



Administrative Monetary Penalty Policy

POL.COR.21.04

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

Policy Type:	Corporate Policy (Approved by Council)
Date Approved:	September 20, 2021
Department:	Legal Services
Staff Report:	FAF.21.153 Policy and Implementation of the Administrative Monetary Penalty System ("AMPS") Program
By-Law No.:	2021-71

Policy Statement

This policy addresses conflict of interest provisions in relation to the administration of the Administrative Monetary Penalty System (AMPS) program.

Purpose

To define what constitutes a conflict of interest in relation to the AMPS program, to prevent such conflicts of interest and to redress such conflicts should they occur.

This policy is to establish conflict of interest guidelines to ensure that AMPS program responsibilities are conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence, and integrity

Application

This policy applies to all Screening Officers, Hearing Officers and all Town officials and staff involved in the administration of the AMPS program.

Procedures

Appointment of Screening Officers and Hearing Officers:

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By-law 2021-71 sets out the rules regarding the appointment of Screening Officers and Hearing Officers.

Conflict of Interest

A conflict of interest arises where a Screening Officer, Hearing Officer or staff person involved in the administration of the AMPS program has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the AMPS program. A conflict of interest could arise in relation to personal or business matters including:

- directorships or other employment;
- interests in business enterprises or professional practices;
- share ownership or beneficial interests in trusts;
- existing professional or personal associations with a person;
- professional associations or relationships with other organizations; and
- 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 would be inappropriate for a Screening Officer to review a Penalty Notice for a personal or business acquaintance or relative (as defined above). A conflict of interest includes an actual conflict and a potential conflict.

Hearing Officers have obligations 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 general administrative common law principles (i.e., procedural fairness, natural justice, impartial and unbiased decision making, legitimate expectation, etc.). Hearing Officers must be and appear to be impartial at all times. It would be inappropriate for a Hearing Officer to review a Screening Review Decision for a personal or business acquaintance or relative (as defined above). A conflict of interest includes an actual conflict and a potential conflict.

Every Screening Officer, Hearing Officer or other Town staff person involved in the administration of AMPS, must disclose any obligation, commitment, relationship, or interest that could conflict or may be perceived to conflict with his or her duties to or interests in the administration of the AMPS program. A Screening Officer or Hearing Officer shall not represent any person at a Screening Review or Hearing Review.

Conduct of a Screening Officers and Hearing Officers:

All Screening Officers and Hearing Officers shall conduct themselves in the following manner:

- with independence:
 - o must both be and appear to be independent, impartial, and unbiased.

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- must 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.
- should not be influenced by partisan interests, public opinion, or by fear of criticism.
- should not use their title and position to promote their own interests or the interests of others.
- should discharge their duties in accordance with the law, Town By-laws and AMPS policy, procedures, and guidelines.
- with knowledge:
 - should maintain their competence through their work, by participating in training and education courses and by seeking guidance from their colleagues and Town, as required.
 - should remain up to date on changes in the law, Town by-laws, policy, and procedure relevant to their function.
- with conduct becoming:
 - are subject to ongoing public scrutiny and therefore they must 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 the AMPS program.
 - should approach their duties in a calm and courteous manner when dealing with the public and others and should present and conduct themselves in a manner consistent with the dignity of the AMPS system and their appointment.
 - should convey in plain language their decisions and the reasons therefore where such are required.
 - must safeguard the confidentiality of information that comes to them by virtue of their work and should not disclose that information except as required by law.
 - In discharging their duties, must treat those with whom they deal in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those persons.
- with administration of natural justice paramount
 - shall refrain from openly and publicly criticizing the administration of the AMPS program or the conduct of others. Screening and Hearing Officers shall recognize that only the Director of Legal Services may speak publicly on behalf of the Town's AMPS program. Any criticisms, suggestions, or concerns related to the AMPS program should be communicated through appropriate channels to the Director of Legal Services.
 - should deal with the tasks that come before them in a timely manner and should make themselves accessible to those requiring their services.
 - must not knowingly exercise a power or function for which they have not been designated.

Procedures may be defined by the Director of Legal Services to address specific implementation of this policy.

Preventing Conflict of Interest:

The keys to preventing conflicts of interest are: disclosure and withdrawal from the power of decision in regard to a Screening Review or Hearing review.

The need for disclosure and withdrawal from a power of decision applies to any real or perceived conflict of interest.

If a Screening Officer or Hearing Officer becomes aware of any real or perceived conflict of interest in regard to a review of an administrative penalty or Screening Decision, as the case may be, the Screening Officer or Hearing Officer shall notify the Director of Legal Services, or designate, of the conflict of interest and

- in the case of a scheduled review of an administrative penalty or Screening Decision that has not yet commenced, request another Screening Officer or Hearing Officer to conduct the review to avoid actual or potential conflicts of interest; or
- in the case of a review of an administrative penalty or Screening Decision that has commenced, adjourn the review, and withdraw from the power of decision, and advise the Director of Legal Services, or designate. The Town 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, then the Director of Legal Services 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 administrative penalty for an infraction in a timely manner.

If there are further questions or if the Director of Legal Services or staff are looking for further guidance in regard to this policy, the Chief Administrative Officer or external legal counsel, maybe be consulted.

Addressing Conflicts if they Occur:

If someone suspects that a Screening Officer or Hearing Officer conducted a Screening Review or Hearing review where there was a conflict of interest, the person shall advise the Director of Legal Services and an investigation may be conducted. Any finding of a conflict of interest, shall be reported to Council, including any recommendation for appropriate disciplinary action, up to and including revocation of appointment.

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Influence:

No person shall attempt, directly or indirectly, to communicate for the purpose of influencing or interfering, financially, politically, or otherwise, with employees or other persons performing duties related to the administration of AMPS.

No person shall attempt, directly or indirectly, to communicate for the purpose of influencing or interfering, financially, politically, or otherwise, a Screening Officer or Hearing Officer respecting the determination of an administrative penalty matter and/or respecting a delegated power of decision in a proceeding that is or will be pending before the Screening Officer or Hearing Officer, except a person who is entitled to be heard in a Screening Review or Hearing Review.

Charges under the Criminal Code or Other Statutes or Regulations:

Where a Screening Officer or Hearing Officer is charged with an offence under the Criminal Code of Canada or any other federal statute or regulation that is dealt with under the Criminal Code of Canada, such charge shall be disclosed forthwith to the Director of Legal Services.

Where a Screening Officer or Hearing Officer is charged with an offence under other federal or provincial statutes or regulations and where continuing to perform his or her duties may erode public confidence in the administration of the AMPS program, the charge shall be disclosed to the Director of Legal Services.

A determination will be made by the Director of Legal Services as to whether or not an actual or perceived conflict of interest exists or if public confidence in the administration of the AMPS program 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 the AMPS program is accountable for implementing and abiding by this policy. Accountability for interpretation of this policy in relation to a real or perceived conflict of interest shall be determined by the Director of Legal Services.

References and Related Policies

Municipal Act, 2001

Ontario Regulation 333/07 (Administrative Penalties)

Applicable Town policies and procedures

Consequences of Non-Compliance

In accordance with the Municipal Act.

Review Cycle

In conjunction with the review of the Administrative Monetary Penalties By-law.