



## Municipal Mythbusters

### Dispelling Myths About Municipal Responsibilities and the Role of the Ombudsman

In our work with municipalities, we have noticed some common misconceptions among council members about codes of ethics, conflicts of interest, our role, and their responsibilities. In this document, we shed some light on six of these myths and what municipalities need to know.

Myth #1	Mythbuster	What You Need to Know
<p><b>Our municipality is too small to be able to follow all the rules.</b></p>	<p>All municipalities are governed by <i>The Municipalities Act, The Cities Act, or The Northern Municipalities Act, 2010</i>.</p> <p>Regardless of the size of your municipality, you must follow the rules set out in the Act that applies to you.</p>	<p>As a council member, you sign an oath or affirmation declaring that you understand and will carry out your duties as a council member, comply with the code of ethics, and disclose any conflicts of interest.</p> <p>Know your responsibilities and be prepared to fulfil them.</p> <p>This includes having a code of ethics that sets out the conduct expected of council members, and having a process to deal with contraventions of the code.</p>

Myth #2	Mythbuster	What You Need to Know
<p>I don't need to declare a conflict of interest because...</p>	<p>Council members who are in a conflict of interest often think they aren't. Some also think that even if they are in a conflict of interest, they can still participate in the decision and be objective.</p> <p><b>"It wasn't about money."</b> –A conflict of interest doesn't have to involve money.</p> <p><b>"It didn't improperly further another person's private interests under <i>The Municipalities Act (or The Cities Act or The Northern Municipalities Act, 2010)</i>"</b></p> <p>In our view, whether it is "improper" to further another person's interest depends on your personal and private connections to the person. If you could further the private interests of your parents, siblings, or your personal friends, it is almost always going to be improper. The Regulations under each Act provide some examples of improperly furthering another person's private interests.</p> <p><b>"I won't vote in favour of my relative. I don't even like him!"</b> – You can't erase a conflict of interest by disliking a person. It's your connection to a person that puts you in a conflict of interest. Your dislike of someone can still affect your ability to carry out your duties impartially.</p> <p><b>"I'm a good person and I'm doing this for the right reasons."</b> – Having good intentions is not an exemption. You still cannot participate in a decision if you have a conflict of interest.</p> <p><b>"My vote won't change the outcome, so why bother declaring a conflict of interest?"</b> – Even if you think your vote won't change the outcome, you <u>must</u> still take the appropriate steps if you have a conflict of interest.</p> <p>For more information:  Several of the investigation summaries on our <a href="#">Public Reports</a> page deal with conflicts of interest.  <a href="#">Municipal Conflict of Interest Brochure</a>  <a href="#">Conflict of Interest Checklist for Council Members</a></p>	<p>Understand the conflict of interest rules.</p> <p>If a person with all the facts would reasonably conclude that your private interests or the private interests of another person could affect your ability to make unbiased decisions in the best interests of the community, you have a conflict of interest.</p> <p>If you aren't sure, get advice.</p> <p>If you have a conflict, it's not enough to just <b>declare</b> it. You also need to <b>disclose</b> the general nature of the conflict, <b>abstain</b> from voting, <b>refrain</b> from participating in any discussions about it and, if you are in a council meeting, <b>leave</b> the room until the discussion and voting have concluded. You must do this <b>every time</b> the matter comes up. If you missed the meeting, you must declare and disclose your conflict at the next meeting you attend. It also must be properly documented in the minutes.</p>

Myth #3	Mythbuster	What You Need to Know
<p><b>We don't have to do anything about code of ethics complaints – the Ombudsman has to investigate all complaints about council members.</b></p>	<p>Adopting a code of ethics is just the beginning. Under <i>The Cities Act</i>, <i>The Municipalities Act</i>, and <i>The Northern Municipalities Act, 2010</i>, every code of ethics must also set out a process for dealing with alleged contraventions.</p> <p>Having and following a clear, accessible and fair complaint process is your responsibility as a council.</p> <p>You have to deal with complaints and issues about code of ethics violations yourselves – including alleged conflicts of interest.</p> <p>Do ratepayers know how to make a complaint if they think the code of ethics was violated? Do staff know what to do when a complaint is received? Does council know what to do after that?</p> <p>For more information:  <a href="#">Handling Complaints Under Your Code of Ethics</a>            Watch a recording of our <a href="#">webinar</a> on this topic.</p>	<p>A good complaint-handling process will help you to be prepared for complaints.</p> <p>We are an oversight body, and an office of last resort. We are not a service provider. If we receive a code of ethics complaint about one of your council members, and you have not had the opportunity to address it, we will typically refer the person back to you. If you don't have a reasonable complaint-handling process, we will recommend that you develop one.</p>

Myth #4	Mythbuster	What You Need to Know
<p>If we do not know what to do, we can ask the Ombudsman for advice.</p>	<p>To be an effective, credible oversight body, we must review municipal complaints objectively. We can't review a complaint impartially if we have previously given you advice about it.</p> <p>Under <i>The Ombudsman Act 2012</i>, the Ombudsman is:</p> <p><b>Independent</b> from the public entities and officials we can investigate.</p> <p><b>Impartial</b>, that is, not on anyone's side, so we do not advocate for any person or entity, or provide them advice.</p> <p><b>Confidential</b>, and conduct our work in private. We only publish our findings if the Ombudsman believes it is in a person's interest or the public interest.</p> <p>For more information:</p> <p>See our website at <a href="http://www.ombudsman.sk.ca">www.ombudsman.sk.ca</a> for general information and case examples.</p> <p>See also the <a href="#">Municipal Administration</a> page of the Government of Saskatchewan website has various types of information for municipalities.</p>	<p>Know your responsibilities as a council member and municipality.</p> <p>Even though we can't provide specific advice, we provide helpful information on our website. Check it out for brochures and fact sheets. There are also investigation summaries, which provide examples of the complaints we have investigated.</p>

Myth #5	Mythbuster	What You Need to Know
<p><b>The Ombudsman can remove a council member.</b></p>	<p><i>The Ombudsman Act, 2012</i> <u>does not</u> give the Ombudsman the power to remove a council member, even if we find they were in a conflict of interest and did not take appropriate steps to deal with it.</p> <p><i>The Municipalities Act, The Cities Act, and The Northern Municipalities Act, 2010</i> describe when a council member becomes disqualified, and how they can be removed if they do not resign.</p> <p>A council member who doesn't take the required steps to deal with a conflict of interest is automatically disqualified, must resign immediately, and is not eligible to be nominated or elected in any municipality for 12 years. If they do not resign, the council can, by resolution, declare their seat vacant. If this happens, the council member has 10 days to appeal the resolution to a judge. As well, the council or a voter can apply to the court for an order declaring the person to be disqualified. If the judge is of the opinion that the disqualification arose through inadvertence or an honest mistake, the application must be dismissed.</p>	<p>We can investigate and make recommendations.</p> <p>We make recommendations that are within the authority of the council or municipality to implement.</p> <p>For example, in some cases where we found that a council member did not take the required steps to deal with a conflict of interest and did not resign, we recommended that the council decide whether to take steps to enforce the disqualification. It is a council's responsibility as a competent level of government to make these decisions.</p> <p>In other cases, we found that the council member failed to properly deal with a conflict of interest by inadvertence or honest mistake, so we did not make a recommendation. However, a council who disagrees with the Ombudsman's findings in those cases, can still apply to a judge to enforce a council member's disqualification, or to declare the seat vacant.</p>
<p>For more information:</p> <p>We have published the results of several conflict of interest investigations in the <a href="#">public reports</a> section of our website.</p>		

Myth #6	Mythbuster	What You Need to Know
<p><b>We don't need to cooperate with the Ombudsman. We can ignore the Ombudsman's requests for information.</b></p>	<p>Under <i>The Ombudsman Act, 2012</i>, the Ombudsman has the power to require anyone to give information and to produce any documents that relate to the matter being investigated.</p> <p>Even before we decide to investigate, <i>The Ombudsman Act, 2012</i> authorizes municipalities to voluntarily provide us with information.</p> <p>After notifying the appropriate municipal officer, we can enter municipal property at any time to carry out our investigations.</p> <p>When we are investigating, our requests are not subject to <i>The Local Authority Freedom of Information and Protection of Privacy Act</i>.</p> <p>We do our work confidentially and the information we collect is not subject to FOI requests.</p>	<p>If we ask for information related to an investigation, you must provide it.</p> <p>If it appears to the Ombudsman that there are sufficient grounds for making a report or recommendation, we will provide you with a draft report of our tentative findings, so that you have an opportunity to review our findings before we finalize our investigation.</p> <p>Our ultimate goal is to make recommendations to municipalities that will help them to improve the way they carry out their duties under legislation and to treat citizens in a fair and reasonable manner.</p> <p>We publish all our recommendations in our annual report. From time to time, we also publish separate reports about specific cases on our website. We also report on whether our recommendations were accepted.</p>