

## 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") guides a member's use of social media.
2. Failure to follow the guidance set out in this Interpretation Bulletin could lead to a finding that a member has contravened the Code of Conduct. Members can seek confidential advice from the Integrity Commissioner with respect to specific situations that may arise.
3. The Bulletin also includes example scenarios that are intended to assist members, their staff, and the public to understand how the Code of Conduct will be interpreted in relation to social media use. Members should seek individual, fact-specific advice to address their questions or concerns.

### Definition of Social Media

4. Social Media refers to freely accessible, third-party hosted, interactive Internet technologies used to produce, post and interact through text, images, video, and audio to inform, share, promote, collaborate or network. A non-exhaustive list of examples of social media in use in April 2016 include: Twitter, Facebook, Instagram, Snapchat, YouTube and LinkedIn.
5. Common features of social media are: accounts can be acquired at no cost; and, content is by default public and permanent.

### Articles of the Code of Conduct

6. Use of social media has the potential to engage all parts of the Code of Conduct, and in particular:
  - a. Preamble
  - b. Article II (Statutory Provisions Regulating Conduct)
  - c. Article IV (Gifts and Benefits)

- d. Article V (Confidential Information)
- e. Article VI (Use of City Property, Services and Other Resources)
- f. Article VII (Election Campaign Work)
- g. Article VIII (Improper Use of Influence)
- h. Article XI (Conduct at Council and Committee Meetings)
- i. Article XII (Conduct Respecting Staff)
- j. Article XIV (Discreditable Conduct)
- k. Article XV (Failure to Adhere to Council Policies and Procedures)

## Relevant Legislation and Policies

- 7. Use of social media has the potential to engage provincial legislation and City policies, including:
  - a. *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched. (as amended)
  - b. *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50
  - c. *City of Toronto Policy on Use of City Resources during an Election* (as amended)
  - d. *City of Toronto Constituency Services and Office Budget Policy* (as amended)
  - e. *City of Toronto Corporate Identity Program* (as amended)

## Principles

- 8. Social media provides members with a valuable and convenient tool to communicate, inform and engage Torontonians about City Council work and members' activities to represent and advocate for ward interests. Social media allows for efficient and direct engagement between members and Torontonians. When used in accordance with the Code of Conduct, social media enables members to showcase their diligent and conscientious service to their constituents and can help to improve trust and confidence in City Council and the City of Toronto.
- 9. Successful social media use requires authenticity, interactivity and a blending of the personal with the professional.
- 10. As with any other activity, members of Council must ensure that their use of social media is mindful of, and consistent with, the Code of Conduct and City policies.
- 11. Use of a member's title in a social media profile provides legitimacy – from the perspective of social media providers and the public – and authority and influence similar to use of letterhead or other incidents of office. A member's title can only be used for City purposes and not for campaign purposes.

12. Social media use is not completely "cost-free." City logos, staff, volunteers assisting with council office work, computers, smart phones, services and email accounts are City resources and can only be used for City purposes and certainly not for campaign purposes.
13. Consumers of social media control whether to follow, friend or connect with members on social media.

## Guidance

### **Use of Title, City Property, Services and Other Resources, and Influence of Office**

14. Articles VI, VII and VIII of the Code of Conduct impose limitations on how a member uses City resources, including the member's title and influence of office.
15. Subject to the considerations in paragraph 17, a member must not post the following content using any social media account that, at the time of posting, is identified as a member's social media account or uses publicly-funded resources:
  - a. content that promotes or appears to promote any third-party interest including events, products, services, or goods; or
  - b. content that promotes or appears to promote any candidate or political party in any election at the municipal, federal or provincial level, including leadership campaigns.
16. A social media account is "identified as a member's social media account" or one that "uses publicly-funded resources" within the meaning of paragraph 15 if it:
  - a. uses any toronto.ca email address as a point of contact for registration purposes;
  - b. identifies the member as a current member of Toronto City Council in the handle name, the user name or the profile description;
  - c. is publicized on the member's constituency website or the City of Toronto's contact page for members of Council;
  - d. is publicized on business cards, newsletters or other publications eligible to be paid for out of the *Constituency Services and Office Budget* for the duration of the currency of the publication;
  - e. uses the logo or any other proprietary mark of the City of Toronto;
  - f. contains contact information for the member at City Hall, a ward constituency office or any other official contact information;
  - g. is managed using City of Toronto resources including computers, smart phones, or tablets; or
  - h. is managed or maintained by City staff, the member's staff or volunteers, or using services eligible to be paid for out of the *Constituency Services and Office Budget*.
17. It is acknowledged that as a part of their representative duties, members regularly participate and engage in local events and activities with constituents,

including local businesses, and members will use social media to publicize these kinds of activities. Members also use social media to inform residents about federal, provincial, and City programs. A member may therefore post the following types of content as long as it is occasional, voluntary, unsolicited and otherwise in accordance with the Code of Conduct:

- a. content that raises awareness of local events and activities;
- b. content that raises awareness of federal and provincial government programs;
- c. content that publicizes the member's attendance at a ceremony, event or activity that is otherwise permissible under the Code of Conduct; or,
- d. content that publicizes the member's interactions with constituents, including local businesses.

18. Members should exercise caution and seek specific advice from the Integrity Commissioner to determine whether the content meets the criteria in paragraph 17.

### **Specific Election Year Requirements**

19. To comply with the *Municipal Elections Act, 1996*, the Code of Conduct and the City's *Policy on Use of City Resources During an Election*, members must take affirmative steps to clearly distinguish between use of social media for personal or election purposes on the one hand, and use of social media in his or her capacity as a City official on the other. To take such affirmative steps members must adopt one of the following two approaches:

- a. *Maintaining Separate Election Accounts.* Establish separate and distinct social media accounts for re-election purposes that are clearly labelled as election accounts and that are not "identified as a member's account" or one that "uses publicly-funded resources" within the meaning of this Bulletin. Members who establish separate and distinct social media accounts for re-election purposes may continue to use social media accounts described in paragraph 16 of this Bulletin throughout the "election campaign period" as defined in s. 88.24 of the *Municipal Elections Act, 1996*.
- b. *Maintaining a Single Account Subject to Restricted Use.* Members who choose not to maintain separate and distinct election accounts and who intend to use a social media account that has ever been "identified as a member's social media account" or "used publicly-funded resources" within the meaning of this Bulletin for any purpose relating to their re-election must (as applicable):
  - i. on May 1 of the election year until the end of the "election campaign period" defined in s. 88.24 of the *Municipal Elections Act, 1996*,

1. cease producing and distributing any publication, including business cards, that includes account information (i.e. user names, handle names) for the social media account;
- ii. for the duration of the "election campaign period" as defined in s. 88.24 of the *Municipal Elections Act, 1996*:
  1. remove any reference to the City of Toronto, the 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, or the profile description;
  2. ensure that the account's registration information does not include any toronto.ca email addresses or City of Toronto phone numbers;
  3. remove all reference to the account from the member's website or the City of Toronto website;
  4. formally inform staff and volunteers who previously had a role with respect to managing a social media account that no City resources whatsoever, including computers, devices and staff, may be used to maintain the account and proactively monitor staff and volunteers to ensure that no such actions are taken, and,
  5. expressly notify followers or friends on the social media platform that the account will be used for purposes related to re-election, provide an alternative source of information for followers interested in constituency services, and label the account appropriately.

#### **Confidential Information & *In Camera* Meetings (Article V and Article XI)**

20. The Code of Conduct prohibits members from disclosing or releasing confidential information acquired by virtue of their office. Members must not post content on social media that discloses information or conduct during *in camera* or other confidential meetings. Due to the immediacy of social media and its ease of access on smart phones or computers, members should not use social media in any form during *in camera* or other confidential meetings.

#### **Respecting Staff (Article XII)**

21. The Code of Conduct requires members to be respectful of the role of staff to provide professional and politically neutral advice. Members should not use social media to engage in criticism of City staff. The public nature of social media can increase the risk of harming the professional and ethical reputation of City staff.

#### **Respecting Each Other and the Public (Article XIV)**

22. Just as Torontonians expect members of Council to maintain decorum at City Hall, they also expect members to act with decorum on social media. Members must never use social media as a platform to treat members of the public, one

another, or staff without respect. Members should not engage in or encourage bullying, flaming, or shaming of any other social media users. These types of interactions on social media misplace the focus of the interaction on attacking individuals rather than engaging in constructive discussion or debate. This manner of communication is inconsistent with the Code of Conduct and unbecoming of the office that members hold.

## Further Information

This interpretation bulletin is intended to provide general information. To rely on the advice of the Integrity Commissioner with respect to specific situations, members of Council must seek written advice consistent with the provisions of Article XVII of the Code of Conduct.

If you have any questions, please contact:

Office of the Integrity Commissioner  
City of Toronto  
375 University Avenue, Suite 202  
Toronto, ON M5G 2J5  
Tel: (416) 392-3826  
Fax: (416) 696-3615  
Email: [integrity@toronto.ca](mailto:integrity@toronto.ca)

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## Examples for Interpretation Bulletin: Use of Social Media by Members of Council

*A member of Toronto City Council is a frequent user of Twitter. She regularly tweets about City business, her activities in the ward, and about her family. Her Twitter biography identifies her as a councillor and her constituency website includes her Twitter handle. The member drops by a local café in her ward, as she often does, and picks up a scone on her way to work. The member tweets a picture of the scone with the text, "looking forward to breakfast from the [name of the café]". The member is not offered any compensation or benefit for the tweet and she has no ownership interest in the café. The café does not have any issue or interest with the City.*

This is an acceptable, occasional use of Twitter. Regular promotion of third party interests may increase the perception that a member is improperly using the influence of the member's office to benefit the third parties. Although the tweet is a form of promotion of a local business, it is acceptable in this case. The activity is consistent with the member's ordinary Twitter use of sharing information about her personal life, she has not been asked or compensated through payment or any gift to tweet information about the café. The member has no conflict of interest and has nothing to benefit or gain from the tweet.

*As part of a public relations campaign to launch a new local business, a business writes to the local councillor to request that she tweet the announcement about the opening of the business. The Councillor is identified as a City councillor in her Twitter bio and her staff are assigned to help the Councillor manage the Twitter account. Can the Councillor tweet this information?*

No, this is not an acceptable use of the Councillor's Twitter feed. While there are many benefits of social media, social media is also a vehicle to drive commercial gain. The Councillor must be careful not to lend her title to the cause of promoting this third party interest. This circumstance is different from the coffee shop example above because in this case, the business solicited the tweet, and it was not part of the member's ordinary Twitter use.

*A deputy mayor attends the opening of the headquarters of a multi-national company that recently moved its office to Toronto and, on behalf of the Mayor and Council, has been asked to make remarks at the opening. The deputy mayor has a Twitter account that identifies himself as the deputy mayor. He tweets a picture of himself making the*

*remarks with the caption, "Welcome to Toronto!" The picture includes the company's logo. Is this an acceptable use?*

The member's attendance at the event is acceptable in accordance with the Code of Conduct and the tweet was organic, not solicited as part of a broader commercial campaign to promote the company. Although the tweet is a form of promotion, it is acceptable for him to tweet about the event in the manner that he did because it was merely a publication of the deputy mayor performing his legitimate duties for Council.

*A not-for-profit agency within the member's ward asks a member to re-tweet a link to a webpage advertising an upcoming fundraising event. The agency offers the member a ticket in return for the tweet. The member does not use any City resources for her Twitter account, including a City phone and computer, and she does not indicate that she is a councillor in her profile or handle, but she has a large following.*

Without the offer of the ticket, the member would have been free to publicize the community event using social media. The agency's offer of the ticket in exchange for the tweet, however, engages Article IV of the Code of Conduct (Gifts and Benefits) and has compromised the situation. The member should refuse the ticket and decline to retweet the event.

*A member has established a Snapchat account without using any City resources. He wants to use the platform to give his followers an insider's look at the work in his Office. The member uses Snapchat to create a ten second video of his view from his desk. Without realizing it, the member includes a copy of the front page of a confidential report going to City Council.*

By publishing this photo the member has contravened Article V (Confidential Information) of the Code of Conduct. However fleeting the publication on Snapchat,<sup>1</sup> the image could be saved and stored. Members are reminded that content on social media is by default public and permanent, even where there are attempts to subsequently delete the information.

*A member is involved in a federal election and is volunteering his time to door knock for a particular candidate. The member takes a picture of himself and the candidate using his City phone and uses his City phone to publish a status update on Facebook with the picture. The Facebook account used by the member does not identify him as a councillor so his only use of resources is the City phone.*

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<sup>1</sup> Snapchat allows users to share photos and videos and to set the amount of time the image can be viewed. After the length of time expires, the image becomes inaccessible and is not saved on the platform.



This is not a permitted use of a City resource. The Code of Conduct, the *Municipal Elections Act, 1996*, and the *Policy on Use of City Resources during an Election* prohibit the use of any City resource to support any candidate.

*A member has a Twitter account with the handle @CouncillorJoeSmith. His profile does not indicate that he is a City councillor but the Twitter handle is published on his business card. He wishes to convert this account to a campaign account for the 2018 election. Can he keep the same handle? What other steps must he take?*

Councillor Smith's best approach would be to establish a separate account solely for the purpose of the election that would remain dormant outside of the election campaign period.

However, if he wishes to use the existing “@CouncillorJoeSmith” account as a campaign account for the election campaign period, he must follow the guidance in paragraph 19(b) of this Interpretation Bulletin. This means that Councillor Smith must:

- on or before May 1, 2018, cease producing and distributing any business card with the “@CouncillorJoeSmith” Twitter handle on it, and,
- on or before the date he files nomination papers: change the handle to eliminate the reference to "councillor", ensure that his toronto.ca email is not used as a point of contact for his account, expressly notify his Twitter followers that the account will be used for purposes related to the election, and provide an alternative source for information for followers interested only in constituency services.

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