

Conflict of Interest

Citizens expect integrity in the decisions and day-to-day operations of their public institutions and elected officials at all levels — including municipal governments and municipal officials. Identifying, addressing and managing conflicts of interest are key to good governance and maintaining the public's trust and confidence in their public institutions. The province has strengthened municipal legislation to help municipalities ensure proper policies, procedures and practices are in place.

Conflict of interest provisions are found in Part VII of *The Municipalities Act*. It is important to recognize that the legislation regarding conflict of interest is not the only word on the matter. There is a great deal of common law regarding conflict of interest and the conduct of elected officials in potential conflict situations that may apply if legislation does not fully address the matter.

A conflict of interest occurs when a person in public life is in a position where a private interest may, or may appear to conflict with his or her role as a municipal council member. Conflict of interest provisions recognize that the judgement of even the most well-meaning person may be impaired when their own interests or the interests of someone close to them are affected. Conflict of interest provisions exist because council members must make decisions in the best interest of the municipality first and foremost.

Does a Conflict of Interest Exist?

Each council member is responsible for determining whether a conflict exists in a matter brought before council.

Some questions to ask include:

- “Is the council member perceived to be financially or otherwise vested in the public issue?”
- “Is the council member's private interests perceived to be in conflict with their public duty?”
- “Would a reasonably well informed person consider that the interest might influence how the official's public duty is exercised?”

If a council member is in doubt as to whether a conflict exists, they may wish to seek a legal opinion to ensure that relevant legislation and the common law is carefully considered. Because the consequences of violating conflict of interest rules may be severe, a council member may wish to declare an interest if they are in doubt regarding a potential conflict.

Disclosing a Conflict of Interest

A council member must disclose his or her interest each and every time the matter in which an interest is held is brought before council. Disclosure of an interest at one meeting does not carry over to other meetings or last for the full term of council. If a council member is absent from a council meeting where a matter that he or she has an interest is discussed, the member must disclose the interest at the next council meeting.

All situations of real or perceived conflict of interest, as well as bias, should be assessed with great caution. At any point where the subject of potential conflict arises, be it at a committee or council

meeting, or even outside of a meeting format, legislation requires the member to abstain from voting and not participate in discussion in any way, be it formally or informally. Informal participation extends to being present in the room, as influence can be exerted through body language as much as verbal or written communication.

If an interest is properly declared, there is no conflict in the decision made by council. When an interest is declared, the declaration:

- occurs before any consideration or discussion;
- requires that the general nature of the conflict be disclosed; and
- includes any material details that may reasonably be seen to affect the member's impartiality.

A declaration of a conflict of interest, including the general nature, the material details, and the abstention/withdrawal, are recorded in the meeting minutes.

Exceptions

Legislation lists many situations that may arise while conducting municipal business where the need to declare a conflict of interest would not apply.

A full list of the situations where the need to declare a conflict of interest does not apply are found in subsection 143(2) of *The Municipalities Act*.