

Ethical Conduct of Council Members

Newly Elected Council Member
Seminar

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Ethical Conduct of Council Members

- The *Community Charter* contains a series of “ethical conduct” rules for council members.
- The rules also apply to members of regional district boards.

Conflict of Interest

What is a Conflict of Interest?

A conflict of interest exists if:

- the council member appears to have an interest in a matter that differs from the general community interest;
- that interest is a personal interest; and
- a reasonable observer would conclude that the interest could influence the council member's position

What is not a conflict of interest?

The conflict provisions in the *Charter* do not apply if the council member's interest is a pecuniary interest and the interest:

- is in common with electors of the municipality generally;
- relates to his or her remuneration as a council member;
- is so remote and insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
- is in common with other persons liable for a local service tax; and
- is another pecuniary interest that may be prescribed by provincial regulation.

Consequences of a Conflict of Interest

A council member must:

- declare both pecuniary and non-pecuniary conflicts in public;
 - leave the meeting where the conflict will be discussed; and
 - refrain from attempting to influence the voting on the issue.
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- A council member who fails to follow the rules can be disqualified from office.
 - A council member who declares a conflict of interest may withdraw that declaration if s/he later receives legal advice that s/he does not, in fact, have a conflict of interest.
 - The *Charter* also adds a duty on the chair to make sure anyone with a declared conflict is not participating.

Further “Ethical Conduct” Provisions

- Inside influence
- Outside influence
- Restrictions on accepting gifts
- Disclosure of gifts
- Disclosure of contracts
- Insider information
- Confidentiality

Inside and Outside Influence

Inside influence rule applies conflict of interest rules to administrative level:

- a council member cannot attempt to influence decisions, recommendations or other actions by an officer or employee or a delegate of the council on a matter in which the council member has a conflict of interest

Outside influence rule prohibits council members are also prohibited from using their office to influence decisions made by persons outside the municipal organization.

Gifts

The basic *Charter* rules include:

- a general ban on all gifts
- an exception for gifts received “as an incident of a protocol or social obligations that normally accompany the responsibilities of office”.
- an obligation to report all gifts exceeding \$250 in value, or if total value of gifts from one source exceed \$250 in 12-month period

Disclosure of Contracts

Council members and former council members are required to report any contracts with the municipality in which they have a direct or indirect pecuniary interest.

The municipality must report such contracts:

- as soon as reasonably practicable, at a council meeting that is open to the public.
- whether or not the council member has done so.

Insider Information

- Council members and former council members are prohibited from using so-called “insider information” for a direct or indirect pecuniary gain.
- Insider information is information obtained in the performance of official duties and that is not available to the general public.

Confidentiality

- Council members and former council members must keep in confidence records held in confidence by the municipality, and information considered in a closed meeting. These obligations end when the information is released to the public.
- There is no sanction provided for a breach of this duty. However, the *Charter* enables a municipality to recover damages from a council member for any loss or damage it suffers as a result of a contravention of the confidentiality rule.

Remedies: Disqualification

- Disqualification from office is the main remedy or consequence of breaching the ethical conduct rules regarding:
 - Disclosure of conflicts of interest
 - Inside influence
 - Outside influence
 - Gifts
 - Disclosure of gifts
 - Disclosure of contracts
 - Insider Information

Disqualified council members may not hold office until the next general election, and are not eligible to contest the by-election held to fill the seat they have vacated

Remedies: Disgorgement of Financial Gain

- The Court may order a council member or former council member to pay to the municipality all or part of any financial gain s/he have realized as a result of a contravention of the *Charter* in relation to the various rules of conduct.

