

Investigating Conflicts of Interest

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Association of Local Government Auditors

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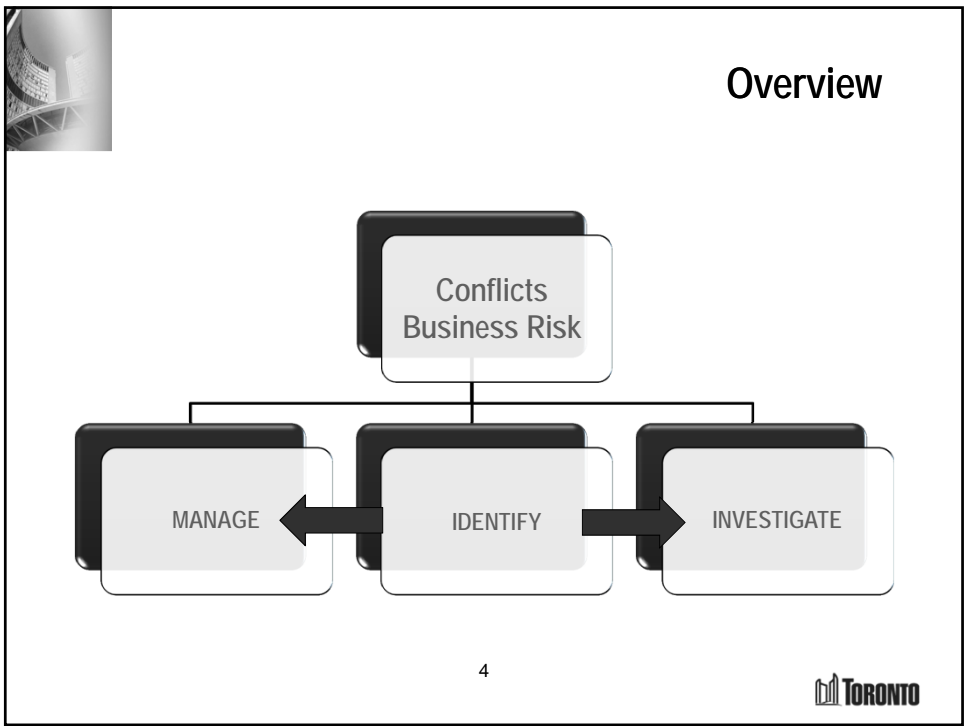
OVERVIEW


TYPICAL CONFLICTS

INVESTIGATING

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What is a Conflict of Interest?


- Defined in Legislation
 - e.g. Provincial or State, Federal
- Defined in Internal Policies
 - e.g. Charter of Expectations, Code of Conduct, Ethics Handbook, Conflict Policy

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Conflict Policy Statement


http://www.toronto.ca/calldocuments/conflict_of_interest_policy.htm



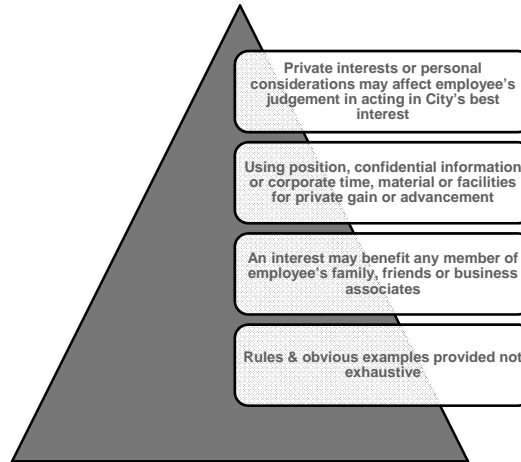
Employees required to support and advance City interests

Avoid situations where personal interests actually or potentially conflict with City interests

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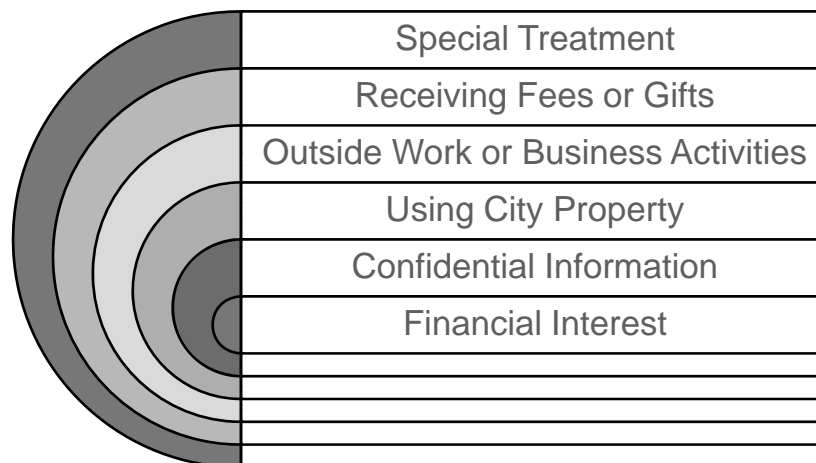


Definition of Conflict



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Conflict Policy, Rules & Examples



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Typical Conflicts

- **See Annual Fraud and Hotline Report**
- **Appendix B**
<http://www.toronto.ca/audit/2011/fraudwaste-jan18.pdf>
- **19 Substantiated Complaint Summaries (Sample of Substantiated Complaints)**
- **13 Complaint Summaries Involve Conflict of Interest**

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Conflict and Inappropriate Hiring

- 2008 Complaint that Manager (personal relationship with subordinate) sharing confidential information to assist him in securing promotion
- Insufficient evidence to substantiate complaint
- 2011 Complaint and new evidence provided
- Investigation concluded wrongdoing involving various employees including contravention of:
 - ✓ Conflict of Interest Policy
 - ✓ IT Acceptable Use Policy
 - ✓ Human Rights and Harassment Policy
- Employee was terminated

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Conflict and Sick Leave Fraud

- Complaint alleging employee working second job while working for City of Toronto
- Preliminary Investigation by A-G Forensic Unit
- Referred to Division for further investigation
- Investigation concluded
 - ✓ Conflict of Interest – paid shifts that conflicted with shifts at 2nd job
 - ✓ Fraud – claimed sick leave while working 2nd job
- Employee terminated

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Conflict of Interest

- Complaint City employees in various divisions worked part time for City vendor
- 1 Employee oversaw City's contract with vendor
- Division led investigation into 2 employees, in consult with A-G Forensic Unit
- Allegations substantiated
- 1 Employee disciplined and 1 allowed to retire
- A-G Forensic Unit leading investigation into fraud involving 3rd employee

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Employee Duties

- Employee owes duty to Employer
Act in best interest of Employer when
carrying out responsibilities of employment
- Public Servants have special obligation to serve the public interest
- Conflict of Interest legislation or internal policies may set out substantive
rules that govern employee conduct

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Conflict of Interest Common Elements

Employee has undisclosed

- Personal relationship or friendship
- Economic interest
- Advantage or benefit gained from position of employment

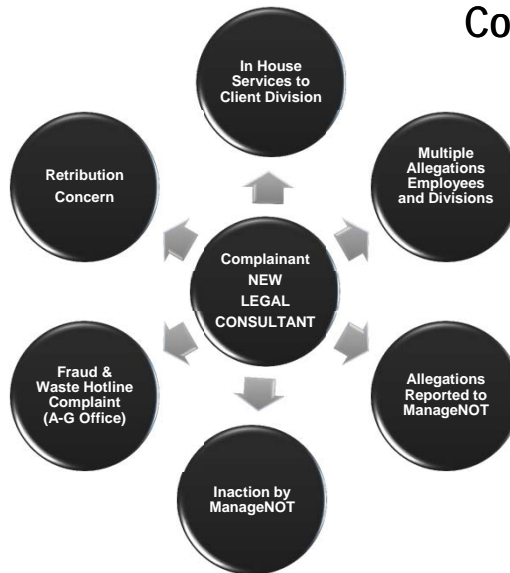
Employee's Interest

- Is (or potentially is) adverse to the Employer
- Compromises duty and loyalty to Employer

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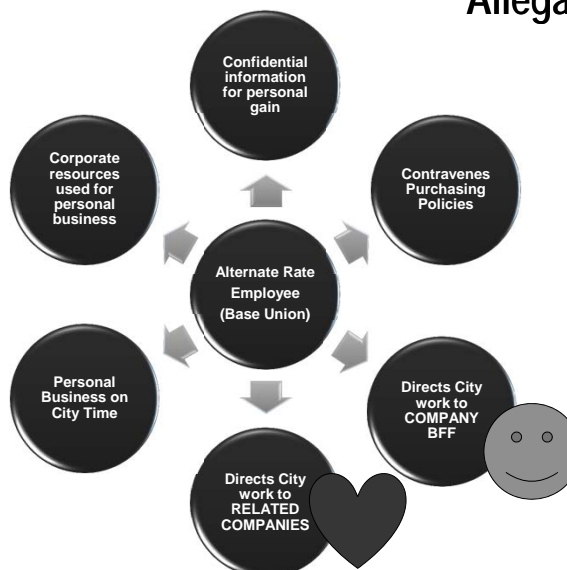


Sample Hotline Complaints



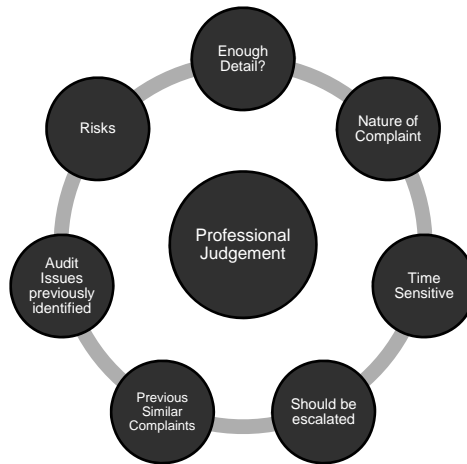
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Allegations



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Decision to Investigate a Complaint



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Investigation Process



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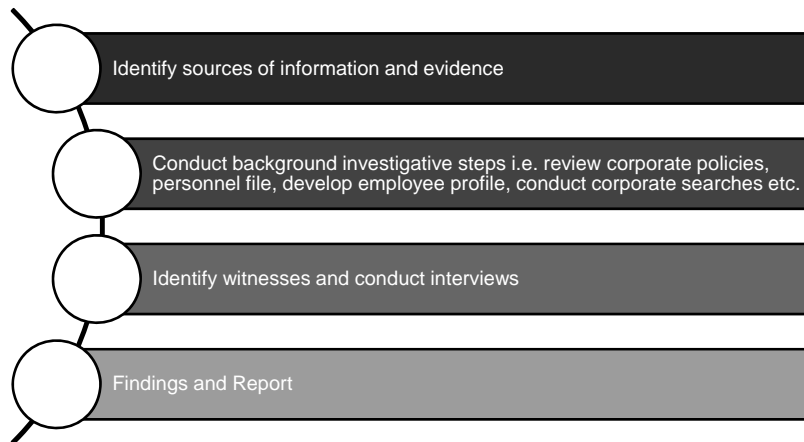
Investigation Plan

See Sample

Forensic team conduct a general planning meeting to discuss key planning issues: Defining specific roles and responsibilities; Defining key divisional contacts; Developing theories and identifying all possible schemes or indicators of fraud; Determined whether error or mistake was made.
Notify Divisional management Notify Human Resources Notify Legal Services Notify Corporate Security (if applicable) Notify Corporate Risk Management (if applicable) Notify I.T. (if applicable)
Develop investigation plan including: Scope Type of evidence required (ie. e-mail restores or C drive cloning, office searches) Witness list Internal documents required Other external record checks Services of an external investigative specialist (ie. polygraph, engineer, chemist)
Determine whether there have been prior cases of similar nature, whether Division or program involved has experienced losses in the recent past.
Obtain and secure original documents Review documents relating to the case. Determine what distinguishes the suspect transactions or documents from normal ones, for example: Who processed them? Are there any distinguishing marks on them? When were they processed (date & time)? Who approved the transactions? Is this normal?



Investigation Process





Identify Issues and Risks

Issues		Risks
Conflict of Interest	-Personal relationship or friendship with vendors -Benefit or advantage gained from position of employment -Use of corporate resources and time for personal business	-Objective decision making compromised -Undisclosed financial interest -Personal interests adverse to City interests -Duty of loyalty and duty to act in best interest of City compromised
Contravention City Purchasing Policies and Procedures	-Purchases directed to specific vendors -No competitive quotes	-Objective, fair, transparent procurement processes compromised -Higher costs to City



Investigation Plan

SOURCES OF INFORMATION

- CORPORATE POLICES
 - Conflict of Interest, Fraud Prevention, Procurement
- INTERNET and SOCIAL NETWORKING SITES
- SAP – City’s Financial System
 - searches in Human Resources, Financial modules etc.
- PAYROLL FILES
 - Payroll Notification Form (confirm Alternate Rate, approvals, timelines)
 - Pay for Performance form (includes Employee met objectives & sign off on Conflict Policy)
- PERSONELL RECORDS
 - Enrolment/Confirmation Benefits (includes name of Family members, dates of birth, addresses, certification true, employee signature)
- Work and Vacation schedules
- Time and timesheets



Investigation Plan

SOURCES OF INFORMATION

- CELL PHONE RECORDS (IT Wireless coordinate with Service Provider or access documents through Supervisor Accounts Payable)
 - Analysis of Usage and call detail records i.e. total # Calls, incoming, outgoing, day/evening/weekend, long distance, calls to City lines/cell phones, # of minutes (less than 7 minutes, longer than 30 minutes etc.)
- ACCOUNTS PAYABLE
 - includes cell phone invoices paid
 - Included multiple vendor invoices paid that looked identical in format
 - CANCELLED CHEQUES
 - Includes vendors or companies paid - traced back to employee/friend
 - BANK STATEMENTS
 - EMAIL
 - COMPUTER FILES
 - SITE VISIT
 - do physical inspection and count of toilets purchased and installed



Email Search See Sample

Review Tool

- Review of E- Mail _____ Userid: _____ Password: _____
- The mailbox was restored by:
 - Carmelina Di Mondo, Senior Technical Support Specialist, Entreprise Messaging, Information & Technology. Access was provided by e-mail correspondence for November 2009 and February 2007 on May 27, 2010 which includes three months preceding these month-ends.
- AGO requested the following periods:
 - December 2006, January, February 2007
 - May, June, July 2007
 - September, October, November 2009
- Keywords Searched:
- General:
 - 1. _____ - restore on the wes02 Groupwise mailbox
 - November 30, 2009 e-mail - (contains September, October, November, 2009 emails) in box contains _____ mailbox items and _____ sent items
 - Cabinet contains _____ subfolders items (containing varying # of items)
 - Personnel folder (containing _____ folders) including _____ containing _____ items
 - Contacts _____ items
 - Trash _____ items
 - Junk 0 items

Summary of Exhibits

1. 2.	Conflict of Interest – Employee Carmelina Inappropriate Procurement Practices	Assessment	COMMENTS
A.	SAP – DISPLAY ADDRESSES REPORT	<ul style="list-style-type: none"> “Employee Carmelina” address as 123 Dorchester Drive, Unit #1, Toronto, L1K 2T3 	<ul style="list-style-type: none"> Same address on “ChipMunk Holdings” invoices (item D)
B.	LIFE FINANCIAL ENROLMENT CONFIRMATION FORM	<ul style="list-style-type: none"> “Employee Carmelina” - beneficiaries - includes children named Chip and Munk 	<ul style="list-style-type: none"> Children’s names combined to form “ChipMunk Holdings” (items C and D)
C.	CORPORATE BUSINESS NAME SEARCH – “ChipMunk Holdings”	<ul style="list-style-type: none"> Sole Proprietorship Employee Carmelina – registered Business name “ChipMunk Holdings” Address listed matches “Employee Carmelina’s” home address Activity being carried out: “Supplying Trades People” 	

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Summary of Exhibits

D.	<p>“ChipMunk Holdings”</p> <p>INVOICE #411-6 - \$2,777.50 Dec 21, 2012</p> <p>“To supply materials and labour to build wall above entrance to Costume Unit Office - Disney Office – to make secure”.</p> <p>Contact on Invoice: Friend Laurie</p> <p>also owner of COMPANY BFF</p>	<ul style="list-style-type: none"> •Invoice format identical to that used by COMPANY BFF also paid to do work at the Disney Office •Sign Off: Signatures not clearly identifying who signed off •Supervisor Disney Office (Acting for his Director) signed off on invoice – as per interview Lisa Dennis Manager •Supervisor Disney Office in position to know invoices split - Director Disney Office required work be done before new year and generally directed Supervisor Disney Office to spend the \$125 000 budget - as per interviews with Director Disney Office and Manager Disney Office •Supervisor Disney Office aware Employee Carmelina did the work at Disney Office whether “ChipMunk Holdings” hired to do the work or COMPANY BFF •Supervisor Disney Office aware Friend Laurie and Employee Carmelina were friends but wanted work done because if it wasn’t would reflect poorly on his annual evaluation •Employee Carmelina admission that invoices split in consultation with Supervisor Disney Office, consistent with Manager Disney Office interview 	<p>Conflict of Interest:</p> <ul style="list-style-type: none"> •Employee Carmelina directing work to personal Company “ChipMunk Holdings” •Friend Laurie is contact on invoice and also performed the work <p>Procurement Issues:</p> <ul style="list-style-type: none"> •Management staff turning blind eye to inappropriate procurement practices •Split Invoices •Contrary to City Purchasing Policies & Procedures that, for example: <ol style="list-style-type: none"> prohibit use of DPOs for repetitive purchases, from same vendor (where blanket contract appropriate) require DPOs be prepared prior to ordering goods, require DPOs be properly approved
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Interviews

Finalize Interview List and Interviewers

- Draft interview questions
- Labour Relations may assist i.e. drafting questions re job

Determine Interview Sequence, Timing, Location

- Management Staff interviewed first
- Other employees from outside in
- Implicated Employee last - in presence of 2 union officials, Manager who would be in position to discipline employee

Determine who will ask questions and who will record, present exhibits etc.

- Forensic Unit Manager conducted interview, along with Auditor who assisted with close to 30 exhibits or documentary pieces of evidence to be put to the Employee

Consider Digitally recording interview versus using laptop versus handwritten notes

- Interview notes disclosed to Legal Services for consultation with Divisional Management for purposes of determining appropriate employee discipline

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Conclusion

- Auditor General Investigation Concluded:
 - ✓ Employee directed work to personal company and company of a friend
 - ✓ Unclear roles and responsibilities i.e., employees in one division authorizing purchases of another division
 - ✓ Management turning a blind eye to purchasing practices facilitating conflict i.e., split invoices
- Employee terminated – base union position – grieved
- Management staff disciplined
- Implemented Annual sign off re compliance with Purchasing Policies

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Questions?

