



Conflict of Interest for Councillors and Non- Council Committee Members

Policy 2.13

Section:	Governance		
Approved By:	Council	Public:	Yes
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Purpose

The purpose of this Policy, together with the conflict of interest provisions set out in the by-laws of the College, is to define circumstances in which a conflict of interest may exist or appear to exist and to set out the responsibilities of Councillors and Non-Council Committee Members with respect to such conflicts. Compliance by Councillors and Non-Council Committee Members with a policy regarding conflict of interest supports the integrity of the decision-making processes of the Council and its committees.

Application

This Policy applies to Councillors and Non-Council Committee Members. In this Policy, Councillors and Non-Council Committee Members are together referred to as “members” and individually as a “member”.

Policy

A “conflict of interest” is a situation in which a member has a direct or indirect private or personal interest sufficient, on a reasonable basis, to influence or appear to influence the exercise of their duties.

This includes, but is not limited to, situations involving:

- a. a direct or indirect financial interest of the member;

- b. organizations to which a member or a member of their immediate family has a direct or indirect obligation; or
- c. a professional or personal relationship.

Actual influence is not required in order for a conflict of interest situation to exist. It is sufficient if there is a reasonable apprehension that there may be such influence.

A member should avoid situations in which they have a conflict of interest. Where it is not possible to avoid a situation in which they have a conflict of interest, a member must follow the procedure set out below for handling the conflict of interest situation.

The following are specific examples of circumstances under which a member has a conflict of interest:¹

1. A member takes advantage of information obtained in connection with their duties as a Councillor or a Non-Council Committee Member for personal gain or benefit;
2. A member or a member of their immediate family holds a position in another organization (such as a director, owner, board member, officer or employee) which involves duties that influence or appear to influence the member's exercise of their duties to the College; and
3. There is a reasonable apprehension of bias.²

Procedure

A member who has a conflict of interest in a matter before the Council, a committee, or a panel of a committee, other than a specific matter which involves a member of the College or a former member of the College and which comes before a panel of the Discipline Committee or Fitness to Practise Committee, shall:

1. declare their conflict to the President, Registrar & CEO, Registrar & CEO's designate, or chair of the committee or panel at the time the member identifies the conflict;
2. declare their conflict at the meeting of the Council or meeting of the committee or panel prior to any discussion to which the conflict relates;

¹ These specific examples of circumstances under which a member has a conflict of interest do not limit the generality of the definition of "conflict of interest" set out above.

² There may be a reasonable apprehension of bias where a reasonable right minded person, informed of the facts concerning the member is more likely than not to conclude that the member, whether consciously or unconsciously, would not decide fairly. The apprehension of bias must be a reasonable one, held by reasonable and right minded persons, applying themselves to the question and obtaining thereon the required information. In the words of the Court of Appeal, that test is "what would an informed person, viewing the matter realistically and practically -- and having thought the matter through -- conclude. Would he think that it is more likely than not that [the member], whether consciously or unconsciously, would not decide fairly."

3. withdraw from the meeting of the Council or meeting of the committee or panel during any discussion to which the conflict relates;
4. not vote upon any resolution to which the conflict relates; and
5. not attempt directly or indirectly to influence any decision of the Council or committee or panel or any person fulfilling duties to the College, to which the conflict relates.

A member who has a conflict of interest in a specific matter which involves a member of the College or a former member of the College and which comes before a panel of the Discipline Committee or Fitness to Practise Committee, shall, prior to the selection of the panel, declare their conflict to the chair of the committee and disqualify themselves from participating as a member of the panel in respect of that specific matter. If the member identifies the conflict of interest after a hearing has commenced, the conflict shall be disclosed to the parties and the procedures normally followed at a hearing for deciding whether or not a judge shall recuse themselves from a hearing, shall be followed.

If a member believes that another member has a conflict of interest, the member may bring such concern to the attention of the President, the Registrar & CEO or chair of the relevant committee. The President, the Registrar & CEO or committee chair, as the case may be, shall determine the appropriate action to take, if any.

Exceptions

Notwithstanding the foregoing, a member of the Council may attend a meeting of the Council and vote upon a resolution to approve a contract or transaction if:

- a. the contract or transaction is one relating primarily to the Councillor's remuneration as a member of the Council; or
- b. the contract or transaction is one for indemnity or insurance under the by-laws of the College.