

CONFLICT OF INTEREST



The Federation of Prince Edward Island Municipalities has prepared a toolkit to help municipalities implement the *Municipal Government Act* in accordance with the principles of open government – accountability, engagement and transparency. This guide has been prepared to provide Council members with information guidance on Conflict of Interest.

Division 4 of the Municipal Government Act deals with conflict of interest and defines a conflict of interest as:

A council member is in a conflict of interest if, in relation to a matter under consideration by the council, the member or a person closely connected to the member (a) has any pecuniary interest; (b) is a shareholder, officer, agent or director of a corporation or any other organization that has dealings or contracts with the municipality; or (c) is a party to dealings or a contract with the municipality, or is a member of a partnership that has dealings or a contract with the municipality.

Also, 96 (2) states that

A council member is in a conflict of interest if the member makes a decision or participates in making a decision in the execution of his or her office while at the same time the member knows or ought reasonably to know that the member's private interests or the private interests of a person closely connected to the member affected the member's impartiality in the making of the decision.

The provincial government provides a [sample conflict of interest bylaw](#).

Why is Conflict of Interest Important?

While serving as a municipal Councilor, it is expected that the public interest will be first and foremost in all actions while carrying out this role. It is common that discussions and decisions made as a Councilor will intersect with the private interests of the Councilor. In these cases, it is important that the Councilor declare that conflict and withdraw from consideration on that issue. Failure to do so leaves the individual at risk of accusations of using their position to further their own interest and can undermine faith in the democratic process.

Actual vs. Apparent Conflict of Interest

When evaluating whether there is a conflict of interest, it is enough that there may appear to be a conflict, even if the Councilor is confident that none exists, or that they can place their public responsibility above their private interests. If there is any question as to whether there is a conflict, it is appropriate to seek advice from fellow Councilors in the Municipality or from other municipalities, from qualified staff or officers, or in some cases from legal counsel.

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The Role of Bias

The Sample Conflict of Interest Bylaw provided by the Province of Prince Edward Island defines bias as “a preconceived opinion, predisposition, or prejudice that prevents a person from impartially evaluating information on an issue that has been presented for determination.” Courts have historically included a consideration of bias in determining whether there is a Conflict of Interest. It can be challenging to assess whether a bias impacts upon an individual’s ability to make a fair and impartial decision, but the possible presence of bias must be considered by all members of council.

How To Handle Conflict of Interest

When there is an apparent conflict, the appropriate action is for the impacted Councillor to declare that they are in conflict and withdraw from any further discussions or decisions on the topic. Some municipalities may have formalized conflict of interest declarations through forms, while for others such declarations will be made at the meeting in question.

It is the ultimate responsibility of each individual Councilor to determine when they are in conflict, although obtaining advice is acceptable and encouraged. However, Councilors are accountable to the public and Council for their individual decisions