

Schedule "B" to By-Law 2000-09

Attachment

CONFLICT OF INTEREST GUIDELINES

PURSUANT TO THE TRANSFER OF THE PROVINCIAL OFFENCES ACT

WHEREAS the administration of the Provincial Offences Court by the Municipal Partners pursuant to the Transfer Agreement must be conducted in accordance with fundamental principles of justice, which include judicial and prosecutorial independence, fairness, impartiality, competence and integrity;

WHEREAS the guidelines shall apply to all elected representatives for the Municipal Partner, and all officials and staff of the Municipal Partner:

THEREFORE, the Municipal Partner agrees to implement and adhere to the Conflict of Interest Guidelines as set out below on behalf of our elected representatives, staff and any other persons performing functions under the POA Agreement for all matters related to the administration and prosecution of the Provincial Offences Court in the Thunder Bay Court Services Area:

1.0 Principles of Conflict of Interest Guidelines

- 1.1 Conflict of Interest Guidelines shall apply to all elected representatives, officials and staff of the Municipal Partner and any other persons performing functions under the POA Agreement
- 1.2 No persons shall attempt to influence or interfere, financially, politically or otherwise with employees or other persons performing duties under the Transfer Agreement.
- 1.3 All persons involved with the administration and prosecution functions of the Provincial Offences court shall endeavour to carry out such duties in a manner which upholds the integrity of the administration of justice, and no such person shall participate in the making of a decision, or the performance of an act or omission that provides that person with an opportunity to gain a direct or indirect personal advantage, whether financial, political or otherwise.

2.0 Oath of Office

- 2.1 All staff members involved with the administration functions shall swear or affirm the oath as set out in Schedule "A" of these guidelines.

2.2 All municipal prosecutors engaging in prosecutions under the Transfer Agreement shall swear or affirm to the oath as set out in Schedule “B” of these guidelines.

3.0 Obligation to Report

3.1 An employee or other person performing duties under the Transfer Agreement shall report any attempt at improper influence or interference, financial, political or otherwise to the Municipal Partner and to the local Crown Attorney. No action shall be taken against the employee or other persons for making any such report in good faith.

3.2 An employee or other person performing duties under the Transfer Agreement who is contacted by an elected official with respect to the Administration of Justice and matters before the court shall immediately disclose such contact to the Municipal Partner in order to maintain the integrity of the justice system.

3.3 Where an employee or other person performing duties under the Transfer Agreement has been charged with an offence created under a federal statute or regulation or a provincial statute or legislation, and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner. Upon notification, the Municipal Partner shall determine if any actual or perceived conflict of interest exists, and if so, shall take appropriate action to address the conflict.

3.4 A prosecutor shall disclose any actual or reasonably perceived conflict of interest as soon as possible to the Municipal Partner.

3.5 Where a prosecutor 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 to the Municipal Partner forthwith. Where a prosecutor is charged with an offence under other federal statutes or regulations thereunder and where continuing to perform his or her duties may erode public confidence in the administration of justice, the charge shall be disclosed to the Municipal Partner. The Municipal Partner shall determine if any actual or perceived conflict exists and, if so, the Municipal Partner shall take appropriate action to address the conflict.

4.0 Prosecution Guidelines

4.1 Prosecutors acting under the terms of the Transfer Agreement, in addition to the above, shall adhere to the following Conflict of Interest Guidelines.

- 4.2 A person employed as a prosecutor shall not also be employed as an enforcement officer.
- 4.3 A prosecutor shall be supervised by or report to the City Solicitor or another lawyer designated for this purpose.
- 4.4 A prosecutor shall not hold or have held a municipal political office within the proceeding twelve (12) months.
- 4.5 A prosecutor shall not be placed or place him or herself in a position where the integrity of the administration of just could be compromised.
- 4.6 A prosecutor shall not, personally or through any partner in the practice of law, act or be directly or indirectly involved as a counsel or solicitor for any person in respect of an offence charged against the person under the laws in force in Ontario, unless it relates to his/her own case.

5.0 Implementation

- 5.1 All elected representatives of the Municipal Partner shall be provided with a copy of these guidelines following each municipal elections.
- 5.2 These guidelines shall form part of the Human Resources orientation for all current and new municipal officials and staff.
- 5.3 These guidelines shall form part of the training provided to Administrators and Prosecutors by or on behalf of the Municipal Partner, and shall also be provided to all persons contracting with the Municipal Partner to perform services in connection with the administration of justice.

6.0 Breach

- 6.1 Although these are guidelines, the attention of the parties is drawn to the fact that a breach may result in charges under the Criminal Code of Canada, Provincial Statute or other disciplinary action.
- 6.2 In the event of a breach of an elected representative or official or staff member of the Corporation, the City of Thunder Bay may be placed in breach of the memorandum of Understanding with Her Majesty the Queen in Right of Ontario as presented by the Attorney General

Schedule “A”

Conflict of Interest Guidelines

All staff members involved in the administration functions shall swear or affirm the oath as follows:

I do swear (or solemnly affirm) that I will faithfully discharge my duties as a public servant and will observe and comply with the laws of Canada and Ontario, and, except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a public servant, so help me God (omit this in an affirmation).

Schedule “B”

Conflict of Interest Guidelines

All Prosecutors engaging in prosecutions under the Transfer Agreement shall swear or affirm the oath as follows:

I swear (or affirm) that I will truly and faithfully, according to the best of my skill and ability, execute the duties, powers and trusts of a prosecutor, as an officer of the Court, without favour or affection to any party, so help me God (omit last four words in an affirmation)

I also swear (or affirm) that I will faithfully discharge my duties as a prosecutor, and will comply with the laws of Canada and Ontario, and except as I may be legally authorized or required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being a prosecutor, so help me God (omit last four words in an affirmation).