Conflict of Interest Policy

FIRST ISSUED: May/2019
LAST UPDATED: December/2022

The City of Winnipeg recognizes and supports the engagement of our employees in activities and interests as residents and members of the community. The City benefits from the knowledge and expertise of individuals with a variety of interests outside of work. However, sometimes the interest and activities of our employees are, or are perceived to be, in conflict with the interests of the City. To ensure that we maintain the full trust of the public as public servants, conflict of interest (real or perceived) need to be identified, understood, addressed and resolved appropriately.

A. PURPOSE

The purpose and objective of the Conflict of Interest (COI) Policy is to define what a Conflict of Interest is, what process needs to be followed, how to avoid a conflict situation, what needs to be done to assess a conflict, and what is required to eliminate the conflict and address the issue fully for protection of the employee and the City.

This Policy outlines our core values and behavioural expectations, including the personal and professional conduct expected from all City of Winnipeg employees when they could foreseeably be, and or expect to be in a Conflict of Interest situation. In addition, this Policy aligns with Canadian and Provincial legislation, City by-laws, the City Charter, City policies, Human Resource Administrative Standards, and is comparable to other government policies.

Our residents expect and deserve **integrity** which includes transparent disclosure, good conduct, and good **quality** of work from the people working for the City. This includes **respecting** the policies of the organization by disclosing and acting to resolve any Conflict of Interest in the public interest. **Accountability** is willingness to take responsibility for one's own actions; establishing expectations of oneself, managing one's own personal conduct which includes declaring an actual, perceived or anticipated Conflict of Interest, and accepting consequences for one's actions. These values are core principles that we expect individual employees to demonstrate in their professional and business interactions with others. They help us make the right decisions and stay focus on civic, organizational, department, and professional development goals.

B. ROLES AND RESPONSIBILITIES

The Chief Administrative Officer is the Administrative Head of the City. The Chief Administrative Officer is responsible for:

1. Providing oversight on all decisions and actions relation to this policy.
2. Ensuring all departments adhere to this policy.
3. Approving any changes or additions to the Policy with the Director of Human Resource Services as scheduled.
4. Reviewing and approving disclosures as required, specific to this policy.

The Deputy Chief Administrative Officer:

1. Will support compliance of this Policy.
2. In the event an employee appeals a Department Head/Director's decision, the Deputy Chief Administrative Officer will hear the appeal in consultation with the Director of Human Resource Services. The appeal decision will be provided in writing and will be final.

The Department Head/Director will:

1. Review and approve all Conflict of Interest Declarations made by employees in their Department.
2. Ensure that an assessment is done on the Declaration and any mitigating actions that have been presented align with the expectations as set out in this Policy.
3. Ensure the Conflict of Interest Policy is accessible in the department and all employees receive the proper training and orientation to this policy.
4. Disclose their own personal conflict of interest matters to the CAO for approval.

Management refers to those who are responsible for managing individual employees. Management will:

1. Orientate and educate employees on the Conflict of Interest Policy.
2. Support their employees through the disclosure process.
3. Review disclosures, request additional information from the employee, if needed, and document initial assessment and comments for consideration by Directors.
4. Provide feedback, monitor their employees for compliance and investigate any breaches of the policy.

Human Resources (HR) will:

1. Support management, the Department Head/Director and the employee to ensure they have access to the information required.
2. Ensure all complaint/disclosures are dealt with appropriately.
3. Assist management when Conflict of Interest issues are suspected or disclosed.
4. Work with the Department Head/Director and the employee to ensure a fair review is conducted and that all outcomes protect both the employer and the employee.

Employees will:

1. Read and sign to acknowledge understanding of the Conflict of Interest Policy upon hire and annually thereafter.
2. Not actively place themselves in a Conflict of Interest situation.
3. Demonstrate appropriate behaviours while they do their jobs for the City; demonstrating good judgement, maintaining positive interactions with others and using respectful communication.
4. Immediately disclose when a real or perceived Conflict of Interest arises and work with management and Human Resources to resolve any Conflict of Interest situation.
5. Declare any Conflict of Interest, including any reasonably perceived or anticipated Conflict of Interest, when it occurs. If a conflict was declared in prior years, review on an annual basis to ensure ongoing documentation is sufficient and mitigating factors remain applicable.

C. PROCEDURES

A City employee who believes that they are, or anticipates being, or may be perceived to be in a Conflict of Interest, must initiate the following disclosure process with the City:

- Disclose the conflict, whether it is potential, anticipated or perceived, by completing the Conflict of Interest Declaration form.
- A disclosed Conflict of Interest must be assessed by management with support from HR, and must be approved by the Department Head/Director.
- The employee must be given a written response. If a conflict exists, they will be instructed on the necessary actions to address the conflict.
- Management will work proactively with the employee and provide guidance on how to resolve the Conflict of Interest.
- The outcome and action will be kept on the employee personnel file.
- In the event an employee disagrees with a decision concerning the existence of a Conflict of Interest or how it is to be addressed, they may appeal the decision (see below).
- Employees must comply with the decision of management or the result of the appeal (if applicable). The appeal decision is final. Failure to comply with a decided outcome may result in discipline up to and including termination.
- Where an employee believes they were unfairly disciplined for a breach under Conflict of Interest, they can file a grievance under their collective agreement. In the event they are an out of scope employee, they may file a complaint with their Human Resource Representative.

In the event an employee does not feel the decision regarding their disclosure (either the existence of a Conflict of Interest or how it is to be addressed) is appropriate, they can appeal. The following appeal process will be applied:

- The appeal must be sent in writing to the Deputy Chief Administrative Officer.

- The situation will be fully reviewed by the Deputy Chief Administrative Officer and, as necessary, the City's Legal Services team, and the Director of Human Resource Services.
- The response to the appeal either confirming, revising, or reversing the decision will be sent to the employee in writing. This decision is final.

In the event a Department Head/Director does not feel the decision regarding their disclosure is appropriate, they can appeal. The following appeal process will be applied:

- The appeal must be submitted in writing to the Director, Human Resource Services.
- The situation will be fully reviewed by the Director, Human Resource Services in consultation with the Director of Legal Services and possibly the Deputy Chief Administrative Officer.
- A recommendation will be made to the Chief Administrative Officer for final decision.
- The response to the appeal either confirming, revising, or reversing the decision will be sent to the Department Head/Director in writing.
- The decision at this stage is final.

D. REFERENCES AND RELATED LINKS

AS-001 Administrative Standards Framework
AS-006 Corporate Recordkeeping
AS-008 Building Security Directive
AS-009 Translation Services
AS-010 Citizen/Customer Service Directive
AS-011 Use of Social Media
AS-013 Media Relations (Corporate Communications)
AS-014 Review, Approval and Execution of Agreements
AS-015 Access to Information and Protection of Privacy
City of Winnipeg By-law No. 8154/2002
FM-002 Materials Management Administrative Standard
FM-003 Purchasing Card Program
FM-004 Asset Management Administrative Standard
Code of Conduct Policy
HR-002 Respectful Workplace
HR-003 Employee Education & Development
HR-008 City of Winnipeg Fraud, Theft, Misappropriation or Related Irregularities
HR-012 Employee Performance Management
HR-017 Whistleblower & Public Interest Disclosure
IT-002 Usage, Retention and Management of Email
IT-003 City-Wide Electronic Data Sharing
IT-004 Individual Responsibility for IT Security
IT-006 Security of Wireless Computing
Conflict of Interest Form

E. REVIEW PROCESS

As outlined in Section 89(1) of the Winnipeg Charter, Council must establish a Code of Conduct for employees.

The CAO, with assistance from Human Resource Service, is accountable for reviewing the Code of Conduct policy, minimally every two years, and putting forth changes to Council for approval.

F. KEY CONTACTS

Senior Management Team, City of Winnipeg
City of Winnipeg, Human Resource Services
City of Winnipeg, Legal Services
Director, Human Resource Services
City of Winnipeg, Auditor
City Solicitor/Director Legal Services
Chief Administrative Officer

G. DEFINITIONS

Conflict of Interest:
A situation in which an employee has a private or personal interest sufficient to influence, or appear to influence, the exercise of their official duties in the public interest.

Employees:
All workers, including full-time, part-time and seasonal employees, students, and volunteers performing duties for the City of Winnipeg.

H. FREQUENTLY ASKED QUESTIONS

What conduct is expected under this Conflict of Interest Policy?
When employees find themselves in a real or perceived Conflict of Interest, they have an obligation to be transparent and to protect themselves and the City by working through the disclosure process. Employees must accept the results of the Conflict of Interest review process. Employees must not, directly or indirectly, participate in the following behaviours:

- Actively place themselves in a situation in which their private/personal interests' conflict with the City.
- Fail to report situations in which they are in a real or perceived Conflict of Interest.
- Use their position as a City employee to try to influence a decision to benefit their own interests or the interests of their family and friends.
- Dealing with family, common law/partners and friends or other personal relationships: These refer to dealing with anyone with whom the relationship between them could bring the employee's impartiality in question. For example, this could include an employee (directly or indirectly) supervising and / or being responsible for hiring, family members, common law/partners and friends.

- Accept outside employment or volunteer positions that are likely to pose a conflict of interest or interfere with their responsibilities with the City.
- Engage in a business transaction or other private arrangement for personal gain or financial profit if doing so is in conflict with the performance of their duties.
- Strive for or receive personal gain by giving preferential treatment to anyone while performing their duties as a City employee.
- Seek or accept personal or private gain from the use of confidential or non-public information acquired during the course of their employment.
- Use or permit the use of City property to promote or serve their personal or private interests.
- Solicit or accept fees, gifts, or other benefits that are connected directly or indirectly with the performance of their duties, from any individual, organization or corporation, other than:
    - The normal exchange of gifts among friends or colleagues;
    - The normal exchange of hospitality between persons doing business together;
    - Tokens exchanged as part of protocol or cultural appreciation;
    - The normal presentation of gifts to a person participating in a public or workplace function. Any gift or benefit accepted must be of nominal value and must not create an obligation or perceived obligation between the parties.

What can an employee do if they suspect a violation under the Conflict of Interest Policy?
Make a written report of what specifically they have observed or know, and share that information with management. Depending on the nature of the conduct, they can also make a report to the City Auditor's Fraud & Waste Hotline, or report under City of Winnipeg Whistleblower and Public Interest Disclosure Administrative Standard.

How is non-compliance dealt with?
If, after being made aware of the requirements of this Policy, an employee contravenes it, progressive discipline steps may be applied, up to and including termination of employment.

Who can help provide information on Conflict of Interest?
The City of Winnipeg offers multiple opportunities to learn about and disclose Conflict of Interest issues. You can also ask your Department Head/Director, Manager, Human Resources, City business contact, or a supervisor for guidance. Information is permanently posted on CityNet.

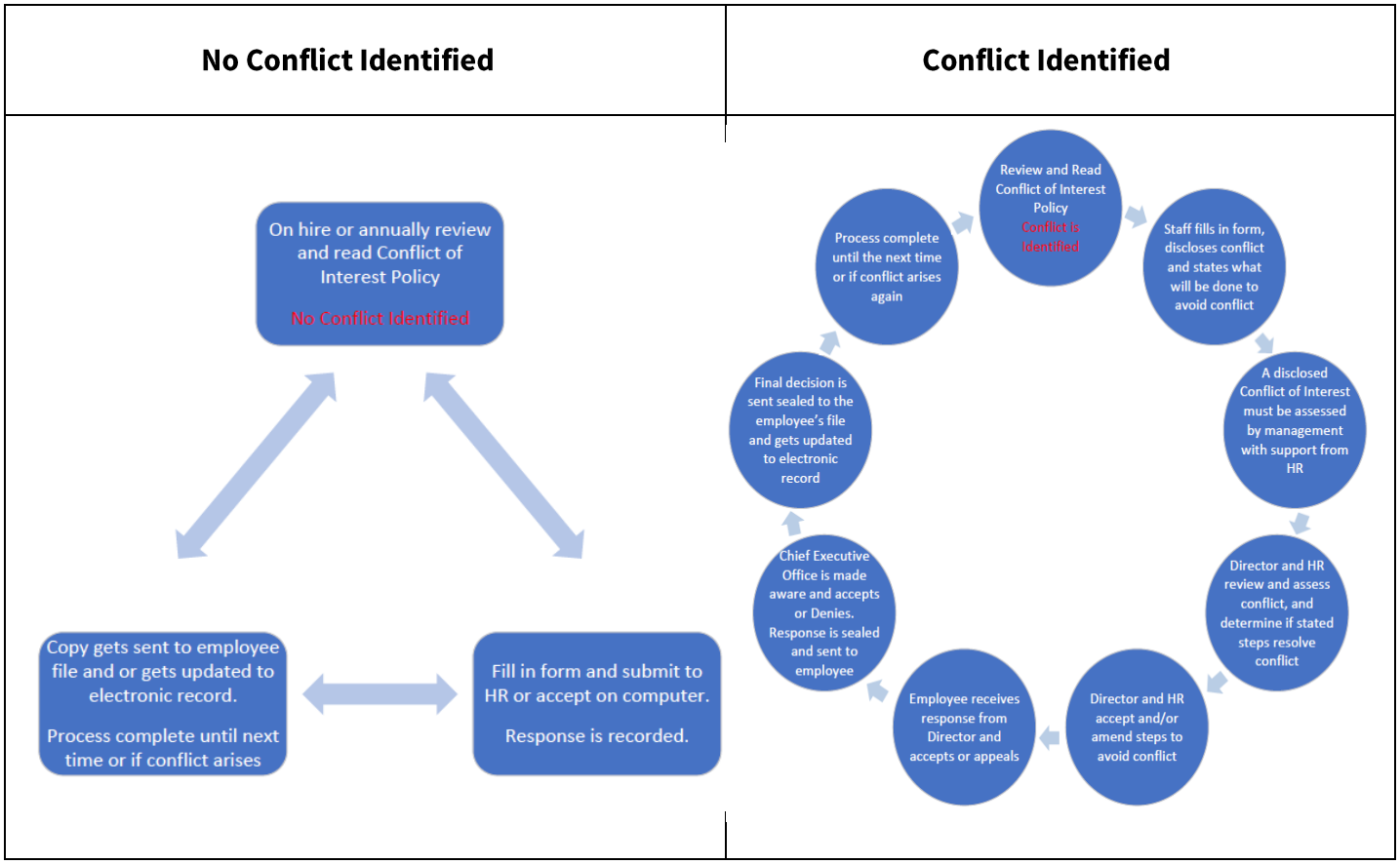
Is Conflict of Interest directly related to Code of Conduct?
Failure to comply with this Policy is a violation of the Code of Conduct Policy. However, although the two policies are directly related, to provide clarity on expectations and the different processes, the City of Winnipeg has a separate Code of Conduct Policy.

The Conflict of Interest and Code of Conduct Policies both require that employees sign off, indicating their understanding and acceptance of the Policies, at the time of hire or when they begin their student or volunteer placements, or contracts. Following hire, electronic acceptance is required annually.

A Conflict of Interest, in itself, is not a problem unless it is not disclosed and is left unaddressed. Ultimately, these situations must be resolved in favour of the City's interest.

Does the disclosure process take a long time?
It depends. If there is a lot of information to assess, it can take longer than if no or a simple conflict is identified. It is important we take the time to properly assess disclosures so that the full details are understood and people are given the full opportunity to have their situation reviewed. The disclosure process is on-going and must be revisited as conflicts arise or annually thereafter when a disclosure is made.

The Disclosure Process:



Conflict of Interest questions are rarely easy to answer. Sometimes it is unclear when you are or are not in a Conflict of Interest situation. Often the answer depends on a number of factors. When in doubt, always disclose the conflict to protect yourself and the City of Winnipeg. Below are some scenarios that you should be aware of:

Does having personal interests mean I can't work for the City?
No, it doesn't necessarily mean that. It means the situation needs to be assessed and reasonable steps must be taken to evaluate the situation and what can be done to mitigate the concern and eliminate or resolve the conflict in favour of the City.

What if I have a private consulting business?
Having your own consulting business that doesn't impact your position, but if you become aware of a need that the City has that your private company could help with, that could pose a potential conflict. Speak with your supervisor or Human Resources to ensure no real or perceived conflict of interest exists before proceeding.

Are you in a Conflict of Interest if a great candidate is your friend?
You become aware that a close family friend is being considered for a job and you are part of the selection process. They are well qualified and have screened in.

Yes, this can be a conflict of interest. You need to disclose the relationship and not participate in the selection. Let the recruitment team know you cannot be involved and why. We would not remove the candidates because of the relationship as that is detrimental to them. This happens from time to time, we work around it.

What if I receive an expensive gift as a "thank you"?
You are sent a case of liquor or merchandise from a major supplier for you and your department. This is a conflict, you cannot accept a gift for doing your job. This gift goes beyond the normal exchange of hospitality of persons doing business. It should be respectfully returned.

How much is too much for a gift?
Generally speaking, anything over $20.00 should be refused, but a lesser gift could put you in conflict if there is an expectation of preferred service in accepting it. You should clarify with your supervisor or Department Head if you are unsure.

Is it a conflict of interest to sell beauty or kitchen products for an external, private company?
Not necessarily. It is known that employees may have employment outside of the City of Winnipeg. You need to disclose the business fully to your manager and HR as outlined in this Conflict of Interest Policy.

In addition, it is critical that City resources, your work time, city contacts, and equipment are not used for your employment outside of the City. If you are unsure about any of the above, a declaration should be made and you should be asking your manager and HR for assistance.

You have a side business that is not in direct competition with the City, but it is starting to grow. You are finding that you do not have the time or energy to devote to your regular City job. Is that a conflict?
Yes, if it is interfering with your job. Employees have time away from work that is intended for you to have a rest and get a break from the workplace. The employer cannot tell you what to do on your paid vacation time and personal time, but if it starts to impact your performance, and if you have to use your City work day, or if your sick leave or personal absences increase as a result, you can expect that will be addressed with you through normal City of Winnipeg HR process. It is important you disclose your business and give your City job the time and focus it deserves.

You have a family or close friend who owns/runs a company that bids on City work. They ask you for some insight and support on how to fill in RFP. Are you in conflict if you help?
Yes. They should be directed to the appropriate party who can assist with their questions to avoid any optics of real or perceived conflicts of interest. It may impact their ability to be selected and you may be subject to discipline.

Through your past employment/business contacts you know a great candidate for a job. You are not involved in the selection process and you have no personal attachment to the outcome. They ask you to share information on your experience on the City. Is this a conflict?
No. Sharing your experience with people interested in coming to work at the City is a great way to support recruitment. So long as you have no impact on the decision, and make it clear there will be no preferred treatment. To ensure the integrity, transparency and dependability of the recruitment process is upheld, you should not make any recommendations or referrals to management or HR to inadvertently influence decisions relating to the recruitment process.

Appendix A – Conflict of Interest Form

Conflict of Interest Form