CONFLICT AND CODES
WHAT DO I NEED TO KNOW?

OVERVIEW

This module consists of two parts. The first is a discussion of the Conflict of Interest Act and the obligations it imposes on municipal councillors. The second part considers other areas of ethical concern for Councillors and discusses how a Code of Ethics or Code of Conduct can assist Councillors in avoiding possible ethical problems.

PART 1 – CONFLICT OF INTEREST

As a municipal councillor, you will make many decisions involving money. Many situations arise where your personal financial interests could conflict with your public duty as a councillor. While some of these conflicts are obvious, others are not as easy to recognize. In order to perform your duties within the requirements of the law, you need to know about the general legal principles and dangers surrounding conflict of interest. Once you have knowledge in this area, you should be able to recognize conflicts and react appropriately in compliance with your legal obligations.

PURPOSE

The purpose of this part is to help you learn about the Conflict of Interest Act. This will help you recognize conflicts of interest and clearly know what your obligations are when faced with a conflict of interest.

KEY MESSAGE

Recognizing and dealing with conflicts of interest appropriately will protect you from legal problems and will help preserve public confidence in your Council’s decisions.

GOALS

1. To understand the difference between conflicts of interest governed by the Conflict of Interest Act and the related concepts of bias and breach of fiduciary duty.
2. Understand what a conflict of interest is and how to identify if one exists.
3. Understand what to do if you have a conflict of interest.
4. Understand what can happen if you have a conflict of interest and have not complied with the Act.
5. Understand the legal obligations of councils when conflicts of interest arise.
CONFLICTS OF INTEREST DISTINGUISHED FROM RELATED CONCEPTS

The term “conflict of interest” is often used to describe what are three distinct concepts in municipal law. In order to understand the Conflict of Interest Act fully, it is useful to consider the related concepts of bias and breach of fiduciary duty.

BIAS

Bias is a common law ground for attacking municipal actions.

As a council member, you must always exercise your decision-making power in the best interest of the community, and not for personal gain or other motives. This requires you to be open to persuasion as to what will be in the best interest of the community. If you are not open to persuasion, you are “biased” in a legal sense. If you are found to have been biased on the outcome of a decision, that decision may be subject to attack by an unhappy member of the community.

Bias is not restricted to decisions of council in which you may have a financial interest. For example, you may not have any interest financially in whether your best friend is awarded a contract by the municipality, but if you cannot be objective in considering the other bids, you are biased in the legal sense. You should declare a conflict and not participate in the discussion even though you have no financial interest in the decision.

Bias is not ordinarily presumed to exist, but where you have a close tie to the parties, a reasonable person may believe you to be biased. This is known as a perceived conflict or apprehension of bias.

Since bias requires a decision of council, it does not apply to employees since they do not vote on council decisions.

BREACH OF FIDUCIARY DUTY

At common law, anyone who acts for the benefit of another person is a “fiduciary”. A fiduciary must always act in the best interest of the person for whom the fiduciary acts. Councillors are fiduciaries for the benefit of the community. Band Councillors are fiduciaries towards members of the band. Employees of a municipality are fiduciaries with respect to their employer.

In a municipal context, Councillors cannot use their position as Councillors to obtain a benefit for themselves. You can breach this obligation by voting on a decision of council that benefits you inappropriately, but you fiduciary obligation doesn’t arise only when you participate in decisions of council. You can breach this obligation on your own – without taking part in a council decision – by accepting bribes, influence peddling, using municipal property for own benefit, improper use of your position as a council member, etc... These breaches will be discussed in more detail in Part 2 of this module.

If you breach your obligations as a fiduciary, you can be sued for any benefits you receive as a result of the breach, even if there is no loss to your community.

CONFLICT OF INTEREST ACT

The Conflict of Interest Act (“the Act”) is territorial legislation that imposes obligations on you as an elected official. Unlike bias, which can apply to any type of decision being considered, the Act is concerned only with decisions of council that will have or are deemed to have a financial impact upon you. Unlike your fiduciary duty, which applies to all your actions as a fiduciary, the Act applies only to actions your actions related to a decision made or to be made by Council. The Act does not obligate you to avoid conflicts, but it does impose specific requirements that must be followed when you do have a conflict of interest under the Act. It also allows the Court to impose significant penalties against you if your breach the Act.
THE CONFLICT OF INTEREST ACT

WHAT DOES THE ACT REQUIRE?

Simply put, the act requires a member who has a direct or indirect pecuniary interest in any decision being made by council to disclose the interest and to refrain from participating in the discussion or attempting to influence voting on the matter, unless an exemption applies to allow the member to participate.

While this seems simple enough, it requires some consideration of each of the elements.

WHEN ARE YOU A “MEMBER” UNDER THE ACT?

The Conflict of Interest Act only applies to members of a municipal council (including its committees) or any board created by territorial legislation. It does not apply to municipal employees generally, although section 10 specifically prohibits contracts with the Senior Administrative Officer or any corporation controlled by a Senior Administrative Officer.

The Act will always apply to you when you take part in a decision of Council as a whole. It will also apply to you as a member of any committee of council.

But what if you are not a member of a council committee that is making a decision? Are you prohibited from making representations to that committee on a matter in which you have an interest? The Act does not address this, but the Courts have. They have ruled that if the Committee reports back to Council as a whole, you cannot make representations to the committee (since you would be required to take part in the final decision). If, however, the committee does not report to council as a whole, then you are not a “member” of the committee within the meaning of the act and may make representations to the Committee.

Since Band Councils are not created by territorial legislation, the Conflict of Interest Act does not apply to them when they act as a band council. However, in many communities, Band Council members also act as the community council. Because the community council is created by territorial legislation, the Conflict of Interest Act would apply to the members of a community council exercising their powers as a community government. It is not always easy to distinguish between the role of the community council and role of the Band Council. Therefore, members of a Band Council that acts as a community council should comply with the Conflict of Interest Act in all their deliberations to avoid any problems.

WHAT DECISIONS DOES THE ACT APPLY TO?

The Conflict of Interest Act applies to all decisions being made by Council. This includes decisions on awarding contracts, passing resolutions or bylaws, approving collective agreements, or anything else that your Council might be required to consider.
WHAT IS AN “INTEREST”

The Act is concerned only with “pecuniary” interests. A pecuniary interest can be either direct or indirect.

DIRECT PECUNIARY INTEREST

You have a direct pecuniary interest in the decision of the council if the decision affects your finances or your property. The effect can be positive or negative. The effect might be on you alone or together with or through one or more other people.

Examples of a direct pecuniary interest include:

- A decision to rezone your land;
- A decision to award a contract you have bid on; or
- Passing a bylaw imposing water charge that you will have to pay.

INDIRECT PECUNIARY INTEREST

The Act specifically states a you will have an indirect pecuniary interest in a contract, or proposed contract, or any other matter in which the council is concerned if:

- You are or your nominee is a shareholder in, or a director or senior officer of a private corporation affected by the decision of Council (a private corporation does not issue its shares to the general public);
- You hold more than 10% of the voting shares of a publicly traded corporation that will be affected by the decision; or
- You are a partner or an employee of a person with whom a contract is made or proposed to be made or that has a pecuniary interest in any other matter in which the council or board is concerned.

These provisions are mandatory and cannot be waived. For example, you cannot vote on a matter affecting your employer even if your employer doesn’t care how you vote. You will also have an indirect pecuniary interest if the decision does not involve you directly, but the decision will nevertheless reasonably be expected to affect your finances or property. For example, the Courts have found indirect pecuniary interests in these circumstances:

- The member was a subcontractor of a general contractor submitting a bid on a municipal project, on the grounds the member would get a contract if the general contractor won the bid;
- The member was an architect whose client needed a rezoning to be able to build the house designed by the member, on the grounds that the member would be more likely to be paid if his client’s property was approved for rezoning;
- The member voted on a collective agreement for a union (in which his wife was not a member) which historically resulted in the same increase to a related union, in which his wife was a member, on the grounds the member’s wife would receive the same increase as the union the member voted on; and
- The member held a mortgage against a property that was being rezoned, on the grounds that the rezoning would affect the value of the property, making it more or less likely that the member’s mortgage would be fully paid.

Moral pecuniary is a looser bond than pecuniary interest
- Abraham Lincoln
DEEMED INTERESTS

The Conflict of Interest Act states that you have the same interest as your legal or common law spouse or other relative, if that spouse or relative lives in the same home as you and you are aware of the interest your spouse or relative has. This is called a deemed interest. It is treated as your interest even if you will not actually benefit from it.

For example, you would have to declare an interest in a contract if your son lives with you, and your son bids for that contract. It does not matter whether or not your son will give you any benefit from the contract. Your son has a direct interest in the contract, so you are deemed to have a direct interest as well.

INTERESTS MUST EXIST NOW

The Courts have ruled that the pecuniary interest must exist now or be certain to come into existence. An interest cannot be contingent upon something that may not occur.

For example, the courts have held that a member does not have a pecuniary interest in property owned by the member’s father, since any financial benefit to the member would arise only if the father died and the member inherited the property.

INTERESTS MUST RELATE TO THE DECISION BEING MADE

The Act is not concerned with potential conflicts of interest. The Courts make it clear that the member’s interest must relate to the matter being considered by council. It can’t relate to some future decision that might need to be made by council as a result of the first decision.

For example, if Council is voting on a decision whether to build a new arena, you would not be disqualified from voting on that decision even if you might later want to bid on a contract for the construction of the arena. If you do later bid on the contract to build the arena, you will then have an interest in the decision to award the contract and must declare the interest then and not participate in the decision.

ARE ANY INTERESTS TOO INSIGNIFICANT?

Sometimes the potential financial benefit or harm to you might be so small that it would not reasonably be expected to influence your voting. Although there is an argument that the Act does not apply to such minor interests, there is no case law from the Northwest Territories confirming the Act will not apply. A cautious member will always declare the interest – no matter how small – unless an exemption applies to the disclosure of the interest.

It is not always easy to know whether you have a conflict of interest. If you are unsure, get the advice of other people including, if necessary, your community government’s legal counsel. The advice can save a lot of time and trouble for you and your council in the long run.
EXCEPTIONS TO THE RULE...

STATUTORY EXCEPTIONS

The Act contains a few circumstances in which you can have a pecuniary interest in a decision, but you are not required to disclose your interest and can participate in the decision making. The statutory exceptions are set out in 2(4) of the Act. They include an exemption for any interest you may have because:

- You are a user of any public utility supplied to you on the same terms that apply to people who are not members of council — an example of this would be setting water rates;
- You can use a service on the same terms as the general public — an example of this would be setting charges to rent the arena;
- You own a debenture issued by the municipality;
- You have a deposit held by the municipality provided such deposit is held on terms applicable to members of the general public — this would apply to rules relating to the return of deposits for municipal services, for example; or
- You are a member of a co-operative.

As well, the definition of indirect pecuniary interest includes exclusions from the deemed indirect pecuniary interest if:

- You hold a single share in a private corporation; or
- You are a nominal director in a corporation.
COMMUNITY OF INTEREST

In addition to these statutory exemptions, the common law allows for a “community of interest” exemption. Community of interest will apply if you have the same interest as the rest of the community or that portion of the community affected by the decision. It is critical that your interest be affected in the same way as the interest of other members of the group, even if your interest is not affected to the same degree.

The Courts have found the member had a community of interest in the following circumstances:

- Where the member owned a business that would be affected by a bylaw that required businesses to close during certain hours, since the member’s business would be affected the same way;
- Where the member owned land in a part of the city that would be affected by a rezoning bylaw, because a large area of the city would be affected in the same way as the member’s property; and
- Where the member’s property would be affected by a minimum lot size requirement, since the bylaw would affect all lots in the subdivision.

The Courts have refused to find a community of interest in other cases:

- Where the member and other persons on his street would benefit from a street-closing bylaw, but the people on the next street over would be adversely affected (because the member was not affected in the same way as everyone affected by the bylaw);
- Where the members worked for the town’s largest employer and a large portion of the community also worked for the same employer; and
- Where grocery stores over a certain size were required to close, but stores of a smaller size (including the member’s) were not.

If you have an interest in a decision being made by Council, but are relying upon a community of interest exemption, it is up to you to prove a community of interest exists. Some court decisions with similar facts reach different conclusions. This shows that community of interest can be a subjective decision. A judge could disagree with your own conclusion on the whether the exemption applies. As a result, if you are not sure a community of interest exists, you should declare the conflict and not participate in the discussion.

Remember that you can have an interest in a decision for more than one reason. Unless you have an exemption for each of the interests, you must declare the conflict and disclose those interests for Which exemptions do not apply.
YOUR RESPONSIBILITY IF A CONFLICT EXISTS

If you have a conflict of interest and do not have an exemption that applies:

You must declare the interest and the general nature of the interest at each committee or council meeting at which it is discussed. If the issue is discussed at a number of meetings, the disclosure must be made at every meeting. If you have a conflict for more than one reason, you must declare each of the grounds of conflict and the general nature of the conflict. For example, if the decision affects your own property and property of your spouse’s employer, you must disclose both conflicts. Sometimes you will not disclose an interest because you were not at the meeting at which the issue was first discussed. In this case, you must disclose your interest at the next council meeting that you attend. If you were not aware of the conflict at the meeting during which it was first discussed, you must disclose the conflict as soon as is practicable after learning about the conflict, even if it not on the agenda at the next meeting.

You must not participate in the discussion or attempt to influence the decision in any way. Courts have held that this applies both to meetings and outside meetings. For example, you cannot phone or meet with individual Councillors to discuss the issue. You cannot comment at all during the meetings. The best approach is to leave the room when the issue is discussed so that there is no suggestion that you attempted to influence the discussion by your presence.

You should ensure the declaration is recorded in the minutes of the meeting. Although the obligation to record rests with the minute keeper, you should make sure the declaration is recorded to protect yourself if an issue arises later.

You can’t avoid the Act’s disclosure requirements simply by not attending a meeting. If you miss a meeting, you must disclose any conflicts at the next meeting you attend, even if the decision has already been made.
WHAT IF ANOTHER MEMBER IS BREACHING THE ACT?

Your Council has an obligation to act within the law. This includes ensuring the Act is followed by all council members. If you believe another member has a conflict that he or she has not declared, this should be addressed before the issue is discussed. The member may not be aware of the conflict and may be happy to declare it if it is brought to the member’s attention. On the other hand, the member may be able to explain why an exemption applies that allows the member to participate in the decision. If council and the member are unable to agree upon whether the member does have a conflict, the matter can be referred to a lawyer for a legal opinion.

If the member participates and does have a conflict, the member can be taken to court by a member of the public, including another member of council, or by the territorial government. There is also the possibility that the decision of council itself could be attacked in court on the grounds of bias. This can result in unnecessary legal costs and problems, so your council always has an interest in making sure conflicts are dealt with correctly.

PUNISHMENT FOR BREACHING THE ACT

If you breach the Conflict of Interest Act, you can be sued by any member of the community or by the Territorial Government.

The Supreme Court of the Northwest Territories can then decide if you had an interest that had to be disclosed. If the Court finds a breach of the Act, it can:

- Order your seat on council vacated;
- Impose a fine on you of up to $5,000;
- Declare you to be ineligible to hold an elected office for up to 5 years; and
- Order you to pay the legal costs of the complainant.

If the Court is satisfied the member contravened the Act due to an accident or by reason of an honest error in judgment, the Court may decide not to impose a penalty.

The issue of whether a conflict exists is not always clear cut. If you relied upon a legal opinion that there was no conflict or that an exemption applied, the Court is more likely to decide not to impose any penalty if the Court disagrees with the legal opinion and rules that a conflict does exist.

CONCLUSION OF PART 1

Conflicts are a constant issue for municipal Councillors. You must be aware of the rules so you can identify and deal with conflicts in accordance with the law. If you are uncertain, get advice from another council member or legal counsel. Being certain of your legal position before you vote on an issue will save you and your council from the trouble, embarrassment and costs of defending yourself for breaching the Act.
PART 2 – CODES OF ETHICS AND CODES OF CONDUCT

As discussed in the first part of this Module, recognizing and dealing with financial conflicts of interest under the Conflict of Interest Act is an important part of a councillor’s legal and ethical obligations. However, there are many other ethical issues that confront Councillors daily. A Code of Ethics or Code of Conduct can be a very useful tool for Councillors in identifying and dealing with those ethical issues.

PURPOSE

The purpose of this part is to demonstrate why a Code of Ethics or Code of Conduct can help your council avoid ethical problems, allow your council to operate more effectively, and increase public confidence in your decisions.

GOALS

- To understand what Codes of Ethics and Codes of Conduct are.
- To understand why a Code is useful to encourage ethical and appropriate conduct.
- To understand the process for drafting a Code and deciding what to include in a Code.

WHAT IS A CODE?

“Ethics” are standards of right and wrong. In a professional context, they are the rules of right and wrong governing behaviors of people within that profession or group. Usually, ethical standards are expressed in terms of rights, obligations, benefits to society, fairness or other virtues — such as integrity, honesty, conscientiousness, or impartiality.

A “Code” is a set of rules that govern a subject. A “Code of Ethics” is therefore a set of rules setting standards of right and wrong in a particular field or profession. While many of the ethical standards or goals will be the same from one group to another, the relative importance of each goal or principle may vary depending on the importance of that issue to the group or profession.

While a Code of Ethics is the statement of values held by a group, a Code of Conduct is a statement of the behaviors that are recommended, required or prohibited for that group. Often, a Code of Conduct is based on a desire for ethical behavior. It will prescribe certain behaviors to ensure ethical results are achieved.

A Code of Ethics and a Code of Conduct may be combined into a single document, with both a statement of ethical principles and a statement of specific behavior expected of the group. For the purpose of this module, we will refer to either a Code of Conduct or Code of Ethics simply as a code.

It is possible to have more than one code. For example, since there be different issues applicable to them, you could have separate Codes of Conduct applicable to council members and municipal employees.
DO WE NEED A CODE?

Currently, Northwest Territories law allows — but does not require — all types of local government councils to pass a “Code of Ethics”. In many jurisdictions, local governments are required to enact a Code of Ethics for Councillors. This is a recognition of the important role a Code can play in promoting ethical behavior.

There are many advantages to adopting a code for your council:

- The public expects ethical behavior of elected officials; a well-made code of conduct can be affirmation of your council’s commitment to ethical behavior;
- A Code can encourage and enforce ethical behavior;
- It can help to clarify the line between acceptable behavior and inappropriate conduct where the lines are not or cannot be clearly drawn;
- It can help to reduce or avoid conflict between council members; and
- It can help your Council and individual council members avoid legal problems, including attacks on Council decisions.

DOESN’T THE LAW ALREADY COVER THIS?

There is no doubt that some unethical behavior is already covered by the law. For example, participating in decisions that may have a financial benefit to a councillor is already prohibited by the Conflict of Interest Act. A number of other unethical behaviors are Criminal Code offences:

- **Fraud** – such as padding expense claims
- **Accepting bribes** – accepting payments of cash or other benefits in exchange for agreement to vote in a certain way.
- **Theft of municipal property** – this could be as simple as stealing office supplies for home use.
- **Influence peddling** – seeking benefits in exchange for using your influence to unfairly advance the interests of a particular person or party. People in power can influence other decisions in different ways, such as telling a contractor they will not get a contract from the municipality unless they use a certain subcontractor.

Even if there are laws that apply, those laws only set minimum standards. For example, the Conflict of Interest Act does not cover all possible circumstances when it may be inappropriate to vote, since it applies only to specific relationships. A code of conduct can’t waive these minimum standards, but it can supplement them.
Other undesirable behavior may not be criminal, but may be a breach of a councillor’s fiduciary duty not to benefit personally from his position. Examples include:

**Self-dealing** -- using your position to get a benefit for yourself, your friends or family, such as “recommending” a family member for employment with your municipal government.

**Accepting Improper Benefits** – If you accept gifts that are worth lots of money, the donor may expect a sympathetic vote from you. Even if there is no expectation of “payback”, there may still be a public perception that you are being bribed. Few people would object to the social type of gifts or lunches, but an all-expense-paid trip to Hawaii for you and your family is likely to raise a few eyebrows. A Code of Conduct can give guidelines on appropriate and inappropriate benefits.

**Using Council Property for Private Advantage** -- While this includes theft, it doesn’t necessarily have to include taking the municipality’s property. It could be using the community’s photocopier for personal use or getting the community public works department to plow out your driveway in the winter.

**Using Confidential Information** – A fiduciary cannot use information obtained for his or her personal benefit. For example, if you learn the community wants to buy a particular property, you can’t buy it first with the intention of selling it to the community at a profit.

Still other concerns are not regulated by the law at all, but may be important to maintaining public confidence in Council or promoting a good working relationship between Councillors. Examples of these concerns include:

- Being rude to the public, municipal staff or other council members;
- Repeatedly failing to attend council meetings; or
- Breaching confidentiality of meetings.

A Code can fill in the gaps between desired behaviour and legal but not-entirely-appropriate behavior. A Code can’t override existing laws, such as the Criminal Code or the Conflict of Interest Act, but it can add to their requirements or provide direction where obligations are not clear.

Many ethical obligations of Councillors are not obvious or easily ascertained. A Code can provide direction to Councillors, helping them avoid ethical problems.
WHAT SHOULD BE IN YOUR CODE?

A Code is not “one size fits all.” Some ethical issues will be more important than others in your community. As well, some inappropriate behaviors will be bigger concerns in your community than others. Although many excellent examples of Codes exist on the internet, you should not simply adopt one of those, but should consider them as examples that can be reworked to meet your community’s needs.

Preparing a Code of Ethics starts with a consideration of what ethical standards are valued by your community: honesty, fairness, conscientiousness, courtesy, impartiality, transparency in government process, respect for confidential information, etc. Codes of Ethics often contain aspirational statements and some rules or principles arising from those aspirations. Codes of Conduct often include a statement of purpose or guiding principles:

- Guidance of officials;
- Prevent or minimize conflicts of interest;
- Improve standards of public service;
- Promote and strengthen confidence of people in the community government;
- Promote integrity and proper management;
- Define acceptable behavior; and
- Promote high standards of practice.

Codes aren’t one size fits all. Considering what is important to your council and your community is an important part of drafting an effective Code.
There are lots of good examples of codes available on the internet. These can be great sources of ideas and wording, but the final decision on the content of your code should be a reflection of what is important in your community.
TIPS ON DRAFTING A CODE

Consider your Purpose - If you want to guide or inspire people, a Code of Ethics is what you want. However, if you want to set out particular rules or requirements, a Code of Conduct is what you need. Don’t be afraid to combine them though.

Consider Specifics and Generalities - In some instances, you will want to consider very clear examples, such as a dollar value on benefits a member can receive. In other instances, you will want to describe requirements in a more general way so they apply to circumstances that you may not have thought of when the Code was drafted.

Custom make your Code - Many examples of codes exist on the internet, but they should modified to work for your community. Beware of differences in local law, particularly regarding penalties.

Get Councillors and Community Involved - Compliance will be better if Councillors support the Code. The public will better accept the Code if they have had input into it. Public support of the Code will also be better if the process is public and open.

Delegate Writing the Code with Caution - The process can be an important tool in developing ethical standards and consensus on acceptable behavior.

Be Clear About Scope - Does it apply to Councillors only? Employees? Senior management? Can the public violate the Code?

Consider How the Code Will Be Implemented - How will it be publicized? Your code will only be effective if people know about it. What steps will be taken to ensure the ethical standards in a Code of Ethics get implemented? Consider what training will be needed.

Be Clear About Enforcement - Consider the penalty provisions and any provisions for dealing with complaints.

Establish a Review Date - Changes in relevant laws may affect your Code. As well, new issues arise, so your Code may need to be updated to deal with those issues. A periodic review ensures your Code functions effectively and reflects current ethical standards. It also allows you to address problems you may have had in applying or interpreting the Code.

Your code can’t waive or contradict mandatory legal requirements applicable to Councillors, (such as the Conflict of Interest Act), but you can supplement them.
ENFORCING YOUR CODE

Unfortunately, current legislation doesn’t give your Council a lot of clout in enforcing a Code. The various municipal acts allow councils to censure or kick a member out of a meeting as a penalty. There is no general authority to remove a member from Council permanently for breaching a code, however.

Of course, if the breach is a conflict governed by the Conflict of Interest Act, remedies set out in the Act will still apply. However, if the action is a breach of the Code, but not the Conflict of Interest Act, only the remedies under the Code will be available.

If your code is adopted by bylaw, you can impose a fine as with any other bylaw infraction.

In some circumstance, civil lawsuits may be available to the municipality to recover any improper benefit received by the member.

CONCLUSION

A Code prepared with input from Councillors, staff, and the public can be an extremely valuable tool in promoting ethical behavior on the part of Council members. It can improve public confidence in your Council and its decisions. It can also provide direction to council members on what is permitted or forbidden, helping to avoid ethical problems and disputes between council members.
DO I HAVE A CONFLICT OF INTEREST?

First, consider the issue to be decided (“the Decision”)

Then, consider if you may be involved in making the decision either at first instance or at a later stage

- If not, not required to declare conflict; or
- If yes, consider the following questions.

Consider each of these questions for yourself and each member of your family who lives in the same home as you:

- Do you have a direct pecuniary interest?
- Do you have an indirect pecuniary interest?
- Do you own shares in a private corporation with a direct or indirect interest in the decision?
- Do you have a controlling interest in a publicly traded corporation with an interest in the decision?
- Are you a director or officer of a corporation affected by the decision?
- Does your employer have an interest in the decision?
- Does your business partner have an interest in the decision?

If you answered “NO” to all of these questions, then there is no conflict to declare

If answered “yes” to one or more, consider whether any exemptions apply:

- Exemption for holder of a single share;
- Exemption for co-operative shares;
- Exemption for nominal directors; or
- Exemption for community of interest.

If no exemptions apply, then you must declare conflict.

If exemptions apply to all causes of conflict (not just some if there are multiple grounds for conflict), then not required to declare a conflict.
RESOURCES

Community governments can contact the NWT Association of Communities if they have questions regarding Conflict of Interest or Codes. In addition, the following materials are useful:

- Conflicts and Codes: PowerPoint Presentation (MACA).
- http://www.bccla.org/positions/political/91conflictinterest.html
- http://www3.telus.net/GovtEthicsLaw
- “Writing a Code”, Center for the Study of Ethics in Professions at IIT
- http://www.iit.edu/department/csep/codes/writing_a_code.html