



STAFF REPORT ACTION REQUIRED

17.

Toronto Public Library Board Member Code of Conduct

Date:	February 22, 2016
To:	Toronto Public Library Board
From:	City Librarian

SUMMARY

At the December 2014 Board meeting, the Toronto Public Library Board asked staff to report back on the establishment of a Toronto Public Library Board Member Code of Conduct. The purpose of the attached Code being recommended for the Board is to establish a common ethical framework for all Board Members, to support good governance and to maintain public trust in the Library as a transparent and accountable public institution.

As a library board established under the *Public Libraries Act*, the Board is excluded from the jurisdiction of the City of Toronto's Integrity Commissioner under the *City of Toronto Act, 2006* and the City of Toronto's *Code of Conduct for Members of Local Boards (Restricted Definition)* does not apply to the Library Board. As such, the Library Board may adopt its own code.

The Code was developed referencing the City of Toronto's *Code of Conduct for Members of Local Boards* and codes from other public library boards in Ontario. Feedback received during Board Member consultations was also used to develop the Code. The Board Member Code covers the following subjects: Serving the Community, Respect, Board Meetings, Use of Library Property and Resources, Public Servants, Privacy and Confidential Information, Conflict of Interest, Improper Use of Influence, Political Neutrality, Gifts, Lobbying and Accountability. In keeping with the results of consultation with Board members, the Code sets out in clear language expectations for ethical conduct with explanatory notes providing additional information about key subjects.

City Legal was consulted throughout the process of developing the Toronto Public Library Board Member Code of Conduct, including the interpretation of relevant legislation and the examples used in the explanatory notes.

RECOMMENDATIONS

The City Librarian recommends that the Toronto Public Library Board:

1. approves the *Toronto Public Library Board Member Code of Conduct*; and
2. directs staff to amend the Explanatory Notes as issues arise.

FINANCIAL IMPACT

The recommendation in this report has no financial impact beyond what has already been approved in the current year's budget.

The Director, Finance and Treasurer has reviewed this financial impact statement and is in agreement with it.

DECISION HISTORY

In December 2014, the Toronto Public Library Board passed the following motion:

The Toronto Public Library Board hereby:

1. requests staff to report back on the establishment of the Toronto Public Library Board Member Code of Conduct.

ISSUE BACKGROUND

City of Toronto Act and the Toronto Public Library

Currently, the Toronto Public Library does not have a code of conduct for its Board Members. Most other municipal agencies, boards and commissioners in Toronto are subject to the *Code of Conduct for Members of Local Boards (Restricted Definition)* that was passed by City Council. However, under the *City of Toronto Act, 2006*, City Council does not have the authority to pass by-laws related to the governance, accountability and transparency of Toronto Public Library. As well, the City of Toronto Integrity Commissioner does not have jurisdiction over Library Board Members. Toronto Police Services and the Toronto Board of Health are also “out of scope” for City Council and the Integrity Commissioner. For police services boards across Ontario, the provincial government has passed a regulation, “Members of Police Services Boards – Code of Conduct” that governs the conduct of police board members. Boards of health in the province are subject to the Ontario Public Health Organizational Standards issued by the Ministry of Health, which outlines basic governance requirements, including the need for board policies on conflicts and confidentiality. The provincial government has not created a regulatory code or ethical standards for library boards.

Councillor Board Members and Code of Conduct for Members of Council

Though the *Code of Conduct for Members of Local Boards (Restricted Definition)* does not apply to the Library, the Library Board includes City Councillors who are subject to the Code of Conduct for Members of Council. (The codes for Council and local boards are

substantially similar.) City Legal has advised that the *Code of Conduct for Members of Council* could apply to Council Members while they serve as Library Board Members in some circumstances. However, the law is unsettled on that point. The most prudent approach would be for Councillor Board Members to also adhere to the *Code of Conduct for Members of Council* while serving as Library Board Members.

Codes of Conduct and Ontario Public Libraries

Southern Ontario Library Service (SOLS) is mandated by the Ministry of Tourism, Culture and Sport to assist public library boards “by providing them with services and programs that reflect their needs, including consultation, training and development.” The 2014 edition of the SOLS *Library Board Development Kit* includes a section on codes of conduct for library boards and provides the following comments:

“While legislation often exists governing how boards must deal with certain issues, others are left to individual boards to manage. Discussing how to handle certain issues prepares the board for action, rather than rendering it incapable if a serious issue arises. The code of conduct is an expression by a board of its agreement to conduct business in a particular way. It is a commitment to carrying out its job with decorum.” (p.52)

Several library boards in Ontario have a code of conduct for its board members, including Markham, Oakville and Burlington. All the library board codes reviewed were brief, being one to three pages in length, and covered similar issues such as conflicts of interest, proper decorum and recognizing that the authority rests with the Board and not individual board members. The following chart shows various codes across the province and the issues they cover.

	Conflicts	Confidential	Community Interest	Best Interest Library	Attend.	Decorum	Gifts	Indiv. Auth./Unity
Markham	X	X	X		X	X		X
Oakville						X	X	X
Burlington	X	X		X		X		X
Guelph	X		X	X	X	X		
Hamilton	X	X						
Innisfil	X				X	X		X
Georgina	X			X				X

Code of Conduct for Members of Local Boards (Restricted Definition)

This Code is significantly longer than public library board codes of conduct with 18 sections and 11 pages. Penalties for violating the code include reprimand and suspension of remuneration for up to 90 days. The *Code of Conduct for Members of Local Boards* is enforced by the City’s Integrity Commissioner whose office also plays an advisory, investigative and educational role. Following an investigation, the Code allows the Commissioner to recommend that a Board remove a Member, or ask a Board Member to reimburse funds or make an apology.

The City's *Code of Conduct for Members of Local Boards (Restricted Definition)* covers the following issues:

- Gifts
- Confidentiality
- Use of Organizational Resources
- Election Campaigning
- Using Influence for Private Advantage
- Decorum at Meetings
- Respect for Staff
- Lobbying
- Reprisals
- Enforcement – Integrity Commissioner.

COMMENTS

In keeping with best practices for library boards in the province and with other boards in the City of Toronto, staff are recommending the adoption of a Board Member Code. The proposed Code addresses the following 12 issues:

1. Serving the Community
2. Respect
3. Board Meetings
4. Use of Library Property and Resources
5. Public Servants
6. Privacy and Confidential Information
7. Conflict Of Interest
8. Improper Use of Influence
9. Political Neutrality
10. Gifts
11. Lobbying
12. Accountability.

A code of ethics for library staff is also being presented to the Board for approval. As a best practice, the leadership of the Library, its Board Members, should also be subject to a code of conduct.

At the November 23, 2015 Board meeting, Members were asked to indicate their interest in providing their input into the Board Member Code of Conduct. Chair Ron Carinci, Vice Chair Lindsay Colley, Councillor Mary Fragedakis, Dianne LeBreton and Strahan McCarten expressed an interest and were presented with a draft code in December of 2015. All the Members consulted spoke positively about having a Code of Conduct. There were no concerns in regards to the subject covered by the Code. There were no recommendations to add or remove particular subjects or issues. As well, Members were comfortable with having a code that was not under the jurisdiction of the Integrity Commissioner. However, there was a difference of opinion on the length of the Code. Some preferred the shorter Code, others wanted more clarification on part or all of the Code.

In order to address concerns regarding detail and clarity, explanatory notes were added. This is the approach suggested in Professor Ken Kernaghan's, *The Responsible Civil Servant*, a leading textbook on public sector ethics. This approach is also used by the City's Integrity Commissioner's Office, which produces an annotated version of the Code of Conduct for Members of Council featuring previous decisions, links to relevant policies and questions and answers. The Law Society's Rules of Professional Conduct also uses commentary to complement each rule in its code. The intention is for the Preamble and the 12 sections of the *Toronto Public Library Board Member Code of Conduct* to be officially endorsed by the Board, while the explanatory notes can be amended by staff periodically as issues arise in order to provide a reference and guidance for Board Members.

The Library consulted City Legal throughout the development of the Code of Conduct, including gaining insight into issues of enforcement of the Code, the applicability of the Code of Conduct for Council Members for Councillor Board members, the interpretation of relevant legislation and findings of City Accountability Officers, and instances used in the explanatory notes.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Toronto Public Library Board Member Code of Conduct