:
 - 1. attendance serves a legitimate business purpose for the local board on which the member serves;
 - 2. the person extending the invitation or a representative of the organization is in attendance; and
 - 3. the value is reasonable and the invitations infrequent; and
- (h) communication to the offices of a member, including subscriptions to newspapers and periodicals.

Except for category (c) (political contributions allowable by law), these exceptions do not apply where such gifts or benefits are provided by lobbyists or their clients or employers (as defined or described in Municipal Code Chapter 140, Lobbying). For these purposes, a lobbyist is an individual, organization or business that:

- [i] is lobbying or causing the lobbying of any public office holder at the City, a local board (restricted definition) or the board of health;
- [ii] the member knows is intending to lobby, having submitted or intending to submit a registration to the Lobbyist Registrar for approval to communicate on a subject matter; or
- [iii] is maintaining an active lobbyist registration with the City even though not having a current active subject matter registered with the lobbyist registry.

In the case of categories (b), (e), (f), (g) and (h), if the value of the gift or benefit exceeds \$300, or if the total value received from any one source during the course of a calendar year exceeds \$300, the member shall within 30 days of receipt of the gift or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

- 1. the nature of the gift or benefit;
- 2. its source and date of receipt;
- 3. the circumstances under which it was given or received;
- 4. its estimated value;
- 5. what the recipient intends to do with any gift; and
- 6. whether any gift will at any point be left with the City or the local board.

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the member. In the event that the Integrity Commissioner makes that preliminary determination, he or she shall call upon the member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City or local board.

Except in the case of categories (a), (c), and (f), a member may not accept a gift or benefit worth in excess of \$500 or gifts and benefits from one source during a calendar year worth in excess of \$500.

V. CONFIDENTIAL INFORMATION

Confidential information includes information in the possession of, or received in confidence by a local board that the local board is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* (often referred to as "MFIPPA"), or other legislation. Generally, the *Municipal Freedom of Information and Protection of Privacy Act* restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *City of Toronto Act, 2006* allows information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential. For the purposes of the *Code of Conduct*, "confidential information" also includes this type of information.

No member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law, or authorized to do so by the local board or, if applicable, by Council.

Nor shall members use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. As one example, no member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of property or assets of the local board or City.

Under the City's Procedures By-law (passed under section 189 of the *City of Toronto Act, 2006*), or similar provisions of the local board's procedure by-law, a matter that has been discussed at an in-camera (closed) meeting remains confidential. No member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the local board,

committee of the local board or, if applicable, Council or one of its committees discusses the information at a meeting that is open to the public or releases the information to the public.

The following are examples of the types of information that a member must keep confidential:

- items under litigation, negotiation, or personnel matters;
- information that infringes on the rights of others (e.g., sources of complaints where the identity of a complainant is given in confidence);
- price schedules in contract tender or Request For Proposal submissions if so specified;
- information deemed to be “personal information” under the *Municipal Freedom of Information and Protection of Privacy Act*, and
- statistical data required by law not to be released (e.g. certain census or assessment data).

Members should not access or attempt to gain access to confidential information in the custody of the local board or City unless it is necessary for the performance of their duties and not prohibited by the local board or Council policy.

VI. USE OF BOARD AND CITY PROPERTY, SERVICES AND OTHER RESOURCES

No member should use, or permit the use of local board or City land, facilities, equipment, supplies, services, staff or other resources (for example, local board or City-owned materials, websites, local board and City transportation delivery services and any members expense budgets) for activities other than the business of the local board or the City; nor should any member obtain personal financial gain from the use or sale of local board or City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the local board or City.

VII. ELECTION CAMPAIGN WORK

No member shall use the facilities, equipment, supplies, services or other resources of the local board or the City (including the local board’s newsletters and websites linked through the local board’s or City’s website) for any election campaign or campaign-related activities. No member shall undertake campaign-related activities on local board or City property unless permitted by City policy (e.g., all candidates meetings). No member shall use the services of persons for election-related purposes during the hours in which those persons receive any compensation from the local board or the City.

VIII. IMPROPER USE OF INFLUENCE

No member shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties as a member of the local board.

Examples of prohibited conduct are: the use of one's status as a member of a local board to improperly influence the decision of another person to the private advantage of oneself, or one's parents, children or spouse, staff members, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of others (similar to constituents of a Member of Council) as part of their official duties as a member of the local board. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within the local board or at the City, in return for present actions or inaction.

For the purposes of this provision, "private advantage" does not include a matter:

- (a) that is of general application;
- (b) that affects a member, his or her parents, children or spouse, staff members, friends, or associates, business or otherwise as one of a broad class of persons; or
- (c) that concerns the remuneration or benefits of a member.

IX. BUSINESS RELATIONS

No member shall act as a paid agent before an agency, board or commission of the City, the Council, and its committees, except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

X. CONDUCT RESPECTING CURRENT AND PROSPECTIVE EMPLOYMENT

No member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the local board and to the City.

XI. CONDUCT AT MEETINGS

Members shall conduct themselves with decorum at the local board meetings in accordance with the provisions of the local board's procedure by-law and this Code of Conduct. Where the local board's procedure by-law does not address an issue, members should use Council's Procedures By-law as a reference.

XII. CONDUCT RESPECTING STAFF

Members shall be respectful of the role of staff of the local board and, if applicable, staff of the City, to provide advice based on political neutrality and objectivity, and without undue influence from any individual member or faction of the local board. 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.

XIII. CONDUCT RESPECTING LOBBYISTS

Lobbying of public office holders is a permissible but regulated activity in the City of Toronto. Lobbying is defined and regulated by Municipal Code Chapter 140, Lobbying (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct).

Members and their staff are public office holders. As a matter of general principle, as public office holders, members should be familiar with the terms of this lobbying by-law inclusive of the Lobbyist Code of Conduct (Chapter 140).

Specifically, members should not engage knowingly in communications in respect of the list of subject matters contained in the definition of "Lobby" as set out in Chapter 140 with a person who is not registered as required by Chapter 140.

Members should also not knowingly communicate with a registered lobbyist who is acting in violation of Chapter 140.

If a member is or at any time becomes aware that a person is in violation of Chapter 140, the member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by Chapter 140.

A member should report any such violation or attempted violation of Chapter 140 to the Lobbyist Registrar unless the member believes in good faith that the violation in communicating or attempting to communicate with the member was inadvertent or insignificant.

XIV. DISCREDITABLE CONDUCT

All members of local boards 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 the *Hate Activity Policy*.

XV. FAILURE TO ADHERE TO COUNCIL OR LOCAL BOARD POLICIES AND PROCEDURES

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, members are required to observe the terms of all policies and procedures established by the local board and any Council policies and procedures that apply to the local board or its members.

This provision does not prevent a member from requesting that Council or the local board grant an exemption from a policy.

XVI. REPRISALS AND OBSTRUCTION

Members should respect the integrity of the *Code of Conduct* and investigations conducted under it. Any reprisal or threat of reprisal against a complainant or anyone for providing relevant information to the Integrity Commissioner is therefore prohibited. It is also a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications.

XVII. ACTING ON ADVICE OF INTEGRITY COMMISSIONER

Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.

XVIII. COMPLIANCE WITH THE CODE OF CONDUCT

Subsection 160(5) of the *City of Toronto Act, 2006*, authorizes Council as well as local boards to impose either of two penalties on a member following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Conduct*:

1. A reprimand; or
2. Suspension of the remuneration, if applicable, paid to the member in respect of his or her services as a member of the local board for a period of up to 90 days.

In the case of a member of the local board who is a Member of Council, Council may also consider suspension of the remuneration paid to the member in respect of his or her services as a Member of Council for a period of up to 90 days.

Other Actions

The Integrity Commissioner may also recommend that Council, or a local board that has authority to do so, take the following actions:

1. Removal from membership of a committee, sub-committee or panel of the local board or Council.
2. Removal as Chair of a local board, or a committee or subcommittee of a local board or of Council.
3. Repayment or reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for an apology to the local board, Council, the complainant, or to a combination of any of them.