

Corporate Policy

Policy	Conflict of Interest in Hiring and Employment Related Decisions Policy (Formerly Hiring and Employment of Relatives)
Related policies	Employee Code of Conduct Policy
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Policy statement

The City of Guelph (“the City”) is committed to attracting and hiring quality employees using fair, equitable, and transparent practices that are consistently applied, free from influence, based on merit, and respectful of all applicants. This policy aims to eliminate the influence of nepotism/favoritism in City hiring and employment related decisions (e.g. promotions, transfers, assignments, etc.) to maintain confidence in the integrity of the City’s hiring and employment practices.

Scope

This policy applies to all employees of the City and elected officials and governs the City’s actions in its hiring and employment related decisions processes. Employee includes full-time, part-time, contract, temporary, casual, co-op, or students.

Purpose

The purpose of this policy is to ensure that employment related decisions, concerning existing or potential City employees, are free from any real or perceived improper influence based on family relationships and significant social relationships. At the same time, it is recognized that existing family member and significant social relationships with City employees should not unduly or unfairly restrict or enhance an individual’s opportunity to pursue employment or changes in employment at the City.

Definitions

Conflict of interest

A “Conflict of Interest” is a situation in which an employee has personal or private interests that may compete with the public interests of the City. Such competing interests can make it difficult to fulfill his or her duties impartially. A conflict of interest can create an appearance of impropriety or a perception of bias that can undermine confidence in the person and in the City generally. A conflict exists even if no unethical or improper act results from it. A conflict of interest can either be an apparent/perceived conflict or a real conflict.

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Apparent/perceived conflict

An apparent conflict exists where an informed and reasonable person reviewing the matter and having thought the matter through could conclude that a conflict of interest exists.

Real conflict

Exists where a personal interest exists and that interest:

- Is known to the employee; and
- Has a connection to the employee's duties that is sufficient to influence or interfere with the performance of those duties.

Related individuals/family members

Various family relationships are included under this policy including, but not limited to, the following examples (this is not an exhaustive list):

- spouse (includes married and common-law of the same or opposite sex)
- mother, father, or legal guardian (foster or step)
- son, daughter (foster or step)
- sister, brother, step-sister, step-brother
- aunt, uncle, niece and nephew
- mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law
- grandchild, grandparent, step-grandparent, step-grandchild
- any Family Member who lives with the employee on a permanent basis

Significant social relationships

A current or former relationship outside of work that would make it difficult for the individual to be objective or that for a reasonable individual would create the appearance of bias, either favourable or unfavourable. Significant Social Relationships would include, but are not limited to, the following examples (this is not an exhaustive list):

- romantic and/or sexual relationships
- significant personal/social relationships (i.e. emotional connections)
- godparents/godchildren
- former spouses/partners

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- business partnerships/ownership or working together in a business outside the City

Supervisor

Any employee, regardless of job description or title, with decision-making responsibility over another employee. A supervisory relationship exists even if there are many levels of supervision between two employees who are related individuals.

Direct decision-making responsibility

Includes, but is not limited to, the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline, approve pay sheets, alter working conditions, or responsibly direct employees or adjust their grievances, or to recommend, approve, or deny any of these actions.

In-direct decision-making responsibility

Exists between the employee and the second-removed Manager.

Influence

Includes, but is not limited to, the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline, approve pay sheets, alter working conditions, or responsibly direct employees or adjust their grievances, or to recommend, approve, or deny any of these actions.

Nepotism or favouritism

Preference granted to a family member or significant social relationship, usually in the form of hiring practices or other employment decisions without regard or with lesser regard to the individual's merit, qualifications or performance.

Management Plan

Where the City determines that action is required to minimize the reality or perception of a conflict of interest in employment decisions (hiring or other employment related decisions), the City may, among other things, take action to remove the conflict and/or develop a Management Plan which identifies expectations and employment processes to be followed where the employees are related individuals/family members or have a significant social relationship in both direct and non-direct/indirect reporting structures.

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Terms and conditions

1. This policy is in accordance with the Ontario Human Rights Code. S. 24 (1) (d) of the Code states that the right under section 5 to equal treatment with respect to employment is not infringed where an employer grants or withholds employment or advancement in employment to a person who is the spouse, child or parent of the employer or an employee.
2. The hiring process promotes equitable opportunity. Candidates are selected and employment decisions made in accordance with the City's recruitment & retention practices that are consistent, free from influence, based on merit, and respectful of all applicants, collective agreements, the Employee Code of Conduct, as well as any other applicable City policies.
3. No employee shall attempt to use a family or significant social relationship for his or her personal benefit or gain. This includes an employee misusing their authority to influence or make an employment related decision. Employment related decisions where a benefit may be gained or authority may be misused include but are not limited to the following:
 - the approval/denial of compensation increases;
 - hire, transfer, promotion, demotion decisions;
 - performance rating, discipline or termination;
 - the assignment and approval of overtime;
 - the assignment or direction of work assignments and project opportunities;
 - approval of leaves of absences;
 - the negotiation of salary level;
4. Applicants who are invited for interviews will be requested to disclose the names of any spouse, child or parent who is a current employee or elected official of the City. Job applicants will be asked whether they are aware of any family or significant social relationships currently working as a City employee or elected official by disclosing a "yes" or "no" response. With the exception of a spouse, child, or parent

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relationship, applicants will not be requested to provide the names of any other family member or significant social relationships, in accordance with the *Ontario Human Rights Code*.

5. A spouse, child or parent of a current City employee or elected official shall not be considered for employment, or changes in employment, if placement would create a direct or indirect reporting relationship with the above mentioned family members.
6. A spouse, child or parent of a current City employee or elected official shall not be considered for employment where the relationship would create operational issues for a department or division; or a conflict or perceived conflict of interest.
7. No employee shall be in a direct or indirect reporting relationship; or be placed in a position of influence over an employed family member or significant social relationship.
8. Employees who become involved in a spousal relationship, significant social relationship, or who become related over the course of their employment may continue as employees if no direct reporting or non-direct/indirect reporting relationship exists between such employees, and if there is a direct reporting or non-direct/indirect reporting relationship giving rise to reasonable concern, a Management Plan will be developed.
9. Family members of City employees or elected officials will be considered for employment or advancement provided they:
 - have made application in accordance with established procedure;
 - have been considered in accordance with established procedure;
 - possess the necessary qualifications; and
 - are considered to be the most suitable candidate.

Responsibilities

Employee

Immediately notify supervisor in writing of any conflict of interest. This includes the existence or formation of a direct or indirect reporting

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relationship with a family member or person with whom there is a significant social relationship.

Manager/supervisor

- Inform General Manager or Human Resources directly, if the employee has knowledge of a reporting relationship where an undisclosed conflict of interest exists.
- Do not knowingly place employees in positions where their duties could create a conflict of interest with a family member or significant social relationship.
- Where a conflict of interest exists, notify the department's General Manager/ Manager, who, in consultation with Human Resources, shall determine whether the employee has breached or may potentially become in breach of this Policy.
- Where a direct or non-direct/indirect reporting relationship exists between family members or where a significant social relationship exists between employees, in consultation with Human Resources, the manager/supervisor will make reasonable efforts to transfer one of the employees to a different division or department or alternatively to eliminate their working proximity, subject to below.

If a conflict of interest cannot be avoided through a transfer, a Management Plan (as set out above) will be developed. The purpose of a Management Plan is to remove the decision-making responsibilities of one employee over another (in a direct reporting relationship) and to address the nature of their interactions and other work related issues where there would be a conflict of interest or perceived conflict of interest (in both direct and non-direct/indirect reporting relationships giving rise to reasonable concern). The employees' first neutral supervisor will create and recommend a Management Plan to the General Manager. Neither of the related individuals will be involved in the creation of the Management Plan.

The completed Management Plan must be approved by the General Manager and submitted to the General Manager of Human Resources for review and comment. It will then be submitted to the Service Area, Deputy CAO and the Deputy CAO, Corporate Services for final approval.

The Management Plan will strive to:

- Ensure objective decision-making

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- Create and maintain an atmosphere of transparency, equity, and fairness
- Allow for the effective and efficient operation of the department/division
- To provide support as required.

Management Plans may be reviewed annually or earlier if needed, by the first neutral supervisor. There may be a secondary review by one of the General Manager(s), Deputy CAO(s), and the General Manager, Human Resources.

The affected employees will receive a copy of the Management Plan and a copy will be filed in the employees' file located in Human Resources.

General Manager/Manager

If a real or apparent conflict exists, and it is reported that the employee is or may be or may become in breach of the Policy, instruct the employee in writing, to withdraw from participation in any dealings or decision-making processes relative to the issue at hand. If the employee has knowingly or wilfully breached the Policy, determine the appropriate disciplinary measure, in consultation with Human Resources.

Deputy CAO and CAO

- Ensure compliance with the policy
- Provide final approval of Management Plans
- Act as the point of contact should the real or apparent conflict exist between the General Manager and an employee within their department.

Human Resources

- Provide consultation, as requested or required to employees on this Policy and specific situations involving a conflict of interest.
- Review of Management Plans and submission to General Manager with recommendations.
- Coordinate the investigation of a suspected violation of the policy, consult on the appropriate disciplinary action if required, and maintain the necessary documentation
- Provide assistance with the development and implementation of Management Plans and transfers.

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Elected officials

Members of Council are reminded that they are required at all times to govern themselves in accordance with the provisions of the ***Municipal Conflict of Interest Act*** and must declare a conflict of interest in matters in which they have a direct or indirect pecuniary interest. The ***Municipal Conflict of Interest Act*** further provides that the "pecuniary interest, direct or indirect, of a parent or the spouse, same-sex partner or any child of the member shall, if known to the member, be deemed to also the pecuniary interest of the member."

Compliance

Violations of this policy are serious. A violation of this policy may include, but is not limited to, the deliberate concealment of a relationship that is defined in this policy, or refusal to comply with an approved Management Plan.

Anyone found to have concealed a relationship as defined within this policy or to have otherwise violated this policy may be subject to discipline up to and including termination.

Legislation

Ontario Human Rights Code