



MUNICIPAL PENSION BOARD OF TRUSTEES
CODE OF CONDUCT

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I Preamble

This Code of Conduct (herein referred to as the “code of conduct” or the “code”) has been adopted by the Municipal Pension Board of Trustees (herein referred to as the “board”) of the Municipal Pension Plan (herein referred to as the “plan”) as a code of conduct applicable to the trustees appointed to the board (herein referred to in the singular as “trustee” and in the plural as “trustees”)¹, members of committees established by the board, including those committee members who are not trustees, and any other individual determined by the board. However, the responsibility for the administration of this code rests solely with the board.

This code of conduct includes a description of legal duties and obligations of the trustees as provided for in governing legislation, the Joint Trust Agreement, and the general law. This code also includes a number of policies and procedures designed to assist the board in performing its duties and fulfilling its obligations. However, this code is not intended to derogate from any legal duty or obligation of the trustees not otherwise referred to herein. Each trustee is required to act in accordance with all applicable legal duties and obligations required of the office of trustee of the plan, including adherence to this code of conduct, both during their term of office and thereafter.

Acting in the best interest of plan members requires an effective board which can carry out its mandate in a courteous, respectful and professional manner, and each trustee is expected to conduct themselves at board and committee meetings accordingly. The code of conduct is intended to assist the board to work effectively and inclusively, to develop trust and mutual respect, and to reach decisions that are in the best interests of the beneficiaries of the plan. Part of what will enable the board to work effectively is the freedom to explore different points of view and to engage in lively debate within the board. Outside the board, however, trustees are required to follow the confidentiality policies set out in the code. All trustees play other roles and work with other organizations. However, it is fundamental that a trustee will give undivided loyalty to the plan and its beneficiaries on issues related to the Municipal Pension Plan.

II Duty to meet a Standard of Care

Trustees are required by law to adhere to a certain standard of care in everything they do. Every aspect of trustee conduct is measured against this standard of care. The standard of care originates under the general law and is restated in the Pension Benefits Standards Act (PBSA) and the Joint Trust Agreement.

Section 35 (3) (b) of the PBSA imposes a standard of care by providing that in the administration of the plan, the board will “exercise the care, diligence and skill that a person of ordinary prudence would exercise when dealing with the property of another person.”

¹ Where the word “Trustees” appears, it will be read to include all persons to whom this code applies.

III Code of Personal Conduct²

In order for the board to be able to meet the standard of care, every trustee is expected to conform to the following code of personal conduct:

- (a) each trustee will ensure they are well-informed and prepared to deal with the business of the board;
- (b) each trustee is expected to conduct themselves in a courteous, respectful, diligent, honest and professional fashion at each board and committee meeting and to act with integrity in order to ensure the board and committees carry out their mandate in a fully effective manner;
- (c) when acting on behalf of the board, or in a capacity where the trustee may be perceived as a representative of the board, trustees will conduct themselves professionally and with integrity;
- (d) each trustee is expected to pursue trustee education and self-assessment in accordance with board policies and procedures in order to enhance their ability to contribute to the good governance of the plan.

IV Additional Fiduciary Duties

The first duty of trustees is to follow implicitly the terms of the Joint Trust Agreement. The fundamental obligations and duties imposed on trustees under the general law are also to be observed except where they have been modified or abrogated by the express terms of the Joint Trust Agreement or applicable legislation.

In addition to the general duty of care, trustees are required by applicable legislation, the Joint Trust Agreement and the general law to act in accordance with a number of fiduciary duties including those described below.

A – Duty to comply with applicable legislation

The plan is subject to a number of statutes and board members should have a general familiarity with this legislation. Article 2 of the Joint Trust Agreement acknowledges that the plan is subject to the following legislation:

- (e) Public Sector Pension Plans Act SBC 1999 Ch. 44;
- (f) Pension Benefits Standards Act SBC 2012 Ch. 30; and
- (g) Income Tax of Canada RSC 1985, C1 (5th Supp.).

² For additional information see the Workplace Conduct Policy.

In addition, trustees should be familiar with the regulations passed pursuant to each of the foregoing statutes and should also ensure they are apprised of amendments made to the statutes and the regulations from time to time. In most cases, such amendments will be brought to the attention of the board through regular reporting by the plan's administrative agent.

B – Duty to comply with the governing documentation

Board members should be familiar with the plan's documentation listed below. The Office of the Municipal Pension Board of Trustees will ensure board members receive the most recent versions of the documentation. In many cases, this documentation will be found on the trustee website. Service agreements are generally entered into in the name of the board and are binding on all trustees. The subject matter of these agreements varies greatly and can include provisions such as non-disclosure by the board of confidential information or the terms of the agreement itself and limitations on the use by the board of proprietary property of the service provider. Trustees will take care not to commit any act or omission, which could put the board in breach of any provision of any of the service agreements, which the board has entered into.

- (h) Joint Trust Agreement
- (i) Pension Plan Rules
- (j) Funds Investment and Management Agreement
- (k) Pension Plan Administration Services Agreement
- (l) Annual Report including Audited Financial Statements
- (m) Statement of Investment Policies and Procedures
- (n) Asset Liability Study
- (o) Actuarial Report
- (p) Fiduciary Liability Insurance Policy
- (q) List of Trustees and Professional Advisors
- (r) Other policies and procedures adopted by the board
- (s) Employment agreement(s) with the board's employee(s)
- (t) Other agreements with service providers including the actuary, meeting management software provider, and legal counsel
- (u) This code of conduct

C – Duty of undivided loyalty

Sections 35 (3) (a), (4), and (5) of the PBSA state that:

(3) Without limiting subsection (2), the administrator, while acting in the capacity of administrator of a pension plan, must

(a) act honestly, in good faith and in the best interests of

(i) the members, and

(ii) others entitled to benefits and

(4) The administrator of a pension plan or, if the administrator is a board of trustees, a member of that board, must not, while acting in the capacity of administrator, knowingly allow [their] interests to conflict with the administrator's powers and duties in respect of the plan.

(5) For the purpose of subsection (4), an administrator does not knowingly allow the interests of the administrator to conflict with the administrator's powers and duties in respect of the pension plan merely because the administrator is or may become entitled to a pension or other benefit under the plan.

Sections 60 (1) and (2) of the PBSA state that:

(1) Investments, including loans, and financial decisions respecting a pension plan must be made

(a) in accordance with this Act and the regulations, and

(b) in the best financial interests of plan members and other persons entitled to benefits under the plan.

(2) Pension plan assets must be invested in a manner that a reasonable and prudent person would adopt if investing the assets on behalf of a person to whom the investing person owed a fiduciary duty to make investments

(a) without undue risk of loss, and

(b) with a reasonable expectation of a return on the investments commensurate with the risk,

having regard to the plan's liabilities.

The foregoing statutory provisions are reflective of the fundamental duty of all fiduciaries to set all personal and outside interests aside in favor of an undivided loyalty to the interests of those to whom the fiduciary duty is owed. It is acknowledged that pursuant to the Joint Trust Agreement, an employer, union organization, or plan partner, appoints a trustee to the board.

This is not to suggest that trustees are in office to advance the interests of their appointing party or its constituents. On the contrary, in their deliberations, each trustee is expected to consider properly and fairly the interests of plan members and others to whom a fiduciary duty is owed. This is reinforced by section 15.2(a) of the Joint Trust Agreement, which reads as follows:

Except as provided in subsection (c), no Trustee shall knowingly permit [their] other interests to conflict with [their] powers, duties, and responsibilities in respect of the Pension Plan and Pension Fund.

A trustee who becomes aware of a breach of trust by past or present trustees is under a duty to take such steps to remedy the situation, as a reasonably prudent person of business would take in the circumstances. The process for conduct investigations in section VII, outlines steps for trustees to raise the issue.

Trustees should not put themselves in a position where their outside interests conflict with their duty of undivided loyalty to the beneficiaries of the trust.

Section 15.2(c) of the Joint Trust Agreement provides for a significant exception to the duty of loyalty when the board members are considering the use of surplus assets. In this single circumstance, board members are freed of their duty of loyalty to the plan members and can take into account the interest of the party that appointed the board member. Section 15.2(c) of the Joint Trust Agreement reads as follows:

“Subsection (a) does not apply to any determination made by the Trustees pursuant to Subsection 10.3(c). In making any determination relating to the application of surplus assets pursuant to subsection 10.3(c), the Trustees are not acting in a fiduciary capacity. When acting under Subsection 10.3(c), a Trustee may take into account the financial and other interests of the party that appointed [them] as Trustee, and any other factor the Trustee considers appropriate, including factors unrelated to the Pension Plan or the Pension Fund.”

Subject to this one exception, any trustee who is in a position of conflict as described in the Conflict of Interest section of this code will follow the procedures outlined therein.

Board decisions will not always be unanimous. Decisions duly taken by the board are assumed to be lawful and in keeping with the duties, obligations and powers of the trustees. Where the board adopts a policy or exercises discretion over the opposition of one or more trustees, it is not open to those in the minority to campaign publicly against the actions of the board. This is not intended to detract from the duty of a trustee in the face of a breach of trust by former trustees or current trustees to take such active measures as in all the circumstances may be prudent. Where a dissenting trustee or trustees believe a breach of trust has or is about to occur, directions from the Court should be obtained as to what steps the dissenting trustee, or trustees should take.

D – Duty to act with an even hand

Trustees owe a fiduciary duty to all members, former members, and beneficiaries of the plan and will act in an even-handed manner as between different classes or sub-groups of trust beneficiaries. This duty does not require all classes or sub-groups to be treated equally. It does require trustees to consider, fairly and fully the interests of all concerned in making a decision or exercising discretion by taking into account all relevant considerations and excluding those, which are irrelevant.

E – Duty to act personally or delegate reasonably and responsibly

Section 35 (7) of the PBSA states that:

(7) If an administrator employs an agent to exercise one or more of the powers or perform one or more of the duties of the administrator, the administrator must

(a) be satisfied that the agent is qualified to exercise the powers or perform the duties for which the agent is employed,

and

(b) carry out reasonable and prudent supervision of the agent..

Board members cannot be expected to handle all responsibilities on their own or to be completely knowledgeable; they can obtain assistance if it is prudent to do so. In many cases, it would be imprudent not to delegate in order to get something done and done well. However, the board will delegate carefully in selecting, instructing, and monitoring the delegate.

V Conflict of Interest

A – Preamble

A conflict of interest exists where an issue has or may have an immediate, direct or specific impact on the personal interests of the trustee or an identifiable individual, group of plan members, employer, plan employer partner, plan member partner, union or any other entity or organization which may reasonably be expected to impair a trustee's ability to act impartially. A perceived conflict of interest exists whenever a reasonable apprehension is likely to arise that a trustee's duty to act impartially is subject to compromise due to competing considerations, loyalties or duties arising from the trustee's personal interest or their past or present employment, office or affiliation.

It is not open to a trustee to act when conflicted because the trustee believes they will be able to act impartially. The objective is to avoid circumstances where it is likely difficult for a trustee to act impartially regardless of whether the trustee would or would not do so. Where a conflict exists and the trustee acts nonetheless, the fact that the trustee acted in good faith and no harm was done to the trust does not remedy the problem.

Both real or direct conflicts of interest, as well as those that may be reasonably perceived to exist are to be avoided.

However, it is important to note that section 15.2 of the Joint Trust Agreement “No Conflict of Interest” includes as subsection (b) that “Entitlement to a pension or other benefit under the Pension Plan does not create a conflict of interest.” Section 35(5) of the PBSA establishes the same exception to the general rule of conflict.

There is another important exception to the general rule against conflicts of interest. While a trustee is not to place themselves in a position where their duty and interest may conflict, it is important to remember that the Joint Trust Agreement contemplates that the board is to be composed of appointees of the plan partners. The trustees are placed by the terms of the Joint Trust Agreement itself in a position of conflict between interest and duty. Therefore, it is contemplated by the Joint Trust Agreement that the trustees will act in many circumstances where their duty and interest may conflict.

However, in some circumstances the subject matter at hand will pose a more direct or immediate conflict for some trustees due to a particular personal interest or their past or present employment, office or affiliation. Each circumstance will be judged on its own merits to determine if such an immediate or direct conflict exists. If so, the Conflict of Interest procedures set out below should be followed.

B – Conflict of Interest Rules

The board has adopted the following conflict of interest rules. These rules do not represent an exhaustive list of all potential conflicts of interest.

- (a) Trustees will disclose any direct or indirect interest they have in a proposed or completed contract or transaction with the board or a service provider to the board as soon as they become aware of the proposed or completed contract or transaction.
- (b) Trustees will not exercise any decision-making power which could bring about financial benefit to themselves (other than in the trustee’s capacity as a member of the plan) due to the trustee’s financial holdings, business interests, family relationships, personal relationships, property interests or other reasons.
- (c) Trustees will not directly or indirectly enter into contracts or transactions where to do so may be detrimental to the plan’s best interests or where the activity is in conflict with the proper discharge of trustees’ duties to plan beneficiaries.
- (d) Trustees will not engage in any financial transactions, contracts, or private arrangements for personal profit that accrue from or are based on the trustees’ official position or authority or upon confidential or non-public information that trustees gain because of such position or authority.

- (e) Trustees will not use information that is gained through their position or authority, which is not available to the general public, in order to further trustees' private interest. Trustees will also not offer such information to a third party.
- (f) Trustees will not act in their official role to assist organizations or persons in their dealings with the board or a service provider to the board that may result in preferential treatment to that organization or person.
- (g) Trustees will not use trust property to pursue their private interests or the interests of related persons for material personal gain where such use would result in additional material cost or any material loss to the trust or otherwise detracts from trustees' performance of duties to the trust. Trust property includes real and tangible items such as land, buildings, furniture, fixtures, equipment, and vehicles and includes intangible items such as data, computer systems, reports, information, proprietary rights, patents, trademarks, copyrights, logos, name, and reputation.
- (h) Trustees will not purchase trust property except with the board's prior approval and on the same conditions, that such property would be available to the public.
- (i) Trustees will not solicit or accept benefits, entertainment, or gifts in exchange for, or as a condition of, the exercise of their duties or as an inducement for performing an act associated with their duties or responsibilities of the board. Trustees generally may accept gifts, hospitality or other benefits associated with their official duties and responsibilities if such gifts, hospitality or other benefits:
 - (i) are of nominal value (\$100.00);
 - (ii) are within the bounds of propriety, a normal expression of courtesy, or within the normal standards of hospitality;
 - (iii) would not bring suspicion on trustees' objectivity and impartiality; and
 - (iv) would not compromise the integrity of the trust.
- (j) An improper benefit should be returned to the person offering it as soon as practicable. If there is no opportunity to return an improper gift or benefit, or where the return may be perceived as offensive for cultural or other reasons, the gift will immediately be turned over to the trust, which will make a suitable disposition of the item. In all cases, whether the gift has been returned or not, the gift will be disclosed to the chair and vice chair of the board.
- (k) Trustees will refrain from conduct, which compromises or may be perceived to compromise trustees' ability to carry out their duties in an impartial manner and will be mindful that plan beneficiaries may not distinguish between trustees' roles in the trust and trustees' roles in outside activities.
- (l) Trustees, after ceasing to be trustees, will refrain from taking improper advantage of information obtained while serving as trustees.
- (m) Trustees may participate in political activities including membership in a political party, supporting a candidate for elected office, or seeking elected office. If engaging in political activities, trustees will remain impartial and retain the perception of impartiality in relation to their duties and responsibilities as trustees.

- (n) Trustees will report to the chair of the board any activity of the board or of other trustees which they believe:
 - (v) contravenes the law;
 - (vi) represents a real or apparent conflict of interest or breach of this code;
 - (vii) represents a misuse of trust funds or assets; or
 - (viii) represents a danger to public health, safety, or the environment.

Section VII of this code of conduct outlines the steps for Conduct Investigations.

If the activities of the chair of the board are in question, trustees will report to the vice chair.

- (o) Trustees wishing to apply for employment with the British Columbia Pension Corporation or the British Columbia Investment Management Corporation will resign from the board prior to making application for employment and will inform the chair of the board.

C – Conflict of Interest Procedures

A trustee may self-declare a conflict of interest or raise a point of order regarding the question of whether another trustee is in a conflict of interest. This section outlines the procedures for all types of conflict of interest and includes sections on meeting attendance of a conflicted trustee, constitution of quorum and distribution of meeting materials in the event of a conflict of interest.

i) Self-declared conflict

Each trustee is expected to declare a conflict of interest before the board or committee deals with the subject matter of the conflict at any meeting. Whenever possible, a trustee should declare a conflict of interest before a board or committee meeting to the board secretary who will inform the meeting chair. The trustee will excuse themselves from any board or committee deliberations on the matter in question.

In cases of doubt, the trustee will consult the meeting chair and the board secretary. The board chair may authorize the trustee to obtain legal advice at the cost of the plan.

The conflicted trustee will receive the results of the board or committee deliberations on the matter in question from the meeting chair and through the meeting minutes unless the board or committee provides alternative direction.

ii) Point of order

Any trustee, including the meeting chair, may raise a point of order at any board or committee meeting on the question of whether another trustee is in a conflict of interest. The point of order is expected to be raised before the board or committee deals with the subject matter of the alleged conflict.

Whenever possible, in advance of any board or committee meeting, trustees should raise questions regarding whether another trustee is in a conflict of interest to the board secretary who will inform the meeting chair and the meeting chair should discuss the alleged conflict with the trustee in question.

By raising questions on an alleged conflict in advance of a meeting, the meeting chair and the trustee with the alleged conflict are provided with time:

- to consider the issue and obtain legal advice, if necessary;
- to determine if the chair intends to raise a point of order at the meeting (without prejudice to the right of any other trustee to raise a point of order);
- to determine if the trustee intends to self-declare a conflict; and
- for the board office to withhold distribution of any related material to the trustee.

When a point of order is raised regarding whether a trustee is in a conflict of interest, the trustee with the alleged conflict may then choose to recuse themselves from any meeting during deliberations on the matter in question; otherwise, the question of whether a conflict exists will then be discussed at the meeting with the trustee alleged to be in conflict present with voice (to provide them the opportunity to be heard on the issue of the alleged conflict). The meeting chair will then call for a vote on the question of whether the alleged conflict exists. The trustee with the alleged conflict will not be present for the vote.

The board's decision regarding whether a trustee is in conflict will be made in accordance with the provisions of section 5.6(a) of the Joint Trust Agreement. The committee's decision regarding whether a trustee is in conflict will be made in accordance with the voting requirements for committees outlined in the Meeting Procedures Policy.

Following the board or committee's decision, the board secretary will inform the trustee with the alleged conflict whether the board or committee determined them to be in conflict. If they are determined to be in conflict, the board or committee will require they be recused from any meeting during deliberations on the matter in question and, if they are not determined to be in conflict, the trustee shall be entitled to participate in the deliberations on the matter in question.

The conflicted trustee will receive the results of the board or committee deliberations on the matter in question from the meeting chair and through the meeting minutes unless the board or committee provides alternative direction.

iii) Inclusion of conflicted trustee

Notwithstanding the above, where the board or committee considers it appropriate, a conflicted trustee may remain in the meeting during the deliberations on the matter in question. The board or committee will decide whether to include a conflicted trustee during deliberations if any trustee, including the conflicted trustee, requests the conflicted trustee

attend the meeting for the matter in question. The board or committee will provide the opportunity to the conflicted trustee to be heard on the issue of whether they may remain in the meeting during deliberations before being excluded from any meeting in which the matter is to be discussed.

The board or committee will then decide whether to include the conflicted trustee in the meeting during deliberations in the absence of the conflicted trustee. A decision to include the conflicted trustee must be approved unanimously by those present to ensure no trustee considers they will be impaired in acting because of the presence of the conflicted trustee. The decision will specify whether the conflicted trustee will have a voice during the deliberations and whether they will remain in the meeting during the vote. In no case will a conflicted trustee have a vote on the matter in question. The decision will also consider how and when to notify the conflicted trustee of the decision to include them.

Following the board or committee's decision, the board secretary will inform the conflicted trustee whether they are invited back to the meeting with or without voice during the deliberations.

iv) Constitution of quorum

In the unlikely event that the number of trustees remaining to vote on the issue of conflict do not constitute a quorum, the board may move to constitute the remaining trustees as a panel under section 6.5 (b) of the Joint Trust Agreement with authority to decide the issue of conflict. The decision to constitute the remaining trustees as a panel will be made in accordance with the quorum and voting requirements of the Joint Trust Agreement.

If a panel is not struck and the decision to exclude a trustee or trustees results in a loss of quorum, the issue will be set aside until later in the meeting or until a future meeting when the presence of other trustees results in a quorum notwithstanding the exclusion of the conflicted trustee or trustees. If the conflict applies to all trustees appointed under subsection 4.1(a) and/or 4.1(b) of the Joint Trust Agreement, such that quorum cannot exist and a panel cannot be struck, the matter will be referred to the plan partners for decision.

Where the chair is in a conflict of interest, the vice chair or a trustee selected by the other trustees will chair the meeting until the board or committee has dealt with the matter. Where both the chair and vice chair are in a conflict of interest, the remaining trustees will select one of their number to chair the meeting until the matter has been dealt with by the board or committee.

v) Distribution of materials

Every reasonable effort will be made by the meeting chair and the board secretary to prevent distribution of related material to a trustee who has either declared a conflict of interest, has been declared to be in a conflict of interest by a board resolution or is reasonably expected to

be in a conflict of interest with respect to the subject matter of the material. Any such trustee who inadvertently receives such material will refrain from reading it as soon as the conflict is apparent to the trustee whereupon the material will be returned to the sender with a written notice from the trustee advising of the conflict.

VI Confidentiality

A – Scope of application

This policy applies to both written and oral communications.

B – Communication policy considerations

It is recognized that communication with plan partners, appointing authorities, plan members, and plan employers is important. Board policies on communications should be read in conjunction with this policy.

C – Rationale for confidentiality policy

The board needs a policy on what forms of communications remain confidential by individual trustees and, in certain cases, for how long, or subjects that can be communicated but only under agreed formats while other documents related to the subject remain confidential. Release of documentary material or oral communication in specific situations can be damaging to the best interests of the plan and plan beneficiaries.

The board needs a confidentiality policy:

- to prevent release of information that would have a detrimental effect of the financial position of the plan or present a legal risk; and
- to ensure all trustees have a common understanding and mutually agreed rules around what is considered to be confidential.

A confidentiality policy, in conjunction with a communications protocol, assists individual trustees because it promotes consistent messaging on those matters that the board agrees should be handled through communications from the board directly or through its administrative agent.

D – Confidentiality Policy

All reports contained in the board agenda material, unless they already exist in the public domain, will be kept confidential and may not be released in written form or by oral summary by an individual trustee, until the conclusion of the board meeting, at which time the board will decide if it wishes to continue the confidentiality application. In the absence of an express decision or restriction under this policy the material will not be further restricted.

Notwithstanding the above, an individual trustee may not release the following information unless expressly permitted by a decision of the board.

1. In relation to committee or board discussions (or other communications such as emails) any matter that can be attributable to an individual trustee or group of trustees such as views expressed, introduction of motions, and voting.
2. Board decisions before the release of the approved “Highlights” document.
3. Board minutes.
4. Committee minutes or reports of committees, including interplan committees.
5. Briefing notes (such as those prepared by Policy Branch of the Pension Corporation).
6. Appeals materials, except for decisions (from which all information that could identify an individual person has been removed).
7. Advice that is subject to solicitor-client privilege, including communications necessary for that purpose.
8. Actuarial advice, including communications necessary for that purpose.
9. Materials provided by another body that were provided on the understanding that they would be kept in confidence. In that regard, trustees must be aware that the board has entered service agreements with various service providers which include contractual confidentiality obligations. In particular, the Funds Investment Management Agreement with BCI contains extensive confidentiality obligations which are binding on the board and each trustee. The Investment Reporting Framework agreed upon by the board and BCI specifies those documents which are not subject to confidentiality. Confidentiality is lifted following board meetings with respect to the following reports of BC Pension Corporation: Pension Corporation CEO’s Report, the Annual Performance Report, and Service Delivery Plan (once approved by the board).
10. Material protected by statute, such as personal records covered by the *Freedom of Information and Protection of Privacy Act* (“FOIPPA”).
11. Insurance policies.
12. Personal matters, such as would relate to contract service providers.
13. Personal information about an identifiable individual.
14. Labour relations or other employee relations.
15. Litigation or potential litigation affecting the board.
16. Information related to an administrative tribunal hearing or potential administrative tribunal hearing affecting the board.
17. Information that is prohibited or information that, if it were presented in a document, would be prohibited from disclosure under section 21 of *FOIPPA*.

18. Negotiations and related discussions that are at their preliminary stages that could reasonably be expected to harm the interests of the board if they were disclosed
19. The consideration of information received and held in confidence relating to negotiations between the board and another party.
20. A matter that is being investigated under the *Ombudsperson Act* of which the board has been notified under section 14 [*ombudsperson to notify authority*] of that Act.
21. Any other matter, as determined by the board, the release of which or discussion of which would provide information that could be detrimental to the plan and its beneficiaries.

This does not preclude the board from releasing appropriate information.

E – Disclosure: special rules and procedures

Special rules apply with respect to disclosure of information to trust beneficiaries.

Some of these rules are contained in applicable statutes including the *Pension Benefits Standards Act* and the *Freedom of Information and Protection of Privacy Act*.

Under the general law, trustees have an obligation to provide trust beneficiaries with an accounting of trust property and to share documents considered trust property, provided the release of such documents is not contrary to the best interests of the plan and its members. However, trustees are not required to disclose to trust beneficiaries the reasons why discretion was exercised in a particular fashion, although the trustees may choose to do so.

In case of a disclosure required by statute or general law, or a disclosure of reasons why discretion was exercised in a particular fashion, no individual trustee should take it upon themselves to make the disclosure. All such disclosures will be made through the board.

F – Security of records

Care should be taken by trustees as to the care and custody of their materials to ensure they maintain their permanent records in a manner consistent with the board's policies. This is particularly important in relation to solicitor-client communications. In the event of a potential or confirmed information incident or privacy breach pertaining to board records and information, refer to the Incident Management Procedure.

G – Confidentiality policy as it relates to

i) Dissenting opinions

Where the board adopts a policy or exercises discretion over the opposition of one or more trustees, it is not open to those in the minority to campaign publicly against the actions of the board. This is not intended to detract from the duty of a trustee in the face of a breach of trust by former trustees or current trustees to take such active measures as in all the circumstances may be prudent. Where a dissenting trustee or trustees believe a breach of trust has or is

about to occur, directions from the Court should be obtained as to what steps the dissenting trustee or trustees should take.

ii) Communication & consultation prior to Board/Committee Meetings

In order to make informed decisions, trustees may receive or seek input from employers, members and other stakeholders, including appointing authorities and plan partners, on issues under consideration by the board or committees. However, consultation will not relieve trustees of their fiduciary duty to beneficiaries of the plan when making decisions at the board.

iii) Communication & consultation after Board/Committee Meetings

Trustees may discuss and report on matters that have been decided by or are under consideration by the board provided that the discussion and/or report, whether oral or in writing, is consistent with the direction the board is taking and is for the purposes of facilitating understanding of the issue.

VII Process for Conduct Investigations

As indicated in the preamble to this code of conduct, the policies and procedures contained herein are designed to assist the board in performing its duties and fulfilling its obligations under governing legislation, the Joint Trust Agreement, and the general law. The failure of a trustee to comply with this code of conduct could result in a breach of those duties and obligations and give rise to adverse material consequences to the plan and its members. Even where a breach of this code of conduct by a trustee does not constitute a breach of the legal duties and obligations of the office of trustee, the effectiveness of the board in carrying out its mandate may nonetheless be compromised by the breach. In cases of doubt, trustees should consult the chair before acting and where appropriate the advice of counsel should be made available to the individual trustee.

The board has established the following process for investigating potential breaches of this code of conduct by trustees. While the process is intended to be robust and thorough and is based on the principles of natural justice including:

- the right to a fair and timely hearing,
- the right to know the case being made against you, and by whom
- the right to be heard,
- the right to an adjudicator free of bias or conflicts of interest, and
- the right to receive a written decision with reasons,

as the board is subject to the Ombudsperson Act, an individual may make a complaint under the Ombudsperson Act regarding a decision or recommendation made, an act done or omitted or a procedure used.

This process does not apply to investigations of potential breaches by non-trustees subject to the code of conduct, who are in an employment relationship with the board.

If at any time during investigation there is indication of a potential criminal offense, the board chair will notify the appropriate authorities.

Step 1: Complaint made regarding conduct

Complaints regarding a possible conduct breach are to be submitted to the board chair via written report, and signed by the complainant.

Complaints may be submitted by non-trustees including the Executive Director, staff, and members of the public.

The board secretary will act as liaison to facilitate the process through the steps, ensuring accuracy and completeness of information for the board's records.

When receiving written submissions, the board chair will use best efforts to maintain confidentiality of all affected parties (the complainant and individual to whom the complaint is alleged). In supporting the board chair through the process, resources supporting the board chair will also maintain confidentiality of all affected parties.

If the board chair is involved in the suspected breach, the suspected breach will be reported to the vice chair.

Complaints regarding possible conduct breach arising during the conduct of board business at a board meeting will be referred to the board chair.

Step 2: Initial Assessment

As soon as practicable following the complaint, the board chair will make an initial assessment regarding the validity of the complaint, and respond in writing to the complainant regarding the determination.

In making the initial assessment, the board chair will consult with legal counsel, the executive director and the board secretary.

The chair's determination will include whether:

1. formal investigation is required;
2. informal resolution is required; or
3. no investigation is required.

If formal investigation is required, the board chair will provide written notification to the party suspected of conduct breach that an investigation is proceeding. Such notification will include details of the suspected breach and the

process which will be followed (including opportunities the individual will have to make submissions and the potential for reimbursement of reasonable receipted out of pocket legal costs to a maximum of \$5,000).

If informal resolution is required, the board chair will resolve and send a letter to the individual suspected of conduct breach. Example includes technical breach with no material impact.

If no investigation is required, the issue will be dropped.

The board chair will advise the complainant of the outcome of the assessment.

At the following board meeting, the board chair will report on all assessments conducted. The identity of all affected parties will be withheld.

Step 3: Investigator Assigned

If formal investigation is required, the board chair will assign an external investigator.

The assignment will be delivered in writing, and the investigator will be provided copies of all materials considered in making the determination that formal investigation was required.

The identity of the complainant and the individual under investigation will be disclosed to the investigator.

Step 4: Investigation Conducted & Determination Made

The investigator will conduct the investigation as soon as practicable, which will include, at a minimum, the following steps:

1. The investigator will provide the individual under investigation a reasonable opportunity to provide a statement on the suspected breach.
2. The investigator will gather any further evidence required (individuals interviewed will be required to sign a confidentiality agreement)
3. The investigator will provide the individual under investigation an opportunity to respond to any new evidence obtained.

The investigator's primary point of contact to the board is the board secretary.

The investigator will regularly keep the board secretary apprised of progress and timing. The board secretary will advise the board chair, legal counsel, and the individual under investigation of the investigator's progress.

The investigator will reach a determination of whether there was a breach or not. The investigator's report will include the investigator's determination, a summary of the investigation conducted, including material reviewed and individuals interviewed, and recommended sanctions if applicable.

If no breach is determined by the investigator, the board chair will advise the individual under investigation in writing. The investigator's report will be presented at the following board meeting, with names and personal identifiers redacted to preserve confidentiality.

If a breach is determined by the investigator, the board chair will advise the individual under investigation in writing. The individual under investigation will have a reasonable opportunity to comment on the report. The investigator's report, which will include recommended sanctions, will be presented to the board to determine sanctions, with names and personal identifiers redacted.

The board secretary will be responsible for maintaining the records.

If the investigator finds that a breach occurred, the appointing authority will be informed.

Step 5: Sanctions Determination

The board will consider the investigator's recommendation regarding sanctions and will make a decision to approve or vary the recommended sanction. A special board meeting may be called if there is more than one month between the investigator's determination and the next regularly scheduled board meeting.

The decision regarding sanctions imposed will include consideration of the nature and number of violations.

The board may consider a number of sanctions including without limitation:

- a motion censoring the conduct of the trustee with or without a request that the trustee resign,
- a formal request to the party who appointed the trustee to remove and replace that trustee,
- an application by the board under the Trustee Act to have the trustee removed and replaced,
- an action for recovery against the trustee personally for any provable damages suffered, and
- any other available remedies as determined.

Section 9.1 of the Joint Trust Agreement requires a trustee to have acted in good faith and carried out their fiduciary responsibilities under the PBSA in order to be entitled to indemnity from the Pension Fund. A breach of this code of conduct may disqualify a trustee from receiving indemnification from the Pension Fund for a claim made against the trustee.

The board chair will provide written notification of sanctions imposed to the individual.

VIII Legal Documents Served on Trustees

Trustees may have legal documents served on them concerning board business affairs. These documents are frequently detailed and usually include several deadlines for proposed action.

Upon receipt of the documents the trustee should inform the board chair or vice chair and courier the documents immediately to the board's secretary. The secretary will, on the trustee's behalf:

- (a) check with the board's legal advisors on the trustee's legal and fiduciary responsibilities in the matter;
- (b) ensure that an appropriate legal response or instruction is sent to the complainant; and
- (c) provide the trustee and the board with a briefing on the issue.

IX Review and Amendment

Trustees will review and reaffirm their commitment to and compliance with the code of conduct upon initial appointment and reappointment.

The board will review this code of conduct triennially and will either confirm or amend it in such a manner as the board considers appropriate.

X Policy Classification and Access

This code of conduct is classified as public; it is freely available to share outside of the organization.

Original Policy: April 1, 2005

Last Approved: June 22, 2023

Effective: June 22, 2023



Appendix A - Stakeholder Consultation Guidelines

Purpose

This reference sheet is intended to serve as a guide to support trustees' application of the provisions of the Municipal Pension Board of Trustees Code of Conduct (code) with respect to confidentiality and stakeholder consultation. Through a two-step process, it attempts to provide some guidance and relevant considerations regarding how and when it may be acceptable for individual trustees to consult with stakeholders without breaching the confidentiality provisions of the code. In cases of doubt, trustees are encouraged to talk to the board chair, executive director or board secretary.

Key Definitions

- **Consultation:** the act or process of seeking and receiving input on an issue.
- **Communication:** sharing of information in either written or verbal form. Consultations require the communication of some information.
- **Stakeholders:** includes employers, members and other stakeholders including Appointing Authorities and Plan Partners.

Foundational Principles

- All reports contained in the board agenda material, unless they already exist in the public domain, will be kept confidential and may not be released in written form or oral summary by an individual trustee, until the conclusion of the board meeting, at which time the board will decide if it wishes to continue the confidentiality application. In addition, section VI (D) of the code contains a list of items which may not be disclosed by an individual trustee unless expressly permitted by the board.
- Board communications will be made in accordance with board policies.
- The board chair is the official spokesperson of the board.
- While trustees are not appointed to represent their appointing authority, the governance structure of the plan expects trustees to bring to the table the benefit of their knowledge and different perspectives gained from their association with appointing authorities, plan partners, signatories, and other stakeholders.
- Consultation should only proactively occur by an individual trustee when the board's decision may be informed by stakeholder perspectives. Consultations may be formal or informal, and will be related to a specific issue under consideration by the board or a committee and necessary for a trustee to make an informed decision. Consultation inevitably requires communication and may occur before or after the board meeting or committee meeting provided consultation after a meeting is consistent with the direction being taken by the board and is for the purposes of facilitating understanding of the issue.
- Regardless of what input a trustee receives as a result of consultation, the trustee will act in the best interest of the beneficiaries and otherwise as required by their fiduciary duties.
- Except as directed by the board, under no circumstances should individual trustees make representations about empowering, collaborating or involving stakeholders in the board's decision-making.



Key Considerations in Determining Whether and How to Consult with Stakeholders

STEP 1: Consider what the purpose of the consultation is. Is it to inform a decision on a specific issue under consideration by the board?

(a) YES

Considerations:

- Has the board specifically articulated that the board will not be consulting?
 - *If the board has made such a determination, individual trustees should not consult.*
- Has the board approved a consultation/communications plan on the topic?
 - *If there is a board approved consultation or communications plan on the topic, the plan should be followed and ad hoc trustee consultations outside of the plan are not permitted. If the plan is silent with respect to consultation, trustees should proceed cautiously as the time to advocate for consultation occurred before the plan was approved.*
- Can the stakeholder perspectives be obtained within the board?
 - *If stakeholder perspectives can be obtained within the board (i.e., via trustee's perspective or alternate trustees), then it's not necessary to consult externally.*
- Are multiple stakeholder perspectives required to make an informed decision?
 - *If multiple stakeholder perspectives are required to make an informed decision, then a board approved consultation would likely be preferred over ad hoc trustee consultations. Trustees are encouraged to raise at the next board meeting or through the ED or board secretary to determine appropriate action (e.g., development of*

(b) NO

Considerations:

- Trustees are not permitted to use consultation to help manage change and stakeholder expectations (i.e., trustees cannot consult for the purpose of preparing a community for unannounced changes).
- If stakeholder perspectives will not inform a pending decision, or the decision has been made, it is not necessary to consult.
- It is recognized that trustees may receive general input from stakeholders on a variety of topics from time to time. Gathering general perspectives is permitted, provided it is not offside a board approved communications or consultation plan, and confidential information is not disclosed (see step 2 for determining tools to use to consult).

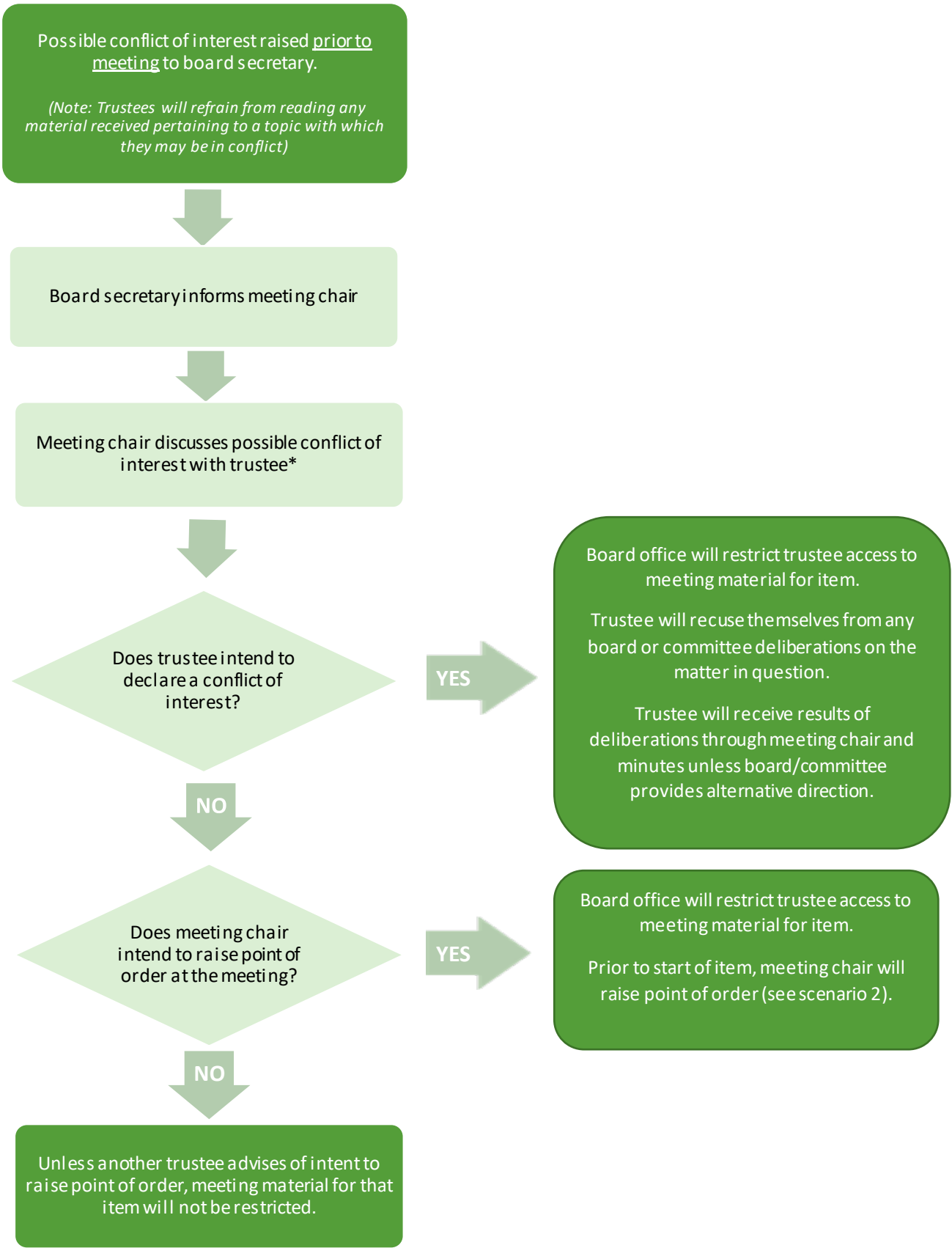
STEP 2: If consultation is appropriate by an individual trustee, consider the tools used to consult and material to be shared.

Considerations

- Disclose the minimum information necessary. Describe the issue in broad principled terms, without divulging specific information (e.g., does the stakeholder prioritize indexing over PRGB).
- Where possible, use board approved communication tools including key messages, meeting highlights etc.
- Do not share information outlined in VI(D) of the code of conduct (e.g., minutes, reports, briefing notes, legal opinions) unless approved by the board.
- Remember, the board chair is the official spokesperson of the board. Trustees can speak about the plan, but not on behalf of the plan.
- In cases of doubt, contact the executive director or board secretary.

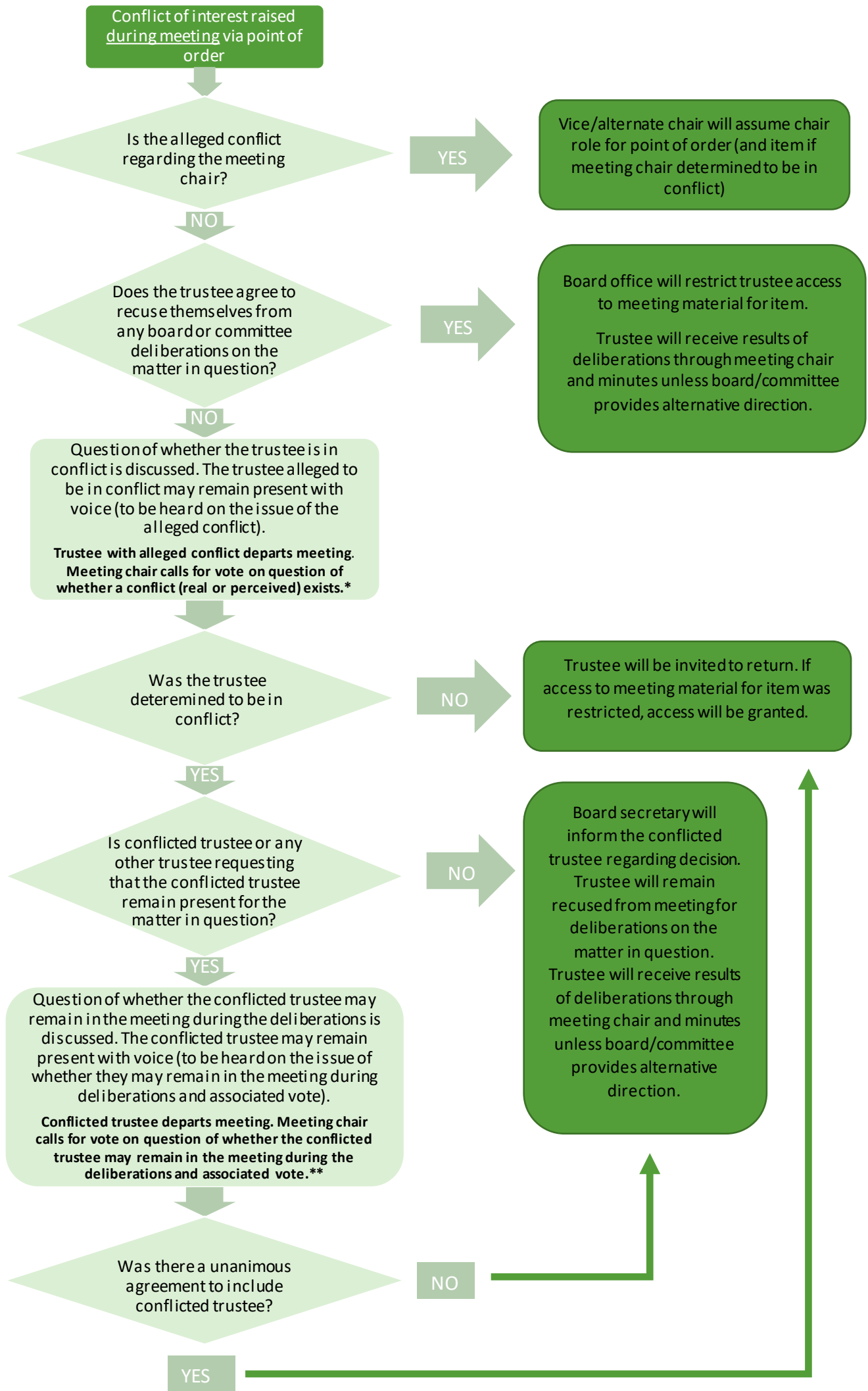
Appendix B – Conflict of Interest Process Flow Charts

Scenario 1: Conflict of Interest Raised Prior to Meeting



**Board chair may authorize trustee to obtain legal advice at cost of the plan.*

Scenario 2: Conflict of Interest Raised by Point of Order During Meeting



*Board decision will be made in accordance with s. 5.6(a) of JTA; committee decision will be made in accordance with voting requirements in Meeting Procedures Policy.

**In no case will a conflicted trustee be permitted to vote on the matter in question.