



THE CORPORATION OF THE TOWNSHIP OF BROCK

Clerk's Department

Deputy Clerk-Administrator to the Administration & Personnel Committee

Report: 2004-AP-06

Date: Monday, September 27, 2004

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SUBJECT

HIRING POLICY  
TOWNSHIP OF BROCK

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RECOMMENDATION

That the Administration & Personnel Committee recommend to Council that the Hiring Policy as contained in Attachment No. 1 be adopted.

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ATTACHMENT

No. 1: Hiring Policy – Corporation of the Township of Brock

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REPORT

**Background & Legislative Authority**

As a result of the proclamation of the new *Municipal Act*, S.O. 2001, as amended, section 270 requires municipalities and local boards (inclusive of libraries) to adopt a policy with respect to the hiring of relatives of a member of Council or local board, the hiring of relatives of existing employees of a municipality or local board, and any other prescribed matters by no later than January 1, 2005. To date, no other matters have been prescribed through regulation.

The *Ontario Human Rights Code* states that every person has the right to equal treatment with respect to employment without discrimination because of family status. However, this right is waived where an employer grants or withholds employment or advancement in employment to a person who is the spouse, child, or parent of an employee.

## **Purpose**

The purpose of such a policy is to ensure that employment decisions concerning potential employees who are related to an existing employee or a member of Council are free from influence based on family relationships. In a report prepared by the City of Ottawa legal department, it was noted that the impetus for such a legislative requirement was due, in part, to “widespread patronage perpetrated by federal government bureaucrats” as it related to the selection of summer student jobs within the federal government.

The intent of such a policy is not to preclude the hiring of family members (as this could raise a Charter issue) but to ensure that existing employees and members of Council/boards are not placed in a position of a real or perceived conflict of interest in the event a family member seeks employment with the municipality.

## **Policy Considerations**

There are a number of issues which must be considered in the development of a hiring policy which reflects the spirit of the legislation. Each one is summarized below together with a staff recommendation.

### *Policy Application*

The legislation requires that the policy apply to both members of Council/boards as well as existing employees. For the purpose of expediency, it is recommended that one policy be developed having application to both members of Council/boards and existing employees notwithstanding that the members of Council are also bound by the *Municipal Conflict of Interest Act* (MCOI). The MCOI Act prohibits councillors from taking part in any discussions for which there is an indirect pecuniary interest with a person; this also applies to a councillor’s spouse, same-sex partner, child, or parent.

In addition to the hiring of potential employees, the policy must also consider such issues as reporting relationships (e.g. a relative reporting to a relative), promotions and staff changes which may give rise to a conflict, as well as staff becoming related to one another after they have been hired.

### *Tenure of Employees*

The hiring policy must address whether it would apply to full-time, part-time, and/or casual/seasonal employees. As noted above, the purpose of the policy is to ensure that all hiring practices employed by the municipality are perceived to be seamless and transparent which could withstand public scrutiny. In many cases, it is the hiring of part-time or casual employees which could be viewed by the public as a perceived conflict of interest in that potential applicants may have a familial relationship with a member of Council or staff. To ensure that there exists a consistent application of the policy, it is recommended that it apply to all potential employees of the municipality: full-time, part-time, and seasonal/casual.

### *Definition of Relative*

The legislation is silent on the definition of a relative and this must be defined within the policy. The Ontario Human Rights Act and Municipal Conflict Of Interest Act defines relative as a parent, spouse, same-sex partner, or child. A review of the municipality's Organizational Structure & Benefits By-law and the Collective Agreement with CUPE Local 1652 do not contain definitions of relative. However, in both cases, depending on the issue, greater benefits are extended to spouses and children. To ensure consistency with the *Ontario Human Rights Code* and the *Municipal Conflict of Interest Act*, it is recommended that the policy have application to spouses, same-sex partners, parents, and children of Councillors/board members and existing staff.

The inclusion of other relatives is not recommended since Brock is a relatively small and rural municipality and it is not uncommon that familial relationships are found between families which have been long established within the community. However, it is suggested that the policy incorporate a general provision that recognizes that a perceived conflict of interest could arise through the consideration of other relatives (siblings, in-laws, etc.) and that employees and elected officials should be cognizant of this fact and govern themselves accordingly.

### **Conclusion**

Based on the foregoing principles and policy considerations staff have prepared a Hiring Policy for the Township of Brock.

Respectfully submitted,

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T.G. Gettinby, MA, MCIP, RPP, AMCT  
Deputy Clerk-Administrator

**HIRING POLICY**

**CORPORATION OF THE TOWNSHIP OF BROCK**

**SEPTEMBER, 2004**

## **HIRING POLICY - TOWNSHIP OF BROCK**

### **LEGISLATIVE AUTHORITY**

Section 270 of the *Municipal Act*, S.O. 2001, as amended, requires municipalities and local boards to adopt a policy with respect to the hiring of its employees, including policies with respect to:

- a) the hiring of relatives of a member of Council or local board, as the case may be;
- b) the hiring of relatives of existing employees of the municipality or local board, as the case may be; and,
- c) any other prescribed matter.

### **PURPOSE**

The purpose of the Township of Brock Hiring Policy is to ensure that:

- a) employment related decisions with respect to relatives are conducted in an open and transparent manner which is free from real and/or perceived conflicts of interest;
- b) the public has confidence in the integrity of the Corporation's hiring policies and practices; and,
- c) public expectations of conduct are upheld by the Corporation.

### **APPLICATION**

This policy applies to the members of Council, members of local boards, and all employees.

Furthermore, this policy applies to the hiring of all potential employees of the Corporation regardless of the tenure of employment (i.e. full-time, part-time, and seasonal/casual)

### **POLICY DESCRIPTION**

It shall be the policy of the Corporation of the Township of Brock that relatives of the members of Council, members of local boards, and employees shall be prohibited from employment by the Corporation where:

- a) they would supervised by, or subordinate to, one another (direct reporting relationship);

- b) they would be given preferential treatment in the recruitment and/or selection for vacancies within the Corporation; and,
- c) they would be appointed to positions where job responsibilities would be incompatible with positions occupied by relatives.

The Corporation recognizes that broader family relationships (relatives) and close personal relationships exist which may give rise to concerns of real and/or perceived conflicts of interest. Therefore, it shall be the policy of the Corporation of the Township of Brock that:

- d) members of Council, members of local boards, and employees who find themselves in such situations must be sensitive to these concerns and govern themselves in such a manner which reinforces the objects and intent of this policy.

### **DEFINITIONS**

- a) Corporation:

Shall mean the Corporation of the Township of Brock

- b) Direct Reporting Relationship:

A relationship in which a member of Council, member of a local board, or employee has the authority to:

- Approve or deny increments, overtime or negotiate salary level;
- Conduct performance appraisals;
- Administer discipline; or
- Direct work assignments

with respect to an employee.

- c) Relative:

Shall mean a member of Council, member of a local board, or an employee's spouse, same-sex partner, parent, or child. For greater clarity:

Child: Shall mean a child born within or outside marriage, and includes an adopted child, and a person who a parent has demonstrated a settled intention to treat as a child of his or her family.

Parent:	Shall mean a person who has demonstrated a settled intention to treat a child as a member of his or her family, whether or not that person is the natural parent of the child.
Same-sex Partner:	Shall mean the person with whom a person of the same sex is living in a conjugal relationship outside marriage.
Spouse:	Shall mean a person to whom the person of the opposite sex is married or with whom the person is living in a conjugal relationship outside marriage.

### **IMPLEMENTATION**

This policy shall be implemented by all employees and/or members of Council who are responsible for the hiring of prospective employees.

### **COMPLIANCE**

Failure on the part of an employee to comply with this policy may result in disciplinary measures up to and including dismissal. Contraventions on the part of the members of Council shall be referred to the Administration & Personnel Committee for resolution.