

Policy Type: **Executive Limitations**

Policy Title: **Conflicts of Interest**



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## Policy Statement

In order to remain impartial and inspire public trust, members of the Durham Regional Police Service must be aware of conflicts of interest that may arise in the course of their duties and take appropriate steps to avoid and address them. Various forms of conflict of interest may arise in the policing context, and strict adherence to established procedures will assist in preventing any perception of bias or unfairness in the enforcement of the law and enhance public confidence in the Durham Regional Police Service. This policy conforms to the requirements in Ontario Regulation 401/23 – Conflicts of Interest.

## Policy Application

### 1. Definitions

The following definitions apply in this policy:

“actual institutional conflict” means a potential institutional conflict for which a determination has been made by the Chief of Police that an informed and reasonable person would not believe that a member of the Police Service who must take action or make a decision in the situation could do so impartially;

“personal conflict” means a situation in which a member of a Police Service’s private interests or personal relationships place, or may reasonably be perceived to place, the member in conflict with their professional duties with respect to the provision of policing functions;

“personal relationship” includes, but is not limited to, a relationship with any of the following persons:

- a. A current or former spouse, common-law partner or other intimate partner of the member.
- b. The member’s children, including biological and adoptive children and stepchildren.

- c. A legal dependant of the member.
- d. A child in the member’s care.
- e. A grandparent, parent or sibling, including grandparent-in-law, parent-in-law or sibling-in-law, of the member;

“potential institutional conflict” means a situation in which a member of a Police Service must take action or make a decision in relation to criminal conduct that is alleged or reasonably suspected to have been committed by or against any of the following persons, but does not include criminal conduct that is alleged or reasonably suspected to have been committed against a peace officer acting in the course of their duties:

- a. Any other member of the Police Service, including the Chief of Police or a Deputy Chief of Police.
- b. a member of the Board
- c. a member of a municipal council or of a band council of a First Nation, as applicable, in the area for which the Police Service board has policing responsibility.

## 2. Written Procedures

2.1 The Chief of Police shall establish written procedures respecting actual institutional conflicts and personal conflicts in the provision of policing functions by the Police Service. The procedures shall:

- a. provide for steps that must be taken to avoid or address potential institutional conflicts, actual institutional conflicts and personal conflicts;
- b. identify a supervisor to whom a member of a Police Service is required to report potential institutional conflicts, actual institutional conflicts and personal conflicts and, if the matter to be reported relates to the member’s own supervisor, an alternative supervisor;
- c. identify the members of the Police Service who are authorized to determine whether a personal conflict has arisen or is likely to arise;
- d. ensure the impartiality of investigations by the Police Service under this Regulation; and
- e. address how the Police Service will conduct investigations referred to it by the Chief of Police of another Police Service. If the Chief of Police is referred an investigation for investigation by another police service, the Chief shall either (1) cause the matter to be investigated in accordance with the applicable conflict procedure; or (2) ensure that the matter is assumed by a different police service to conduct the investigation.

### **3. Personal Conflicts**

3.1. If it is determined, in accordance with the conflict procedures, that a personal conflict respecting a member of the Police Service has arisen or is likely to arise with respect to a policing function that the member is providing, the Chief of Police shall,

- a. require a different member of the Police Service to provide the policing function or refer the matter to the Chief of Police of a different Police Service; or
- b. if the Chief of Police or Deputy Chief of Police is the member of the Police Service in respect of whom a personal conflict has arisen or is likely to arise, refer the matter to the Chief of Police of a different Police Service.

3.2 The Chief of Police shall record the steps the Chief of Police takes under this section, in the form approved by the Minister.

3.3. If the Chief of Police or Deputy Chief of Police is the member of the Police Service in respect of whom a personal conflict has arisen or is likely to arise, the record shall include either a statement that the Chief of Police complied with the conflict procedures and this policy, or a statement that the Chief of Police did not comply and an explanation for the non-compliance. The record shall be submitted by the Chief of Police to the Inspector General and the Board.

### **4. Institutional Conflicts**

4.1. If the Chief of Police determines that a potential institutional conflict respecting a member of the Police Service has arisen or is likely to arise, the Chief of Police shall determine whether an informed and reasonable person would believe that a member of the Police Service who must take action or make a decision in the situation could do so impartially. In making this determination, the Chief of Police shall consider all relevant factors, including:

- a. whether any of the members of the Police Service who are required to act or make a decision are likely to be in a reporting relationship to or know a person who is or would be under investigation in respect of the criminal conduct;
- b. whether the Police Service has procedures for consulting with the Crown Attorney regarding the conduct of the investigation of the criminal conduct, and has undertaken to consult with the Crown on the investigation.
- c. The importance of the perception of fairness and impartiality in the course of all investigations to maintaining the community's trust.

4.2. The Chief of Police is not required to make the determination above with respect to the following:

- a. an incident reported to the SIU Director under section 16 of the *Special Investigations Unit Act, 2019* or the SIU Director causes the incident to be investigated under section 15 of that Act; or
- b. the potential institutional conflict has arisen or is likely to arise in an area for which the Board does not have policing responsibility.

4.3 If the Chief of Police determines that an actual institutional conflict of interest exists, the Chief of Police shall refer the investigation to the Chief of Police of a different Police Service.

4.4 If the Chief of Police determines that a potential institutional conflict is not an actual institutional conflict and does not meet the prescribed conditions to be referred for investigation to a Chief of another Police Service, the Chief shall either:

- a. cause the matter to be investigated in accordance with the Durham Regional Police Service conflict procedures; or,
- b. refer the matter to the Chief of Police of a different police service for investigation.

In exercising his or her discretion to retain or refer an investigation, the Chief of Police shall have regard to the costs of an external investigation and whether such costs are merited in all of the circumstances. Should the Chief of Police retain the matter for investigation, notification shall be provided to the Inspector General in the prescribed form including a summary of the steps taken under the applicable conflict procedure.

4.5 The Chief of Police shall inform the Board of every actual institutional conflict and of every potential institutional conflict that is determined to not be an actual institutional conflict. If the Chief of Police retains an investigation that is determined to not be an institutional conflict, the Chief of Police shall explain the rationale for retaining the investigation to the Board and the Inspector General.

## **Reporting**

The Chief of Police shall report to the Board as required under sections 3.3 and 4.5 of this policy.