



Municipal Guidance on Administration and Fairness

Conflict of Interest

What is conflict of interest?

Conflict of interest occurs when the personal interest of a council member conflicts with the public interest (what is in the best interest of the entire municipality), or with their duty as a public official.

Conflict can arise from pecuniary (financial) interests, where a council member might benefit financially from a decision or action of council. This could involve using insider information gained in the course of their official duties for financial gain or purposefully influencing council to enter into a contract or some other transaction for financial gain.

Conflict, or the perception of conflict, can also occur when there is no money involved, such as when a council member is seen to be too close to the parties on one side of a dispute or proposal or when a council is seen to be at odds with one of the parties. In any situation where a council member has a personal interest in a matter beyond the interest they have in common with other citizens of the municipality, it could lead people to think that the interest might influence the exercise of their public duties.

In many cases, the appearance or perception of conflict can be as harmful to public confidence as actual conflict. Once a connection between personal interests and public decisions is made, it can be difficult to demonstrate that a decision was not influenced by personal interest.

Why does conflict of interest matter?

All decision-making bodies, including municipal councils, must follow fair processes – sometimes called procedural fairness – when making decisions.

To be fair, a decision must be made by an impartial decision maker. When a decision is made by a council, this requirement applies to each individual council member. Every council member involved needs to be impartial, free from bias, and have no personal interest in the matter being considered.

Under The Ombudsman Act, the Manitoba Ombudsman can receive and investigate complaints about the administrative actions or decisions of a municipality, its employees, or its officers. If a complaint involves a possible conflict of interest, the Ombudsman may investigate whether a council member's participation was influenced by personal interest or bias. If a conflict of interest is found, the Ombudsman could also find that the decision, or the process used to make it, was affected. If any of these findings are made, the Ombudsman may recommend that the municipal council cancel or change the decision or take other steps to remedy the situation or improve administration going forward.

More About Procedural Fairness

Procedural fairness relates to the process by which a decision is made. At a minimum, procedural fairness requires that:

- People affected by a decision are told ahead of time that a decision will be made
 - They are given the information that will be used to make the decision
 - They have a real and meaningful chance to share their view or case
 - They are allowed to challenge or respond to any information that may oppose their position when a decision is being made
- The decision maker thoroughly and thoughtfully considers all the information provided by an affected party
- The decision maker is impartial – meaning they are unbiased, have no personal interest in the outcome, and are open to persuasion
- The decision maker explains the reasons for the decision in a way that affected people can understand

The Municipal Council Conflict of Interest Act

The Municipal Council Conflict of Interest Act (MCCIA) mainly addresses conflicts related to financial interests. It requires council members to disclose situations where they may have a direct or indirect financial interest in a matter.

Council members must also file an annual statement of assets and interests with the municipality. If a court finds that a council member has violated the MCCIA, the council member may be removed from office and may be required to make restitution to the municipality or anyone affected by the financial gain.

Manitoba Ombudsman encourages municipal councils to view the MCCIA as a minimum standard. Best practices support the highest standards of integrity, transparency, and accountability in decision making and help to maintain public trust.

What if you believe you have a conflict of interest?

It is not unusual for a council member to find themselves in a situation where they are in an actual or perceived conflict of interest. When they occur, a council member should declare their conflict and withdraw from the decision-making process. Council members can take the following steps:

- Disclose the interest before council discusses the matter. It is best practice to make a written disclosure, signed by the municipality's chief administrative officer (CAO). If a matter arises during a meeting, disclosures can be made verbally and recorded in the meeting minutes. These approaches provide a clear, verifiable record of the disclosure and how the conflict was managed.
- Withdraw from the meeting without voting or participating in the discussion on the matter. Meeting minutes should record this withdrawal.

- Do not try to influence the decision on the matter. A council member who has declared a conflict of interest should leave the room when council debates and decides the matter.

A council member must disclose their interest in a matter every time the matter is before council. If a council member is absent when the matter is discussed, they must disclose the conflict at the next meeting.

Council members may face situations where a council decision will affect people they are close to, such as friends or relatives. Every time this happens, members must assess whether they can make an impartial decision and whether there is a reasonable likelihood the relationship will be perceived to be in conflict with their public duties. Members must consider how voting on the matter would be perceived in the community if the personal connection were known. If there is the potential for an actual, potential, or perceived conflict, it is best to declare a conflict of interest.

If a council member is unsure whether a situation involves a conflict of interest, they should seek advice. While each council member is ultimately responsible for identifying and declaring their own conflicts, we encourage leaders of council and CAOs to raise potential conflicts with their council members. Council members should be prepared to explain how they assessed whether they are in a conflict if concerns about their participation arise.

Checklist: Questions to Ask Yourself About Possible Conflicts of Interest



Use the following checklist to identify a possible conflict of interest. A “yes” to any of the questions might indicate a possible conflict or lead to the perception of conflict.

- ☐ Am I, a relative of mine or a member of my family likely to be directly affected by this matter?
- ☐ Is my property or that of a relative or family member likely to be directly affected?
- ☐ Am I or a member of my family likely to gain or lose in any way that can be measured in financial terms?
- ☐ Do I or a member of my family own shares in a company or organization that is likely to be directly affected?
- ☐ Do I or a member of my family hold a position in a company or organization that is likely to be directly affected?
- ☐ Am I or a member of my family employed by a person, company or organization that is likely to be directly affected?
- ☐ Have I or a member of my family received any gifts in money or otherwise from a person, company or organization that is likely to be directly affected?
- ☐ Will someone I am close to (friends, relatives) be directly affected by a decision of council?
- ☐ Am I uncertain of my ability to act impartially and in the public interest?
- ☐ Would a fair and reasonable person perceive that I was influenced by a personal interest in performing my public duty?

This is not a one-time evaluation. It must be done independently for every matter that comes before council.

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