



Policy:	2.1.1 Guidelines
Approved By:	Trust Council
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Policy Holder:	Legislative Services Manager

STATUTORY RULES OF CONDUCT

Purpose

To acknowledge and facilitate compliance with the ethical conduct rules in accordance with the *Community Charter* and *Islands Trust Act*. The applicable statutory provisions are attached as Appendix A.

A. Details

1. Interpretation

In these guidelines

"Executive Committee" means the committee referred to in section 20(1) of the *Islands Trust Act*;

"Local Trust Committee" means the committee referred to in section 23(2) of the *Islands Trust Act*;

"Meeting" includes a meeting of the Trust Council, a Local Trust Committee, the Trust Fund Board, or a committee of any of them, or a Resolution-Without-Meeting under sections 13 and 26 of the *Islands Trust Act*;

"Trust Council" means the Islands Trust Council referred to in section 5 of the *Islands Trust Act*;

"Trust Fund Board" means the board referred to in section 40(1) of the *Islands Trust Act*;

"Trustee" means under section 1 of the *Islands Trust Act* a local trustee, municipal trustee and a trustee of the Trust Fund, or any of them, as the context requires.

2. Conflict of Interest

2.1 Subject to Section 104 of the *Community Charter*, a trustee must not participate in the discussion of, or vote on, a resolution or bylaw in respect of which the trustee has a direct or indirect financial or monetary interest.

2.2 In addition to the disqualification for the financial or monetary interest, having a direct or indirect financial or monetary interest in the decision could result in the trustee's vote on the decision being invalid. In some cases, the decision itself will be invalid where the vote is invalid.

3. Declarations

- 3.1 If a trustee believes he or she is not entitled to participate in a decision, he or she must declare this under Section 100(2) of the *Community Charter*, subject to Sections 100(4) and (5).
- 3.2 Having made such a declaration, if a trustee determines on the basis of legal advice that they in fact may participate and vote, the trustee may do so after making a further declaration stating in general terms the basis on which they have determined that they may participate and vote.

4. Recording Declaration

- 4.1 If a trustee makes a declaration under Section 100 of the *Community Charter*, the person recording the minutes of the meeting must record the member's declaration, the reasons given for it, and the times of the member's departure from the meeting room and, if applicable, of the member's return.
- 4.2 In the case of a Resolution-Without-Meeting vote, if a trustee makes a declaration under Section 100 of the *Community Charter*, the trustee, or the person recording a Resolution-Without-Meeting vote must complete a Declaration Form (Appendix "B") to record the member's declaration, the reasons given for it, and the time of the member's declaration.
- 4.3 A Declaration Form must be completed for each Resolution-Without-Meeting relating to a matter in which a trustee makes a declaration under Section 100 of the *Community Charter*.
- 4.4 The completed Declaration Form must be filed with the secretary, and a copy of the completed form must be affixed to the Resolution-Without-Meeting Call for the Vote/Calling for a resolution and conducting the Vote forms.

5. Insider Information

- 5.1 A trustee must not use information that is gained in the execution of his or her office, and is not available to the general public, to further or seek to further the trustee's financial, monetary, personal, or private interest.

6. Influence

- 6.1 Subject to Section 104 of the *Community Charter*, a trustee must not use his or her office to seek to influence a decision to be made by another person, to further the trustee's financial, monetary, personal or private interest.

7. Gifts

7.1 A trustee must not accept a gift or personal benefit, except compensation authorized by the *Islands Trust Act* and the Islands Trust Regulation 119/90, as amended, that is connected directly or indirectly with the performance of his or her duties of office.

8. Exceptions and Disclosure of Gifts

8.1 As an exception, a trustee may accept a gift or personal benefit having a value of less than \$250 that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

8.2 If the value of a gift accepted under this exception equals or exceeds \$250, or the value of such gifts from any single source exceeds that amount in any 12-month period, the trustee must file a disclosure statement in accordance with Section 106 of the *Community Charter*.

9. Contracts with the Islands Trust

9.1 A trustee, or person who was a trustee within the previous six months, must report to the Islands Trust Corporate Secretary any contract with the Islands Trust in which the trustee or former trustee has a direct or indirect financial or monetary interest, in accordance with Section 107 of the *Community Charter*.

10. Confidentiality

10.1 A trustee must keep in confidence any record held in confidence by the Trust Council, Trust Fund Board or a local trust committee, until the record is released to the public, and must keep in confidence any information considered in any part of a Trust Council, Trust Fund Board, Executive Committee or local trust committee meeting that was lawfully closed to the public, until the information is discussed at a meeting that is open to the public or released to the public.

11. Review Process

11.1 Trustees and staff may, at the cost of the Trust Council, communicate directly with the Trust's Legal Counsel to discuss matters pertaining to statutory standards of conduct.

12. Disqualification

12.1 Trustees violating statutory rules of conduct in relation to conflict of interest, use of insider information, inside or outside influence, receipt of gifts, disclosure of gifts, and disclosure of contracts are subject to disqualification from office under Section 110 of the *Community Charter*.

B. Links to Supporting Forms, Documents, Websites, Related Policies and Procedures

Appendix A and B

APPENDIX A

Community Charter

General voting rules

- 123** (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.
- (2) Each council member has one vote on any question.
- (3) Each council member present at the time of a vote must vote on the matter.
- (4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.
- (5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.
- (7) The voting rules established by this section also apply to council committees.

Division 6 — Conflict of Interest

Disclosure of conflict

- 100** (1) This section applies to council members in relation to
- (a) council meetings,
 - (b) council committee meetings, and
 - (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].
- (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
- (a) a direct or indirect pecuniary interest in the matter, or
 - (b) another interest in the matter that constitutes a conflict of interest,
- the member must declare this and state in general terms the reason why the member considers this to be the case.
- (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].

(4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may

- (a) return to the meeting or attend another meeting of the same body,
- (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
- (c) after this, participate and vote in relation to the matter.

(5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 [*restrictions on participation if in conflict*].

(6) When a declaration under subsection (2) or a statement under subsection (4) is made,

- (a) the person recording the minutes of the meeting must record
 - (i) the member's declaration or statement,
 - (ii) the reasons given for it, and
 - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
- (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

Restrictions on participation if in conflict

101 (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.

(2) The council member must not

- (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
- (b) participate in any discussion of the matter at such a meeting,
- (c) vote on a question in respect of the matter at such a meeting, or
- (d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on inside influence

102 (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken

(a) at a meeting referred to in section 100 (1) *[disclosure of conflict]*,

(b) by an officer or an employee of the municipality, or

(c) by a delegate under section 154 *[delegation of council authority]*,

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on outside influence

103 (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 *[disqualification for contravening conflict rules]* unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Exceptions from conflict restrictions

104 (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:

(a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;

(b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;

(c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;

(d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;

(e) the pecuniary interest is of a nature prescribed by regulation.

(2) Despite sections 100 to 103, if a council member

(a) has a legal right to be heard in respect of a matter or to make representations to council, and

(b) is restricted by one or more of those sections from exercising that right in relation to the matter,

the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

Restrictions on accepting gifts

105 (1) A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.

(2) Subsection (1) does not apply to

(a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,

(b) compensation authorized by law, or

(c) a lawful contribution made to a member who is a candidate for election to a local government.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disclosure of gifts

106 (1) This section applies if

(a) a council member receives a gift or personal benefit referred to in section 105 (2) (a) that exceeds \$250 in value, or

(b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.

(2) In the circumstances described in subsection (1), the council member must file with the corporate officer, as soon as reasonably practicable, a disclosure statement indicating

- (a) the nature of the gift or benefit,
- (b) its source, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,
- (c) when it was received, and
- (d) the circumstances under which it was given and accepted.

(3) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disclosure of contracts with council members and former council members

107 (1) If a municipality enters into a contract in which

- (a) a council member, or
- (b) a person who was a council member at any time during the previous 6 months,

has a direct or indirect pecuniary interest, this must be reported as soon as reasonably practicable at a council meeting that is open to the public.

(2) In addition to the obligation under section 100 [*disclosure of conflict*], a council member or former council member must advise the corporate officer, as soon as reasonably practicable, of any contracts that must be reported under subsection (1) in relation to that person.

(3) A person who contravenes subsection (2) is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on use of insider information

108 (1) A council member or former council member must not use information or a record that

- (a) was obtained in the performance of the member's office, and
- (b) is not available to the general public,

for the purpose of gaining or furthering a direct or indirect pecuniary interest of the council member or former council member.

(2) A person who contravenes this section is disqualified from holding office as described in section 108.1 [*disqualification for contravening conflict rules*] unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disqualification from office for contravening conflict rules

108.1 A person disqualified from holding office under this Division is disqualified from holding office

- (a) on a local government,
- (b) on the council of the City of Vancouver or on the Park Board established under section 485 of the *Vancouver Charter*, or
- (c) as a trustee under the *Islands Trust Act*

until the next general local election.

Court order for person to give up financial gain

109 (1) If a council member or former council member has

- (a) contravened this Division, and
- (b) realized financial gain in relation to that contravention,

the municipality or an elector may apply to the Supreme Court for an order under this section.

(2) Within 7 days after the petition commencing an application under this section is filed, it must be served on

- (a) the council member or former council member, and
- (b) in the case of an application brought by an elector, the municipality.

(3) On an application under this section, the Supreme Court may order the council member or former council member to pay to the municipality an amount equal to all or part of the person's financial gain as specified by the court.

(4) In the case of an application made by an elector, if the court makes an order under subsection (3), the municipality must promptly pay the elector's costs within the meaning of the Supreme Court Civil Rules.

(5) The court may order that costs to be paid under subsection (4) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

(6) Except as provided in subsection (4), the costs of an application are in the discretion of the court.

APPENDIX "B"

ISLANDS TRUST

SECTION 100(2) COMMUNITY CHARTER DECLARATION FORM

(Disclosure of direct or indirect pecuniary interest, or another interest in the matter that constitutes conflict of interest or perceived conflict of interest)

FOR A SECTION 26 RESOLUTION-WITHOUT-MEETING

Note:

- This form must be completed when a trustee declares that he or she is not entitled to vote on a matter being considered by Resolution-Without-Meeting, or having made such a declaration subsequently determines on the basis of legal advice that they may in fact vote;
- This form complies with the requirements of Section 100 of the *Community Charter*, and applies to local trust committee, Trust Fund Board, Trust Council, and Executive Committee Resolution-Without-Meeting.

Under Section 100(2) of the *Community Charter*, I declare that I will not participate or vote on the matter contained in the draft resolution as shown in the attached Resolution-Without-Meeting form for the following reason(s):

OR

Under Section 100(4) of the *Community Charter*, I declare that I have obtained legal advice and have determined that I am entitled to participate and vote on the matter that was the subject of my declaration of conflict of interest dated _____ for the following reason(s):

Name of Corporate Entity

Trustee's/Trust Fund Board Member's Name

Trustee's/Trust Fund Board Member's Signature,
Email (attach copy) OR Telephone No.

Date and Time of Declaration

Name of Recorder (if applicable)

(Staff to complete the section below)

Received by the Islands Trust Secretary this _____ day of _____, ____.

SECRETARY'S Signature

RWM No.