



Township of Georgian Bay

Conflict of Interest in Relation to the Administration of the Administrative Monetary Penalty System

Policy Number: 2024-002-AD

Department: Fire and Emergency
Services

Effective Date: February 12, 2024

Approval: CAO

Attachments:

Related Documents / Legislation: Administrative Monetary Penalty System
By-law 2023-073

A. Policy Statement

This Policy addresses conflict of interest provisions in relation to the administration of the Administrative Monetary Penalty System (AMPS). This Policy establishes conflict of interest guidelines to ensure that AMPS responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity.

B. Purpose

To provide a guideline what defines as conflict of interest in relation to AMPS, to prevent such conflicts of interest and to redress such conflicts should they occur. In accordance with Ontario Regulation 333/07, the Township is required to establish a policy for the prevention of conflict of interest in AMPS.

C. Definitions

For the purposes of this Policy, the following terms are defined in accordance with By-law 2023-073

AMPS means Administrative Monetary Penalty System;

Chief Administrative Officer means the Chief Administrative Officer, their delegate, or anyone designated by the Chief Administrative Officer to permit duties pursuant to the Administrative Monetary Penalty System;

Council means the Council of the Township of Georgian Bay;

Hearing Officer means a person who performs the functions of a Hearing Officer in accordance with section 7 of By-law 2023-073;

Hearing Review means the process set out in section 7 of By-law 2023-073;

Parent means a person who has demonstrated a settled intention to treat a child as a member of her or his family, whether or not that person is the natural parent of the child;

Penalty Notice means a notice given to a Person pursuant to section 4 of By-law 2023-073;

Person includes an individual or a business name, sole proprietorship, corporation, partnership, or limited partnership, or an authorized representative thereof, whose name appears on the vehicle permit as provided by the Ontario Ministry of Transportation. If the vehicle permit consists of a vehicle portion and licence plate portion, and different Persons are named on each portion, the Person whose name appears on the licence plate portion, as provided by the Ontario Ministry of Transportation, is the Person for the purposes of this Policy;

Relative includes any of the following persons:

- (i) spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage;
- (ii) Parent or legal guardian;
- (iii) child, including a step-child and grandchild;
- (iv) siblings and children of siblings;
- (v) aunt, uncle, niece and nephew;
- (vi) in-laws, including mother, father, sister, brother, daughter and son;
- (vii) any person, including but not limited to a dependant, who lives with the person on a permanent basis.

Screening review means the process set out in section 6 of By-law 2023-073;

Screening Officer means a person who performs the functions of a Screening Officer in accordance with section 6 of By-law 2023-073.

Township means The Corporation of the Township of Georgian Bay;

D. General Terms and Procedures

Application

This Policy applies to all Screening Officers, Hearing Officers and all Township Officials and staff involved in the administration of AMPS. For Township staff engaged in the administration of AMPS, the Employee Code of Conduct, and any successor policy, shall also apply in regard to the activities of an employee in the administration of AMPS.

In regard to Members of Council, this Policy should be read and interpreted within the context of prevailing Provincial Legislation (i.e. Municipal Conflict of Interest Act) and the Council Code of Conduct, including its related policies, procedures and guidelines.

Appointment of Screening Officers and Hearing Officers

When appointing Screening Officers and Hearing Officers and preference shall be given to candidates with knowledge and experience in administrative law and with demonstrated ethical and sound judgment.

Screening Officers are individuals appointed by the Chief Administrative Officer to conduct screening reviews in the public interest.

Hearing Officers are individuals appointed by Council to conduct hearing reviews in the public interest.

The following individuals are not eligible for appointment as a Screening or Hearing Officer:

- a. A member of Council or a Relative of a Council member.
- b. An individual indebted to the Township other than:
 - i. In respect of current real property tax; or
 - ii. pursuant to an agreement with the Township, where the individual is in compliance with the terms thereof; and
- c. in the case of a hearing officer, an employee of the Township

Conflict of Interest

A conflict of interest arises where a Screening Officer, Hearing Officer or Town staff involved in the administration of AMPS has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the proper administration of AMPS. A conflict of interest includes a pecuniary or non pecuniary, actual, perceived or potential conflict and could arise in relation to personal or business matters including:

- a. Directorships or employment

- b. Interests in business enterprises or professional practices;
- c. Share ownership or beneficial interests in trusts;
- d. Professional or personal associations with a person;
- e. Professional associations or relationships with other organizations and
- f. Personal associations with other groups or organizations, or family relationships including relatives.

Screening Officers must be and appear to be impartial at all times. It is inappropriate for a Screening Officer to review a Penalty Notice for a personal or business acquaintance or relative.

Hearing Officers are obligated to conduct Hearing Reviews in an impartial manner. Hearing Officers, in conducting a Hearing Review, are bound by the Statutory Powers and Procedures Act, as well as bound by the general administrative common law principles (i.e., procedural fairness, natural justice, impartial and unbiased decision making, etc.). Hearing Officers must be and appear to be impartial at all times. It is inappropriate for a Hearing Officer to review a Screening Decision for a personal or business acquaintance or Relative.

Every Screening Officer, Hearing Officer and Town employee involved in the administration of AMPS, must disclose to the Chief Administrative Officer any obligation, commitment, relationship or interest that could conflict with or may be perceived to conflict with their duties to or interests in the administration of AMPS.

Additionally, a Screening Officer or Hearing Officer shall not represent any Person at a Screening Review or Hearing Review.

Conduct of Screening Officers and Hearing Officers

All Screening Officers and Hearing Officers shall:

- a. both be and appear to be independent, impartial, and unbiased.
- b. avoid all conflicts of interest, whether real or perceived, and are responsible for promptly taking appropriate steps to disclose, resolve, or obtain advice with respect to such conflicts when they arise;
- c. not be influenced by partisan interests, public opinion, or by fear of criticism;
- d. not use their title and position to promote their own interests or the interests of others;

- e. discharge their duties in accordance with the law, Township by-laws and AMPS policies, procedures and guidelines;
- f. maintain and upgrade their knowledge and competence through their work, by participating in training and education courses and by seeking guidance from their colleagues and the Township, as required;
- g. remain up to date on changes in the law, Township by-laws, policies and procedures relevant to their function;
- h. act with integrity, as they are subject to ongoing public scrutiny; respect and comply with the law and conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of AMPS;
- i. approach their duties in a calm and courteous manner when dealing with the public and others and present and conduct themselves in a manner consistent with the integrity of AMPS and their appointment;
- j. convey their decisions in plain language;
- k. safeguard the confidentiality of information that comes to them by virtue of their work and not disclose that information except as required by law;
- l. in discharging their duties, treat those with whom they deal with in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those Persons;
- m. refrain from openly and publicly criticizing the administration of AMPS or the conduct of others, including Members of Council, Township employees. Screening Officers and Hearing Officers shall acknowledge that only the Chief Administrative Officer may speak publicly on behalf of the Township's AMPS program. Any criticisms, suggestions or concerns related to AMPS shall be communicated through appropriate channels;
- n. deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services; and
- o. not knowingly exercise a power or function for which they have not been trained or designated.

Preventing Conflict of Interest

The keys to preventing conflicts of interest are identification, disclosure and withdrawal from the power of decision with respect to a Screening Review or Hearing Review. The need for identification, disclosure and withdrawal from

a power of decision applies to any real, potential or perceived conflict of interest.

Disclosure

If a screening Officer or Hearing Officer becomes aware of any real, perceived, or potential conflict of interest in regard to a review of a Penalty Notice or Screening Decision, as the case may be, the Screening Officer or Hearing Officer shall notify the Chief Administrative Officer, or designate, of the conflict of interest and:

- a. in the case of a scheduled review of a Penalty Notice or Screening Decision that has not yet commenced, request another Screening Officer or Hearing Officer to conduct the review to avoid actual, perceived, or potential conflict of interest; or
- b. in the case of a review of a Penalty Notice or Screening Decision that has commenced, adjourn the review, and withdraw from the power of decision, and advise the Chief Administrative Officer, or designate. The Township will reschedule the Screening Review or Hearing Review with another Screening Officer or Hearing Officer, as the case may be.

If all appointed Screening Officers and/or Hearing Officers have a conflict of interest with a matter, the Chief Administrative Officer shall retain another Screening Officer or Hearing Officer to handle the matter that is subject of the conflict of interest.

Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notices and are expected to pay the Penalty Notice in a timely manner.

Addressing Conflicts if they Occur

The Township Employee Code of Conduct will address any breaches of the Code by employees.

If an individual suspects that a Screening Officer or Hearing Officer conducted a Screening Review or Hearing Review where there was a conflict of interest, they may make a:

- a. complaint to the Chief Administrative Officer; and/or
- b. formal complaint, in accordance with the Township's Public Complaints Respecting Administration of the AMPS.

Any finding of a conflict of interest may result in disciplinary action, up to and including termination of employment or revocation of appointment. Issues involving potential criminal matters will be forwarded to the Police.

Influence

No Person shall attempt, directly or indirectly, to communicate with employees or other individual performing duties related to the administration of AMPS for the purpose of influencing or interfering in, financially, politically, or otherwise the administration of AMPS or any Penalty Notice, except a Person who is entitled to be heard in a Screening Review or Hearing Review. These exceptions include:

- a. a Person who is entitled to be heard in the proceeding;
- b. the Person's lawyer, authorized agent or authorized representative.

If an individual attempts to influence a Screening Officer or Hearing Officer, contrary to the above, the Screening Officer or Hearing Officer shall report the incident to the Chief Administrative Officer as soon as possible. No action will be taken against the Screening Officer or Hearing Officer for making any such report in good faith.

Charges under the Criminal Code of Canada or Other Statutes or Regulations

Where a Screening Officer or Hearing Officer is charged with any offence under the Criminal Code of Canada, other Federal or Provincial statutes or Regulations, the charge shall be disclosed to the Chief Administrative Officer within 5 business days of the charge being laid.

A determination will be made by the Chief Administrative Officer as to whether or not an actual, potential or perceived conflict of interest exists or if public confidence in the administration of AMPS has been compromised and, if so, the Screening Officer or Hearing Officer may be removed from his or her duties until the final disposition of the charge.

Implementation

This Policy shall form part of the orientation for all current and new Screening Officers and Hearing Officers and AMPS administration staff.

Accountability

All Screening Officers, Hearing Officers and Town staff involved in the administration of AMPS are responsible for adherence to this Policy.

Accountability for interpretation of this Policy in relation to a real, potential, or perceived conflict of interest shall be determined by the Chief Administrative Officer. In making this determination, the Chief Administrative Officer may consult with the Township Solicitor or senior management.

E. Supported By

Strategic Plan

Transparency Withing Government

Municipal, Fiscal and Resident Responsibility

Well Managed Infrastructure