



October 26, 2015

City of Markham Recommendations for Reforming the Municipal Conflict of Interest Act (MCIA)

Item	Issue	Section	Description of Issue	Desired Outcome of Legislative Change to Issue
Accountability and Transparency				
1	Accountability and Transparency Training for Members of Council	New	There is currently no mandatory accountability and transparency training for Members of Council. This is problematic as knowledge of the law and of legislative responsibilities are important inputs to judgment and action for elected officials. This type of training should be completed within 90 days of taking office. Council members are already required to do mandatory training on their personal liabilities with respect to the <u>Safe Drinking Water Act</u> .	The Province should make completion of accountability and transparency training a mandatory part of Councillor orientation and place a timeframe on its completion (within 90 days of taking office). Additionally, the Province should develop guidelines for what must be included in the mandatory accountability and transparency training.
2	MCIA Alignment with Municipal Codes of Conduct	New	Some municipal Codes of Conduct are drafted to include conflicts of interest arising from a member’s financial interest, raising the possibility that a single action could breach both the MCIA and a Council’s Code of Conduct. Personal financial interests should be separate from Code of Conduct matters. Codes of Conduct should focus on Council Member behaviour: e.g. use of workplace assets, ‘gifts’, staff/Council Member interaction, etc. Combining all potential ethical matters in a Code of Conduct can create confusion.	The Province should implement guidelines to ensure municipal Codes of Conduct align with the MCIA
3	Frivolous & Vexatious Conflict of Interest Complaints	New	The MCIA does not currently contain clear authority and/or safeguards to prevent/address frivolous and vexatious complaints made against Members of Council.	The accountability framework in the MCIA should provide clear authority and set out safeguards to prevent and to address frivolous and vexatious complaints.

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4	Severe Penalties	S. 10	The penalties contained in the MCIA are often too severe in the circumstances. The Act should be amended to provide for a broader range of penalties. Removal from office should be reserved for the most egregious conduct.	The Province should review the current penalties contained in the MCIA to ensure that they are meeting objectives.
5	Lack of an Independent Investigative Body	New	Municipally appointed Integrity Commissioners should be able to investigate complaints related to conflict of interest matters under the MCIA (and have the authority to impose penalties).	The Act should be revised to permit municipal Integrity Commissioners to investigate alleged Conflict of Interest contraventions and to impose penalties for violations. The Provincial Integrity Commissioner could be the default advisor for municipal governments without Integrity Commissioners (similar to the Closed Meeting Investigation and Ombudsman framework).
6	Lack of Guidance Available for Members of Council	New	There is currently very little guidance available to Councillors on the MCIA. Councillors are advised to seek their own legal advice which can be quite costly for Councillors (especially if it's a small municipality or a part time Councillor). Elected officials should be able to seek advice from a municipal Integrity Commissioner for MCIA as well as advice on Municipal Codes of Conduct and they should be able to rely on the advice received.	The Act should be revised to permit municipal Integrity Commissioners to provide advice/guidance to Councillors on the MCIA.

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Responsive and Flexible Municipal Government				
Modernization				
7	The MCIA needs to be modernized	New	The existing municipal accountability framework is confusing and needs to be structured in a way that allows elected officials to understand their obligations and to conduct themselves in a way that complies with those obligations. The MCIA is overly legalistic and it is difficult to understand, particularly by elected officials who bear personal responsibility for complying with the Act.	Modernize the MCIA and ensure requirements are clear and easily understood.
8	Pecuniary Interest	New	The term “pecuniary interest” is an outdated term. The MCIA should be updated to incorporate modern language and overarching principles of ethics and integrity.	Replace “pecuniary interest” with a term that better reflects the goals of ethics and integrity.