

Municipal Council - Conflict of Interest Frequently Asked Questions

What is a Conflict of Interest?

A conflict of interest (COI) happens when a member of council's public duties conflict with his/her private interests or the private interest of people close to the member of council, such as: a family member, closely connected person, business partner or employer. Conflicts of interest can involve financial or personal interests. A member of council may have a COI when making a decision or participating in making a decision when the member knows, or it could be perceived that, there is an opportunity to further their or another person's private interests. Council members need to be aware that a COI may exist, even if it is a perception of the public. As a council member, you cannot, whether before, during or after a council meeting, attempt in any way to influence the discussion or voting on any matter before council in which you have a conflict of interest. Addressing conflicts of interest appropriately is about being ethical, which is essential to good governance. This definition has been broadened with the amendments to *The Municipalities Act (MA)*, *The Cities Act (CA)* and *The Northern Municipalities Act, 2010 (NMA)* to better align with common law.

What are examples of “improperly furthering another person’s private interest”?

Examples of improperly furthering another person's private interests include:

- Using an elected office or position to influence a decision that would benefit that person or another person. It is not just the influencing of the decision it is the benefit that comes from the decision;
- Releasing or communicating information obtained through an elected office or position that is not available to the public;
- Receiving a payment, reward or a promise of payment or reward to influence a decision;
- Using an elected office or position to give preferential treatment or to show partiality or other biases in a decision that does not benefit residents or the public on a municipal matter; or
- Directing or influencing a municipal employee for preferential treatment.

New
definition for
a Conflict of
Interest

These are a few of the examples set out in *The Municipalities Regulations*, *The Cities Regulations* and *The Northern Municipalities Regulations*.

What documents are required by a councillor when setting them up for success for future COI?

The oath or affirmation of office and the public disclosure statement (PDS) are required by all council members and contribute to the transparency of municipal operations.

Signing the oath or affirmation is a declaration promising to disclose any COI within the meaning outlined in the CA, MA and NMA. The information a council member records on the PDS assists in determining if they have a COI. The PDS and COI go hand in hand. Remember, the PDS is a public document.

Conflict of Interest Legislation

MA - Sections 141 to 146
CA - Sections 114 to 119
NMA - Sections 159-164

Who determines if a council member has a COI?

Each individual council member is responsible for their own determination of whether a conflict exists or not. No one else can determine definitively whether or not a council member has a COI. The Ombudsman Saskatchewan [website](#) has a COI checklist available that has questions a council member may ask themselves to assist in determining the existence of a COI. Examples include:

- “Am I, or another person close to me, perceived to be financially or otherwise vested in the public issue?”
- “Are my private interests, or those of another person close to me, perceived to be in conflict with my public duty?”
- “Am I, or another person close to me, going to be directly affected in the decision made by council?”

If a council member is in doubt as to whether they have a COI on a matter before council, what should they do?

If a council member is in doubt as to whether a COI exists on a matter before council, they should declare the COI. Declaring a COI may show council and the public you are thinking of the municipality’s best interest. The council member may also refer to their PDS. If the matter is not on the council member’s PDS but they feel they have a COI, they should declare and update the PDS by filing a Public Disclosure Statement Amendment – Form 3 of 3. The member of council may wish to seek a legal opinion to ensure that relevant legislation and common law are carefully considered. Because the consequences of violating COI rules may be severe, a council member may wish to declare a COI even if they are in doubt whether a potential conflict exists.

Disqualification and Enforcement Rules in Legislation

MA - Sections 147, 148
CA - Sections 120, 121
NMA - Sections 165

Does a council member have to declare COI every time the same issue is before council?

Yes, a council member must declare their COI each and every time the matter in which a COI is held before council. Disclosure of a COI at one meeting does not carry over to other meetings, nor does it last for the full term of a council member. Also, if a council member is absent from a council meeting where a matter they have a COI in is discussed, the member must disclose the COI at the next council meeting.

What happens if a council member fails to disclose a COI?

Failure to act upon a COI can have serious consequences for the individual and the credibility of the municipality. Amendments to the legislation came into force on July 3, 2020 that changed the enforcement of disqualifications. If a council member becomes disqualified and does not resign immediately, council can pass a resolution to declare the person's elected office vacant.

Why is declaring COI so important?

Declaring a COI is important to build public trust. As stated earlier, failing to disclose a COI is reason for disqualification.

Council members with a conflict of interest are legislatively required to:

- Declare they have a conflict of interest when one exists whether they are present at the meeting or not;
- Leave council chambers; and
- Not discuss the matter with other council members or staff.

Remember: Declare, Disclose, Abstain, Refrain, Leave

Where can I get further information?

If you require more information regarding COI legislation, please contact a municipal advisor by calling 306-787-2680.

The Ombudsman Saskatchewan [website](#) has further resources to assist you in making a COI declaration.