


## Preventing Conflicts of Interest in Relation to the Administration of the Administrative Monetary Penalty System (AMPS) and Automated Speed Enforcement (ASE)

Revision Date:	N/A	Supersedes:	N/A
Effective:	May 8, 2024	AP Owner (Dept/Div):	Commissioner, Corporate Services
Applicable to:	Council, Hearing and Screening Officers, All Town Employees involved in the enforcement or administration of AMPS and ASE or their interaction with AMPS and ASE	Authority:	CAO 

### 1.0 Overview

Ontario Regulation 333/07 made under the *Municipal Act, 2001*, S.O. 2001, c. 25 requires that a municipality utilizing Administrative Monetary Penalty Systems establish policies surrounding conflicts of interest.

This policy is intended to address this requirement, to define what constitutes a conflict of interest in relation to the Administrative Monetary Penalty System (AMPS) and Automated Speed Enforcement (ASE), and to ensure that the responsibilities of individuals involved in AMPS and ASE are conducted in accordance with the principles of fundamental justice, which include decision making and procedural independence, fairness, impartiality, transparency and integrity.

The Town of Whitchurch-Stouffville is committed to ensuring that the AMPS and ASE programs are administered in a fair and independent manner and prevent conflicts of interest.

The Town of Whitchurch-Stouffville recognizes that Stouffville Employees, Members of Adjudicative Boards, and Members of Council are expected to conduct themselves with personal integrity, honesty, and diligence in the performance of their duties. This policy builds upon this recognition by addressing conflicts of interest in the administration of the Town’s Administrative Monetary Penalty System for By-law and related offences.

## 2.0 Purpose

Ontario Regulation 333/07 requires the Town to define what constitutes a conflict of interest in relation to AMPS, to prevent such conflicts of interest and to redress such conflicts should they occur. This policy serves to address these matters with respect to the Town's AMPS and ASE Programs.

This policy sets out the requirements of Screening Officers, Hearing Officers, and Town officials and Employees in order to prevent real and perceived conflicts of interest. Failure to comply with this policy and other applicable Town Policies could undermine the public faith in the administration of the AMPS and ASE programs.

## 3.0 Scope and Application

This policy applies to:

- Screening Officers,
- Hearing Officers, and
- Town officials and Town Employees involved in the administration of AMPS and ASE.

For Town employees (including Screening Officers) engaged in the administration of AMPS and ASE, this conflict-of-interest policy, shall apply in regard to the activities of that Town Employee in the administration of AMPS and ASE.

For Hearing Officers, these conflict-of-interest provisions shall apply to Hearing Officers under this policy as if they were Town Employees with any necessary modifications.

For Members of Council, provisions in the Council Code of Conduct and prevailing Provincial legislation (i.e. *Municipal Conflict of Interest Act*), and any successor policies, shall also apply in the administration of AMPS and ASE.

Regarding the selection of Hearing Officers, these conflict-of-interest provisions, and any successor policy, shall also apply in the administration of AMPS and ASE.

## 4.0 Definitions

**“Administrative Monetary Penalty System By-law”** means the by-law passed by the Town to establish administrative penalties, as amended from time to time, or any successor thereof;

**“AMPS”** means the Administrative Monetary Penalty System, established by the Administrative Monetary Penalty System By-law;

**“ASE”** means Automated Speed Enforcement;

**“Commissioner”** means the Commissioner, Corporate Services, or anyone designated by the Commissioner, Corporate Services to perform his or her duties relating to AMPS and ASE;

**“Council”** means the Council of the Town;

**“Council Code of Conduct”** means the Code of Conduct for Members of Council, adopted by the Town to govern the conduct of Members of Council, as amended from time to time, or any successor thereof;

**“Employee”** means any Person employed by the Town on a temporary, contract or permanent basis;

**“Hearing Officer”** means any Person appointed by the Town from time to time pursuant to the Screening and Hearing Officer By-law, to perform the functions of a Hearing Officer in accordance with the Screening and Hearing Officer By-law and the Administrative Monetary Penalty System By-law;

**“Hearing Review”** means the process related to a review of a Screening Decision, as set out in Section 6.0 of the Administrative Monetary Penalty System By-law;

**“Penalty Notice”** means a Penalty Notice as described in Section 4.0 of the Administrative Monetary Penalty System By-law;

**“Person”** includes an individual or a corporation;

**“Power of Decision”** means a power or right, conferred by or under this policy and the Administrative Monetary Penalty System By-law, to make a decision deciding or prescribing the legal rights, powers, privileges, immunities, duties or liabilities of any Person;

**“Screening and Hearing Officer By-law”** means the by-law passed by the Town to establish the positions of Screening and Hearing Officers and to provide for the appointment of Screening and Hearing Officers, in relation to administrative penalties, as amended from time to time, or any successor thereof;

**“Screening Officer”** means any Person appointed by the Town from time to time pursuant to the Screening and Hearing Officer By-law, to perform the functions of a Screening Officer in accordance with the Screening and Hearing Officer By-law and the Administrative Monetary Penalty System By-law;

**“Screening Review”** means the process related to review of a Penalty Notice, as set out in Section 5.0 of the Administrative Monetary Penalty System By-law;

**“Town”** means The Corporation of the Town of Whitchurch-Stouffville.

## 5.0 Policy

### 5.1 Conflict of Interest

A conflict of interest arises where a Screening Officer, Hearing Officer or Town Employee involved in the administration of AMPS or ASE has a personal or business interest that conflicts, might conflict, or may be perceived to conflict with the interests of the proper administration of AMPS or ASE. A conflict of interest includes any pecuniary or nonpecuniary, actual, perceived or potential conflict that could arise in relation to personal or business matters including:

- a) directorships or employment;
- b) interests in business enterprises or professional practices;
- c) share ownership or beneficial interests in trusts;
- d) professional or personal associations with a Person;
- e) professional associations or relationships with other organizations; and
- f) personal associations with other groups or organizations, or family relationships including Relatives.

Screening Officers must be and appear to be impartial at all times. It is inappropriate for a Screening Officer to review a Penalty Notice for a personal or business acquaintance or a Relative.

Hearing Officers are obligated to conduct Hearing Reviews in an impartial manner. Hearing Officers, in conducting a Hearing Review, are bound by the Statutory Powers and Procedures Act, as well as bound by general administrative common law principles (i.e., procedural fairness, natural justice, impartial and unbiased decision making, etc.). Hearing Officers must be and appear to be impartial at all times. It is inappropriate for a Hearing Officer to review a Screening Decision for a personal or business acquaintance or Relative.

Every Screening Officer, Hearing Officer and Town Employee involved in the administration of AMPS or ASE, must disclose to the Commissioner any obligation, commitment, relationship or interest that could conflict with or may be perceived to conflict with their duties to or interests in the administration of AMPS or ASE.

Additionally, a Screening Officer or Hearing Officer shall not represent any Person at a Screening Review or Hearing Review.

### 5.2 Conduct of Screening Officers and Hearing Officers

All Screening Officers and Hearing Officers shall:

- a) both be and appear to be independent, impartial, and unbiased;

- b) avoid all conflicts of interest, whether real or perceived, and are responsible for promptly taking appropriate steps to disclose, resolve, or obtain advice with respect to such conflicts when they arise;
- c) not be influenced by partisan interests, public opinion, or by fear of criticism;
- d) not use their title and position to promote their own interests or the interests of others;
- e) discharge their duties in accordance with the law, Town by-laws and all Town policies, procedures and guidelines;
- f) maintain and upgrade their knowledge and competence through their work, by participating in training and education courses and by seeking guidance from their colleagues and the Town, as required;
- g) remain up to date on changes in the law, Town by-laws, policies and procedures relevant to their function;
- h) act with integrity, as they are subject to ongoing public scrutiny; respect and comply with the law and always conduct themselves in a manner that promotes public confidence in the integrity and impartiality of AMPS or ASE;
- i) approach their duties in a calm and courteous manner when dealing with the public and others and present and conduct themselves in a manner consistent with the integrity of AMPS or ASE and their appointment;
- j) convey their decisions in plain language;
- k) safeguard the confidentiality of information that comes to them by virtue of their work and not disclose that information except as required by law;
- l) in discharging their duties, treat those with whom they deal with in a respectful and tolerant manner regardless of the gender, sexual orientation, race, religion, culture, language, mental abilities, or physical abilities of those Persons;
- m) refrain from openly and publicly criticizing the administration of AMPS or ASE or the conduct of others, including Members of Council and Town Employees. Screening Officers and Hearing Officers shall acknowledge that only the Commissioner, or designate, may speak publicly on behalf of the Town's AMPS or ASE program. Any criticisms, suggestions or concerns related to AMPS or ASE shall be communicated through appropriate channels;
- n) deal with the matters that come before them in a timely manner and make themselves accessible to those requiring their services; and
- o) not knowingly exercise a power or function for which they have not been trained or designated.

### **5.3 Preventing Conflict of Interest**

The keys to preventing conflicts of interest are identification, disclosure and withdrawal from the Power of Decision-making with respect to a Screening Review or Hearing Review. The need for identification, disclosure and withdrawal from a Power of Decision-making applies to any real, potential, or perceived conflict of interest.

If a Screening Officer becomes aware of any real, potential or perceived conflict of interest in regard to the review of a Penalty Notice, the Screening Officer shall report to their immediate

Supervisor or designate to declare the conflict. If the Screening Officer is not sure if a conflict exists, he/she should seek advice from their immediate Supervisor/Manager or designate.

In the case of a scheduled review of a Penalty Notice that has not yet commenced, where a Screening Officer has declared a conflict of interest, their Supervisor will assign another Screening Officer to conduct the review.

In the case of a review of a Penalty Notice that has commenced, the matter will be adjourned immediately upon the realization that a conflict of interest exists. The Town will then reschedule the Screening Review with another Screening Officer.

If a Hearing Officer becomes aware of any real or perceived conflict of interest in regard to a review of a Screening Decision, the Hearing Officer shall declare a conflict of interest to the Commissioner. Upon receiving a declaration or learning of a conflict of interest, the Commissioner shall designate another Hearing Officer to carry out the duties. If a Hearing Officer is not sure if a conflict exists, he or she should seek advice from the Commissioner and/or the Integrity Commissioner.

In the case of a scheduled review of a Screening Decision that has not yet commenced, where a Hearing Officer has declared a conflict of interest, the Commissioner will assign another Hearing Officer to conduct the review.

In the case of a review of a Screening Decision that has commenced, where a Hearing Officer has declared a conflict of interest, the matter will be adjourned immediately upon the realization that a conflict of interest exists. The matter will then be rescheduled with another Hearing Officer.

Screening Officers and Hearing Officers are not permitted to dispute their own Penalty Notices and are expected to pay the Penalty Notice in a timely manner.

#### **5.4 Addressing Conflicts if they Occur**

The Town Employee Code of Conduct will address any breaches of the Code by Employees. If an individual suspects that a Screening Officer or Hearing Officer conducted a Screening Review or Hearing Review where there was a conflict of interest, they may make a:

- a) complaint to the Commissioner; and/or
- b) formal complaint, in accordance with the Town's Filing of Complaints Policy, in relation to the administration of AMPS or ASE.

Any finding of a conflict of interest may result in disciplinary action, up to and including termination of employment or revocation of appointment. Issues involving potential criminal matters will be forwarded to the Police.

## **5.5 Influence**

No Person shall attempt, directly or indirectly, to communicate with Employees or other individuals performing duties related to the administration of AMPS or ASE for the purpose of influencing or interfering in, financially, politically or otherwise the administration of AMPS, ASE, or any particular Penalty Notice, except a Person who is entitled to be heard in a Screening Review or Hearing Review. These exceptions include:

- a) a Person who is entitled to be heard in the proceeding;
- b) the Person's lawyer, authorized agent or authorized representative.

If an individual attempts to influence a Screening Officer or Hearing Officer, contrary to the above, the Screening Officer or Hearing Officer shall report the incident to the Commissioner as soon as possible. No action will be taken against the Screening Officer or Hearing Officer for making any such report in good faith.

## **5.6 Charges under the Criminal Code of Canada or Other Statutes or Regulations**

Where a Screening Officer or Hearing Officer is charged with any offence under the Criminal Code of Canada, other Federal or Provincial statutes or Regulations, the charge shall be disclosed to the Commissioner within five (5) business days of the charge being laid.

A determination will be made by the Commissioner as to whether or not an actual, potential or perceived conflict of interest exists or if public confidence in the administration of AMPS has been compromised and, if so, the Screening Officer or Hearing Officer may be removed from his or her duties until the final disposition of the charge.

## **5.7 Implementation**

This policy shall form part of the orientation for all current and new Screening Officers, Hearing Officers and the AMPS and ASE administration staff.

This paragraph shall not prohibit the giving or receiving of legal advice.

In addition to this policy, the Administrative Monetary Penalty System and Automated Speed Enforcement Policy By-law sets out a prohibition on attempting to influence a Screening Officer or Hearing Officer and creates an offence for any contravention of the provisions of the By-law. Such a penalty is in addition to any action taken pursuant to this policy.

All individuals involved with the administration and enforcement functions of AMPS and ASE shall carry out such duties in a manner that upholds the integrity of the administration of justice.

### **5.8 Accountability**

All Screening Officers, Hearing Officers, Town officials and Town employees involved in the administration of the AMPS and ASE programs shall comply with this policy. Accountability for interpretation of this policy in relation to a real, potential or perceived conflict of interest shall be determined by the Commissioner. In making this determination, the Commissioner may consult with the Town Solicitor or senior management.

The Commissioner is responsible for the administration of this policy and has the authority to amend the policy from time to time to ensure the administration of the AMPS program.

### **6.0 References**

- Administrative Monetary Penalty System By-law
- Administrative Procedure No. 60 - Employee Code of Conduct
- Code of Conduct for Members of Council
- *Municipal Act, 2001*, S.O. 2001, c.25
- O. Reg. 333/07
- Screening and Hearing Officer By-law

Available in alternative format upon request.