

	POLICY	On-Line System Category	Code No Not applicable	Page #
Subject: Conflict of Interest			Date Effective: September 25th 2018 Date Reviewed: June 2020 Date Revised: August 2020, June 2023 April 2024, September 2024	
Issued by: Governance Committee		Approved by: OSMH Board of Directors		

Conflict of Interest Policy

PURPOSE:

All directors, Officers, and non-director Board committee members have a duty to ensure that the integrity of the decision-making processes of the board of directors (the “**Board**”) and its committees are maintained by ensuring that they and other directors, Officers, or non-director Board committee members are free from conflict or potential conflict in their decision making. For example, it is inherent in a director’s fiduciary duty that conflicts of interest be avoided. It is important that all directors, Officers, or non-director Board committee members understand their obligations when a conflict of interest or potential conflict of interest arises.

APPLICATION:

This policy applies to all directors, including *ex-officio* directors, Officers, and non-director Board committee members.

“**Officers**” means officers appointed by the Board under the *Not-for-Profit Corporations Act, 2010* (the “**Act**”) and the by-laws, including: the chair and vice-chair(s) of the Board, the chief executive officer, and the secretary.¹

POLICY:

Directors, Officers, and non-director Board committee members shall avoid situations in which they may be in a position of a conflict of interest or perceived conflict of interest. In addition to the conflict of interest provisions in the Act and the by-laws, which must be strictly adhered to, the process set out in this policy shall be followed when a conflict or potential conflict arises.

Description of Conflict of Interest:

A conflict of interest arises in any situation where a director's duty to act solely in the best interests of the Corporation and to adhere to their fiduciary duties is compromised or impeded by any other interest, relationship, or duty of the director. A conflict of interest also includes circumstances where the director's

¹ ONCA, s. 1 provides that “**officers**” means an officer of the corporation appointed under clause 42(1)(a), including: (a) the chair of the board of directors of the corporation and a vice-chair of the board of directors of the corporation; (b) the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of the corporation; and (c) any other individual who performs functions for the corporation similar to those normally performed by an individual listed in clause (a) or (b).

duties to the Corporation are in conflict with other duties owed by the director such that the director is not able to fully discharge the fiduciary duties owed to the Corporation.

The situations in which a potential conflict of interest may arise cannot be exhaustively set out. Conflicts generally arise in the following situations:

1. Transacting with the Corporation

- When a director, Officer, or non-director Board committee member transacts with the Corporation directly or indirectly.
- When a director, Officer, or non-director Board committee member has a material direct or indirect interest in a transaction or contract with the Corporation.

2. Interest of a Relative

When the Corporation conducts business with suppliers of goods or services or any other party of which a relative or member of the household of a director, Officer, or non-director Board committee member is a principal, officer, or representative.

3. Gifts

When a director, Officer, or non-director Board committee member or a member of the director, Officer, or non-director Board committee member's household or any other person or entity designated by the director, Officer, or non-director Board committee member, accepts gifts, payments, services, or anything else of more than a token or nominal value from a party with whom the Corporation may transact business (including a supplier of goods or services) for the purposes of (or that may be perceived to be for the purposes of) influencing an act or decision of the Board. For the purposes of this policy, a nominal gift is defined as a gift of value less than 40.00 (*to be set by Governance Committee*)

4. Acting for an Improper Purpose

When directors, Officers, or non-director Board committee members exercise their powers motivated by self-interest or other improper purposes. Directors, Officers, and non-director Board committee members must act solely in the best interest of the Corporation. Directors who are nominees of a particular group must act in the best interest of the Corporation even if this conflicts with the interests of the nominating party.

5. Appropriation of Corporate Opportunity

When a director, Officer, or non-director Board committee member diverts to their own use, an opportunity or advantage that belongs to the Corporation.

6. Duty to Disclose Information of Value to the Corporation

When directors, Officers, or non-director Board committee members fail to disclose information that is relevant to a vital aspect of the Corporation's affairs.

7. Serving on Other Corporations

A director, Officer, or non-director Board committee member may be in a position where there is a conflict of “duty and duty”. This may arise where the director, Officer, or non-director Board committee member serves as a director, Officer, or non-director Board committee member of two corporations that are competing or transacting with one another. It may also arise where a director, Officer, or non-director Board committee member has an association or relationship with another entity. For example, if two corporations are both seeking to take advantage of the same opportunity, a director, Officer, or non-director Board committee member may be in possession of confidential information received in one boardroom or related to the matter that is of importance to a decision being made in the other boardroom. The director, Officer, or non-director Board committee member cannot discharge the duty to maintain such information in confidence while at the same time discharging the duty to make disclosure. The director, Officer, or non-director Board committee member cannot act to advance any interests other than those of the Corporation.

Process for Resolution of Conflicts and Addressing Breaches of Duty

Disclosure of Conflicts

A director or Officer, who is in a position of conflict or potential conflict, shall immediately disclose such conflict to the Board by notification to the Board chair or vice chair. Where the chair has a conflict, notice shall be given to the vice chair. A non-director Board committee member, who is in a position of conflict or potential conflict, shall immediately disclose such conflict to the Board by notification to the committee chair. The disclosure shall be sufficient to disclose the nature and extent of the interest. Disclosure shall be made at the earliest possible time and, where possible, prior to any discussion and vote on the matter.

- The disclosure must be made, at a minimum, in the case of a director:
 - at the meeting where a matter in which the director has a conflict is first considered;
 - if the director was not then interested in a matter, at the first meeting after the director becomes so interested;
 - if the director becomes interested after a matter has been approved, at the first meeting after the director becomes so interested; or
 - if an individual who has a conflict in a matter later becomes a director, at the first meeting after the individual becomes a director.
- The disclosure must be made, at a minimum, in the case of an Officer:
 - forthwith after the officer becomes aware that a matter in which the officer has a conflict is to be considered or has been considered by the Board;
 - if the officer becomes interested after a matter has been approved by the Board, forthwith after the officer becomes so interested; or
 - if an individual who has a conflict in a matter later becomes an officer, forthwith after the individual becomes an officer.

- The disclosure must be made, at a minimum, in the case of a non-director Board committee member:
 - at the committee meeting where a matter in which the non-director Board committee member has a conflict is first considered;
 - if the non-director Board committee member was not then interested in a matter, at the first committee meeting after the non-director Board committee member becomes so interested;
 - if the non-director Board committee member becomes interested after a matter has been approved, at the first committee meeting after the non-director Board committee member becomes so interested;
 - if an individual who has a conflict in a matter later becomes a non-director Board committee member, at the first committee meeting after the individual becomes a non-director Board committee member.
- If a director or Officer has a conflict of interest in a matter that, in the ordinary course of the Corporation's business, would not require approval of the Board or members, the director or officer shall disclose the conflict of interest to the Board chair or vice chair in writing, or request to have entered in the minutes of Board meetings, the nature and extent of their interest forthwith after the director or officer becomes aware of the matter.

Continuing Disclosure

A director, Officer, or non-director Board committee member may provide a general notice to the Board disclosing their relationships and interests in entities or persons that give rise to conflicts.

Leave the Meeting and Do Not Vote

A director, Officer, or non-director Board committee member who has declared a conflict shall not attend any part of a meeting during which the matter in which they have a conflict is discussed, and shall not vote on any resolution to approve the matter.

Exceptions are made if the matter relates to a contract or transaction for indemnity or insurance under section 46 of the Act.

Referral

A director, Officer, or non-director Board committee member may be referred to the process outlined below where any director believes that they or another director:

- (a) has breached their duties to the Corporation;
- (b) is in a position where there is a potential breach of duty to the Corporation;
- (c) is in a situation of actual or potential conflict of interest; or
- (d) has behaved or is likely to behave in a manner that is not consistent with the highest standards of trust and integrity and such behaviour may have an adverse impact on the Corporation.

Process for Resolution

- (a) The matter shall be referred to the chair or where the issue may involve the chair, to the vice chair, with notice to the chief executive officer.
- (b) The chair (or vice chair, as the case may be) may either:
 - (i) attempt to resolve the matter informally; or
 - (ii) refer the matter to either the executive committee or to a special committee of the Board established by the chair (or vice chair, as the case may be) which shall report to the Board.
- (c) If the chair or vice chair elects to attempt to resolve the matter informally and the matter cannot be resolved to the satisfaction of the chair (or vice chair as the case may be), the director referring the matter, and the director involved, then the chair or vice chair shall refer the matter to the process in (b) (ii) above.
- (d) A decision of the Board by majority resolution shall be determinative of the matter.

It is recognized that if a conflict or other matter referred cannot be resolved to the satisfaction of the Board (by simple majority resolution) or if a breach of duty has occurred, a director may be asked to resign or may be subject to removal pursuant to the by-laws and the Act.

Perceived Conflicts

It is acknowledged that not all conflicts or potential conflicts may be satisfactorily resolved by strict compliance with the by-laws. There may be cases where the perception of a conflict of interest or breach of duty (even where no conflict exists or breach has occurred) may be harmful to the Corporation notwithstanding that there has been compliance with the by-laws. In such circumstances, the process set out in this policy for addressing conflicts and breaches of duty shall be followed.

It is recognized that the perception of a conflict or breach of duty may be harmful to the Corporation even where no conflict exists or breach has occurred and it may be in the best interests of the Corporation that the director be asked to resign.