



Public Health Sub- Committee Code of Conduct Orientation

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Integrity Commissioner
City of Hamilton**

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Overview

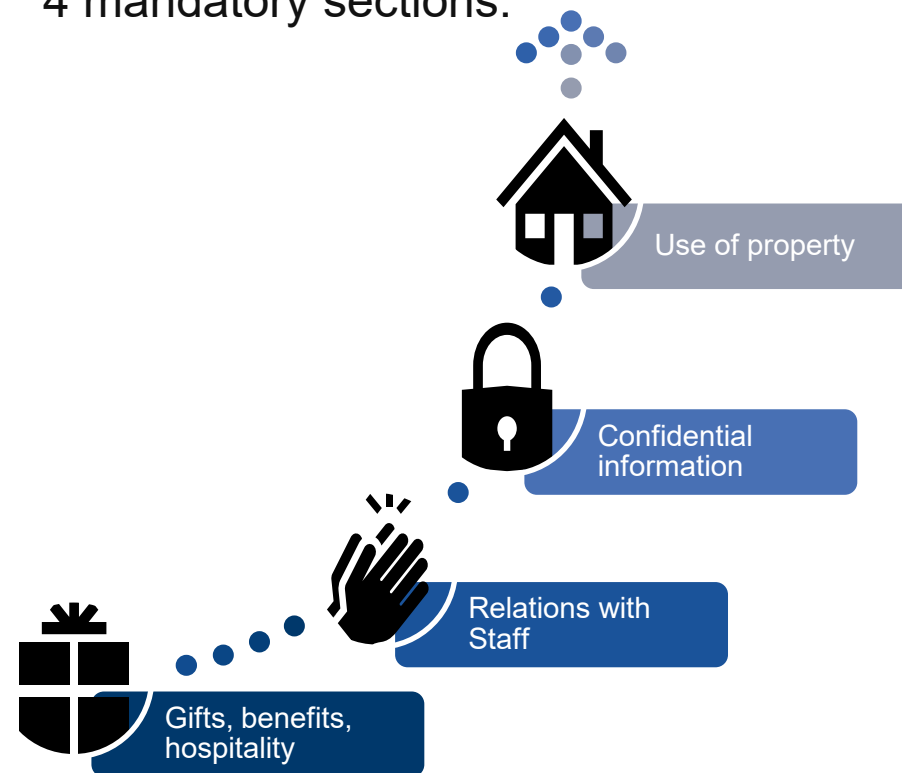
- Code of Conduct – By-Law No. 22-019
 - Conflicts of Interest
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 - Confidential Information
 - Use of City Property
 - Election Campaigns & Improper Influence
 - Business Relations & Member Conduct
 - Media Communications
 - Respect for By-laws & Policies
 - Respectful Workplace & Respecting Staff
- Role of Integrity Commissioner
- Advice Protocol
- Complaint Process
- *Municipal Conflict of Interest Act*
 - “Conflict of Interest” definition & examples
 - Exceptions
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Code of Conduct – Main Tenets

s. 223.2(1) of the *Municipal Act* requires municipalities to establish a code of conduct for, among other entities, local boards and committees of Council

Guiding Principles: “*Members shall act with honesty and integrity, serving in a diligent manner, and performing their duties in a manner which promotes public confidence.*”

4 mandatory sections:



By-Law No. 22-019

To Establish a Code of Conduct for Local Boards

**Local Boards are sometimes referred to as
'committees'**

The Code is to be given a broad, liberal interpretation

Avoiding Conflicts of Interest

Disqualifying Interest

An Interest which a reasonable person would conclude that the Member could not impartially participate in a decision-making process because:

**It would breach the
*Municipal Conflict of
Interest Act***

**Of the Member's
relationship with
persons involved in the
matter**

Avoiding Conflicts of Interest

Non-Disqualifying Interest

An Interest which a reasonable person would conclude that the Member could still impartially participate in a decision-making process, so long as:

**The Member fully
discloses their interest**

**The Member states why
the interest does not
prevent them from
participating**

Avoiding Conflicts of Interest

Members shall not participate in a decision-making process where:

They have a disqualifying interest

Participation includes attempting to influence the outcome

Members may participate in a decision-making process where:

They have a non-disqualifying interest

If they file a Transparency Disclosure with the City Clerk



Avoiding Conflicts of interest

Members shall not appear before the Local Board on which they sit

Members shall not contract with their Local Board for the:

sale

rental

purchase

Of supplies, services, material or equipment

Members shall not engage in business that relies on approval from their Local Board:



Gifts, Benefits, or Hospitality

No Member Shall accept any benefit connected to the performance of their duties, unless it is:

**Compensation
authorized by law**

**Gifts or Benefits that are
incidental mementos or
tokens**



Confidential Information

No Member shall disclose to the public any Confidential Information (e.g. personal information), acquired by virtue of their office, except

When required by law

Authorized by Council or the Local Board

No Member shall misuse Confidential Information or information acquired from their position not in the public domain for gain

Examples

Correspondence

Reports

Draft documents



Confidential Information

Confidential information includes:

**Closed meeting
discussions**

**Board
information that
it is**

**Prohibited
from
disclosing**

**Required
to refuse
to
disclose**



Use of City Property

No Member shall use or permit the use of

City land, facilities, equipment, supplies, services

**City employees or other resources
(e.g. City-owned materials, websites)**

Member transportation or delivery services

Member global budgets



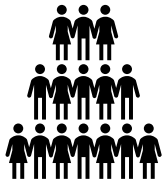
**For activities other than the business of the City & in
accordance with City policies**



Use of City Property

No Member shall obtain financial gain from the use or sale of any City-developed:

- **Intellectual property
(e.g. inventions, creative writings or drawings)**
- **Computer program**
- **Technical innovation, or**
- **Another item capable of being patented which the City owns**



Election Campaigns

No Member shall – while identifying themselves as a member:

Undertake any election campaign or related activities

Fund-raise, endorse or contribute to a campaign for a municipal election



Improper Influence

No Member shall use their position for any other purpose than their duties as a Member



Business Relations

No Member shall allow the prospect of their future employment by a person or entity to detrimentally affect their Official Duties.



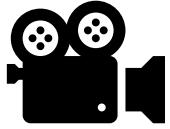
Member Conduct

Every Members shall conduct themselves with decorum

**Members shall maintain proper control over meetings,
respecting everyone involved**

Members are expected to attend all meetings

**If they miss >3 during their term, they may be asked to
resign**



Media Communications

Members should not comment to the media in relation to any decision made by the board

In rare situations, the Chair may comment

If a member is contacted by the media, they should refer them to the Chair, or, if unavailable, the Vice-Chair (in that order)



Respect for By-laws & Policies

Members shall follow and encourage respect for

**Their
Board**

**The
Municipality**

**By-laws,
policies and
procedures**

**Members must not encourage disobedience or
undermine the Rule of Law**



Respectful Workplace

Members are governed by

Workplace harassment & workplace violence policies

The Integrity Commissioner is responsible for investigating complaints

All members have a duty to treat everyone without:

- Abuse
- Bullying
- intimidation

Members must ensure that their work environment is free from discrimination & harassment



Conduct Respecting Staff

Every Member shall be respectful of City officers & employees who provide professional service & advice based on

- **Political neutrality & objectivity**
- **Without undue influence**

Members shall not maliciously or falsely impugn or injure the professional or reputation or prospects of staff

It is inappropriate to attempt to influence staff to perform irregular processes for their benefit



Integrity Commissioner

It is a violation of the Code to obstruct the IC in carrying out their responsibilities

Any written advice from the IC binds them in the same matter if all facts were disclosed

Members may seek clarification on any part of the Code with the IC

Role of Integrity Commissioner

- ss. 223.3-223.8 of the *Municipal Act* provide for the mandatory appointment of Integrity Commissioner, who performs 3 main roles:



Conducting inquiries into Code of Conduct/rules/policy breaches.




Advising members as to their obligations under the Code of Conduct, the *Municipal Conflict of Interest Act*, and other procedures, rules, or municipal policies.




Providing training/guidance about the Code of Conduct, *Municipal Conflict of Interest Act*, and application of policies governing members' behavior.

Advice Protocol

A member may make a request for advice to the Integrity Commissioner in writing (in urgent circumstances, an oral request for advice can be made)



If the Commissioner provides advice, the advice shall be given or confirmed in writing



Advice provided by the Commissioner to a member may only be released with the member's written consent



If a member releases only part of the advice provided, the Commissioner may release part or all of the advice without obtaining the member's consent

Advice Protocol

If the Commissioner provides a periodic report to the municipality about their work, they may summarize the advice they have given but **should not** disclose any confidential information that could identify the people concerned



If the Commissioner believes a member has contravened the Code of Conduct, they may disclose this in their report as necessary



Commissioner reports must be available to the public

Complaint Process

The Commissioner may conduct an inquiry about whether a board member has contravened the Code of Conduct

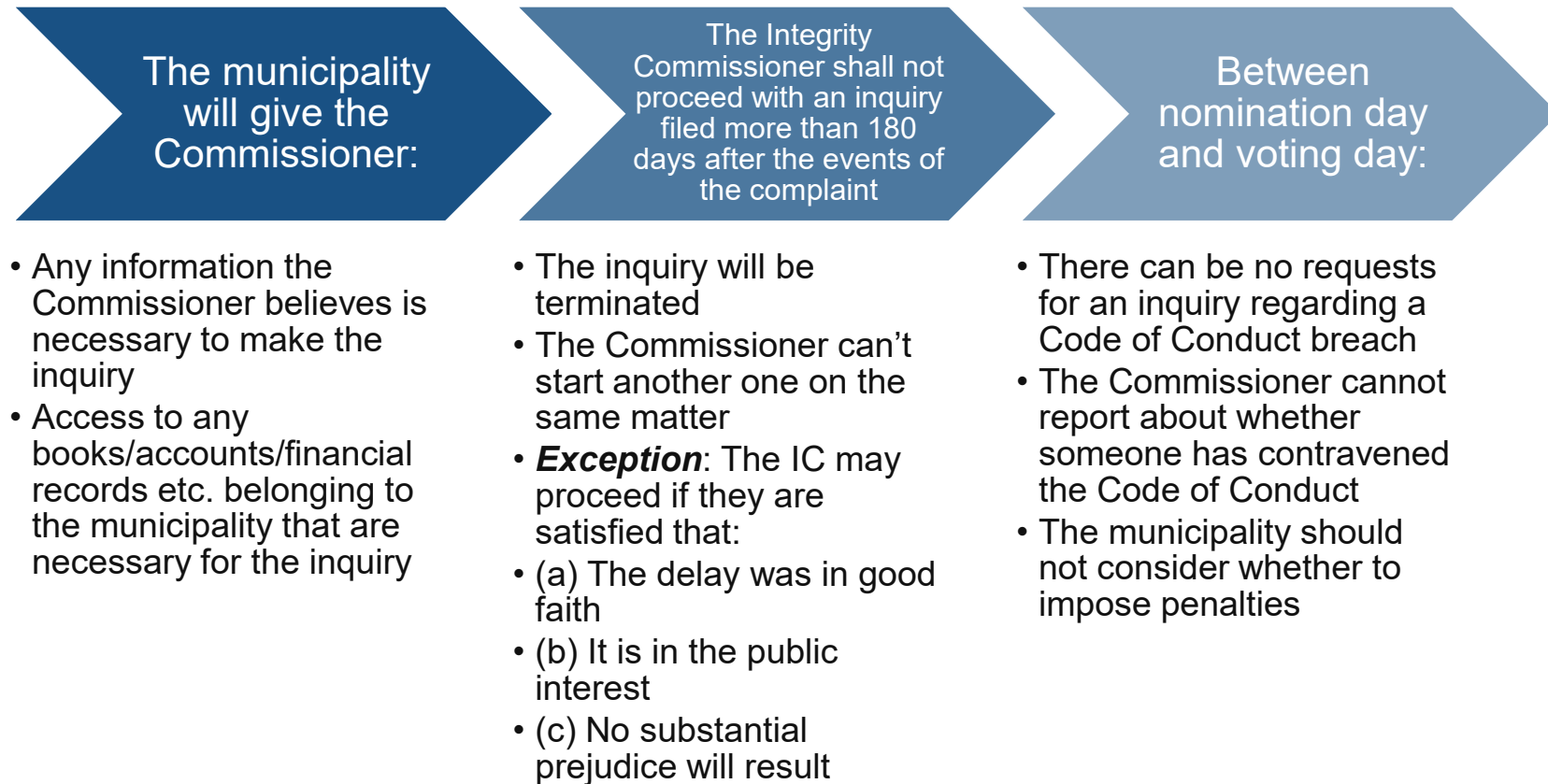
- Request to conduct inquiry can be made by council, a council member, or a member of the public

A request for inquiry shall:

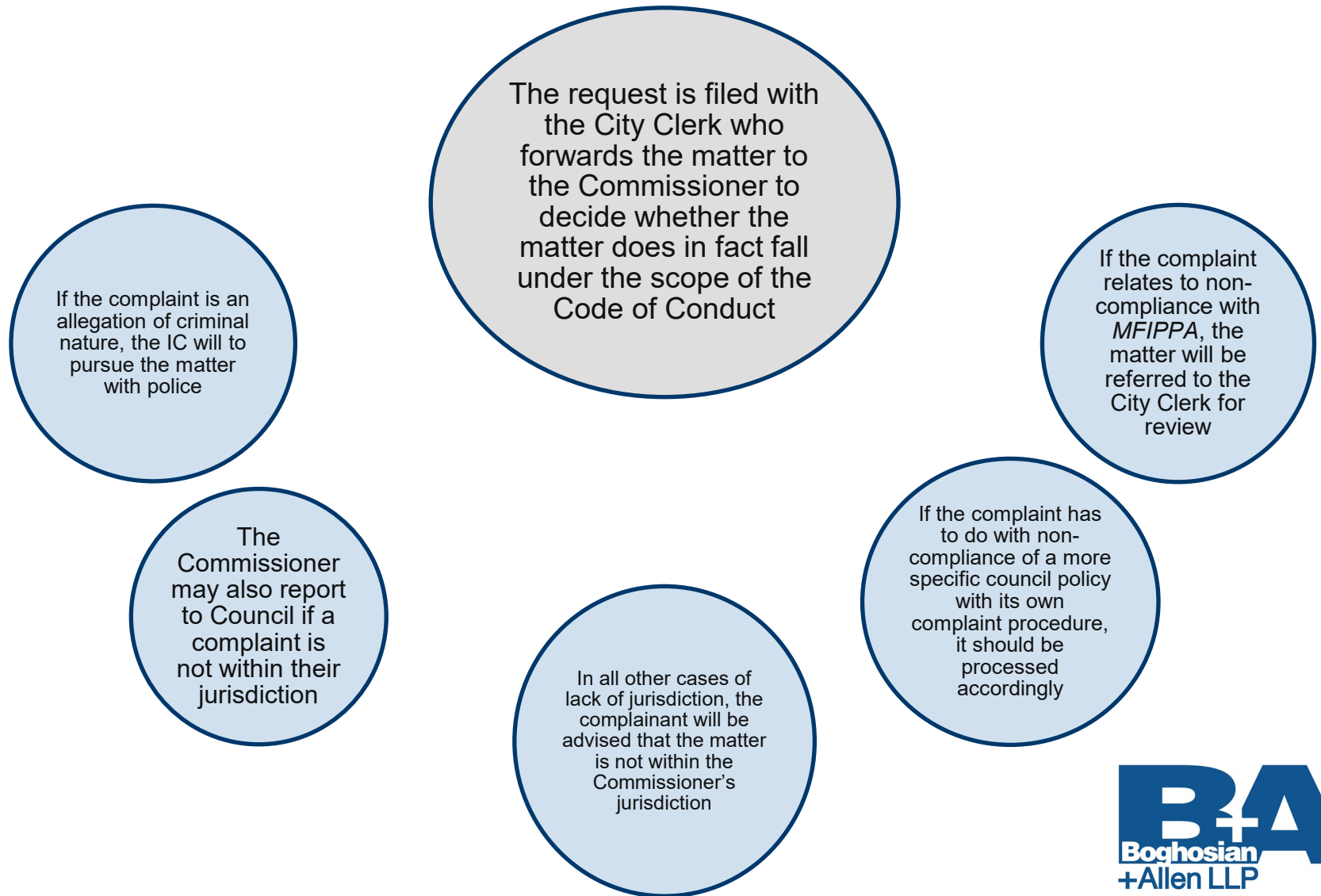
- Be made in writing;
- Signed by an identifiable person;
- Set out all reasonable/probable grounds for the allegation, and;

A complaint shall not be made available to the public –except as authorized by the *Municipal Freedom of Information and Protection of Privacy Act*

Complaint Process



Complaint Process



Complaint Process

If the Commissioner finds the referral is frivolous/vexatious/not made in good faith, or there are no grounds for an investigation, they won't conduct one or will terminate an existing one

Other than in exceptional circumstances, the Commissioner won't report to Council on any complaints made without proper grounds

If the referral falls under the Commissioner's jurisdiction, they may investigate pursuant to their powers under the *Public Inquiries Act*, which prevails over the City's Complaint Protocol in case there is any conflict

Complaint Process

No later than 60 days after the complaint was made, the Commissioner shall:

Decide whether to conduct an inquiry

And if the IC so decides, conduct an inquiry as quickly as possible



If the complaint was somewhat/totally sustained, the Commissioner shall:

Report their findings to council

Recommend a penalty

Share any non-confidential settlement details



The Commissioner may recommend no penalty be imposed if they find:

There was no contravention

The contravention occurred but the member took reasonable steps to prevent it

The contravention was trivial, inadvertent, or committed because of a good faith error in judgment

Complaint Process

If the Commissioner finds there was a contravention, the municipality may impose 1 of 2 penalties:

Reprimand

Suspension of remuneration
for up to 90 days

Per Hamilton's Code of Conduct, the Commissioner may also recommend any of the following actions:

Written/verbal apology

Returning/reimbursement of
property or value of property

Removal from Committee
Membership or Committee
chair position

Municipal Conflict of Interest Act

A conflict of interest is defined as follows:

- Where a member, either on their own behalf or while acting for, by, with, or through another, has any ***pecuniary interest, direct or indirect, in any*** matter and is present at a meeting of the local board where the ***matter*** is **being considered**

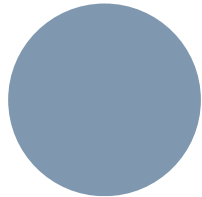
Municipal Conflict of Interest Act applies to members of local boards

- Statute upholds integrity, independence, and accountability in local government decision-making

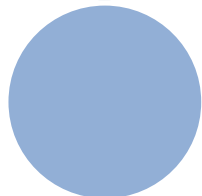
“Pecuniary interest” is not defined in the statute

- What constitutes a pecuniary interest is a matter of common law to be determined by judges on a case by case basis

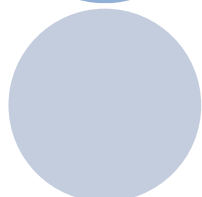
Direct/Indirect Conflicts of Interest



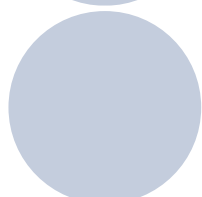
Direct and indirect conflicts of interest may arise



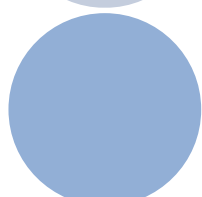
Direct conflict may arise when a member stands to gain a direct benefit because of a certain municipal project/matter



Indirect conflict may arise where a member is a senior stakeholder in a private corporation, owns a controlling interest in a public corporation, or is a member of a body that may have a direct pecuniary interest in the matter



Also occurs where members are partners of/employed by persons or bodies with a direct interest



Extends to any parent, spouse, or child of the member if the member is aware of their association

Conflicts of Interest Examples

Pecuniary Interest

- A “pecuniary interest” relates to a financial or economic interest, or money in some shape or form
- The key question is: Does the matter to be voted upon have the potential to affect my pecuniary interest?

Example 1 - An owner of Property:

- Influencing or participating in decisions of Council to locate a Municipal development near their property is a direct conflict

Example 2 - A Member of a Chamber of Commerce:

- Voting on a resolution to give a grant to the Chamber is an indirect conflict

What is not a Conflict of Interest

Matters that are not within a Board's Authority

- For a matter to be a conflict, a Board must vote on a matter that is a proper exercise of the Board's power. A Member voting on a resolution that turns out to be a nullity is not a conflict

Example 1- When there is no pecuniary interest

- If a Member's family member attends the Board to provide information and/or municipal staff are directed to report on the legal implications of a decision, there is no pecuniary interest over which a Member may be conflicted

Example 2 -Exception: Interest in common with electors generally

- Participating in a motion concerning the hook up of water services for large condominium residences while living in such a condo is not a conflict because the issue is one that is in common with electors generally
- An interest in common with electors generally means a pecuniary interest in common with electors in a particular jurisdiction
- Where the matter being considered only affects part of a jurisdiction, 'electors generally' means those electors within the affected part

Conflicts of Interest - Exceptions

Using public utility services

Receiving benefits on terms common to others

Purchasing/owning debenture of municipality

Making a returnable deposit to municipality

Having an interest in property affected by statutes related to local improvements

Having an interest in farmland with some statutory tax exemptions

Being eligible for election or appointment where council may fill such vacancy

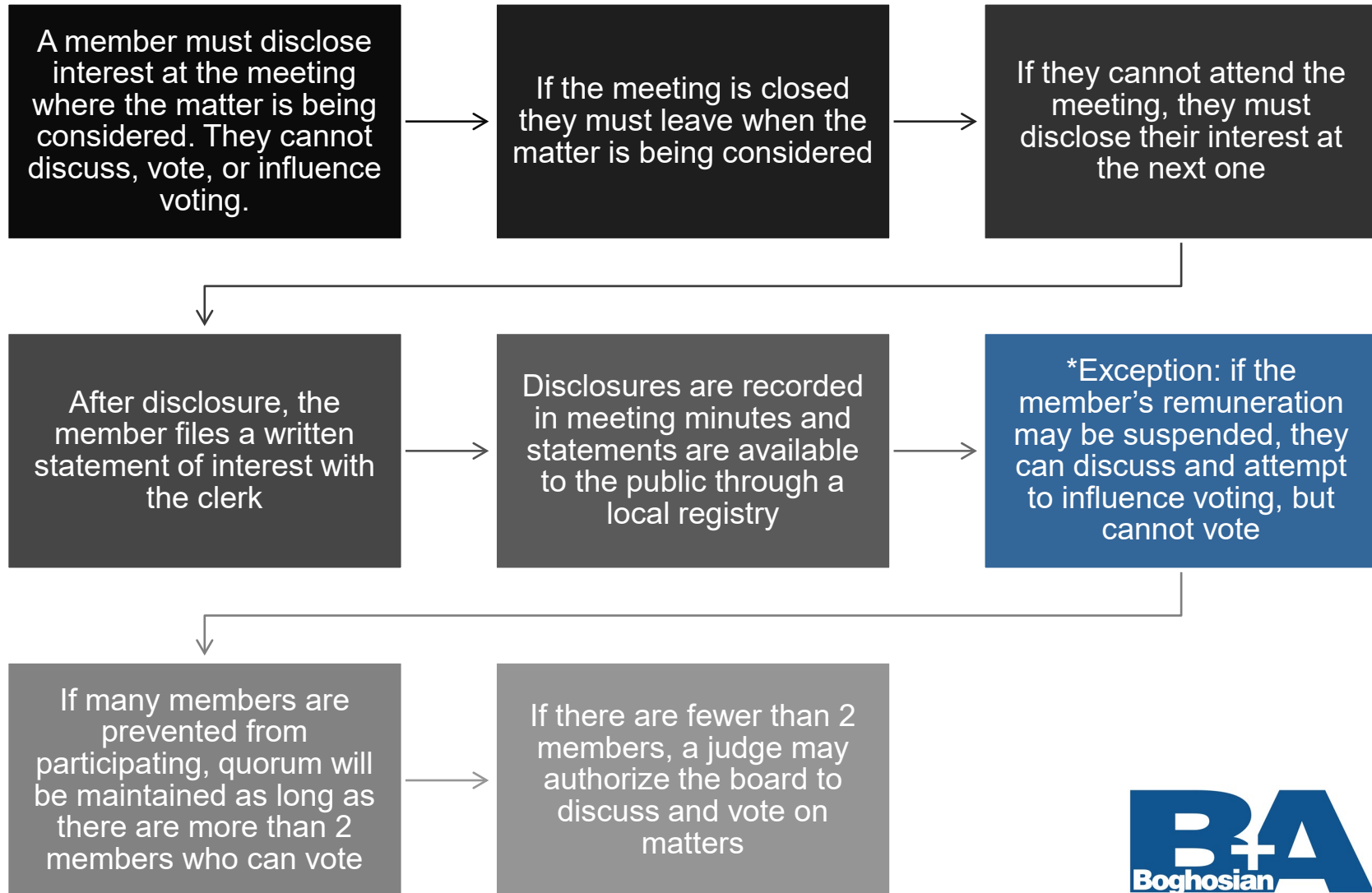
Being a senior officer of a corporation incorporated to carry on municipal business

Receiving remuneration as part of volunteer fire brigade

Having a pecuniary interest in common with electors in general

Having an interest so remote/insignificant it is not likely to be of influence

Conflicts of Interest - Disclosure



Conflicts of Interest – Applications

An elector pursuant to the *MCIA* or a member of the public may request the IC to conduct an inquiry into whether a member contravened the *MCIA* (*statutory declaration in support required to be filed*)

An application for inquiry should be made no later than 6 weeks after the alleged contravention was discovered

- Other than certain statutory exceptions, no application can be made more than 6 years after the contravention

The IC will determine whether to investigate

If investigated, the IC will report within 180 days



QUESTIONS?

THANK YOU!

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