



**“Ombudsman Oversight of Municipalities:
What to expect if the Ombudsman calls”**

**Association française des municipalités de l’Ontario
27th Annual Conference**

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- 1 Good afternoon. It's an honour to be here for your 27th annual conference and I am delighted to be here among so many representatives from francophone communities from across Ontario. And I hope you walk away from this session with a better understanding of how the Ontario Ombudsman's office operates and what our new jurisdiction over municipalities means for you.
- 2 You've all gathered here this week to discuss community development – and the importance of building partnerships and sharing expertise in order to strengthen your communities.
- 3 You're here because you care about making your communities better, and want to improve how Ontario's cities and towns serve their citizens.
- 4 Part of making a municipality stronger is to make sure it has strong, accountable leadership from the top down, and a way for citizens to ensure their municipal officials and staff are conducting themselves in the best interests of the community.
- 5 I am sure that the citizens you serve would agree that preserving and reinforcing the foundations of democratic government (namely; transparency and accountability) is just as important as updating infrastructure or boosting the economy.
- 6 At my office, we took on the task of overseeing the governance provided by Ontario's 444 municipalities on January 1. And I'm here today to assure you that our end goal – a fair and accountable public sector – is the same as yours.
- 7 This change may have seemed sudden to some, but in fact, successive ombudsmen have called for oversight of the broader public sector ever since our office was established in 1975. We have always received complaints about municipalities, universities, and school boards, but we have not had the mandate to look into them until this past year.

- 8 The good news about this long incubation period is that the Ombudsman's Office had 40 years to demonstrate its value to citizens in improving provincial government services. That's 40 years of what Ontario's first Ombudsman, Arthur Maloney called "humanizing government." Forty years of developing relationships with senior public servants throughout the provincial bureaucracy, right up to deputy ministers and ministers in order to address individual complaints and systemic issues in a timely and effective manner.
 - 9 Now, I know many of you are already quite familiar with us because of our role as closed meeting investigator.
 - 10 Our Office has been the investigator for approximately half of all Ontario municipalities since 2008. This has given our staff valuable experience with municipalities, and helped us understand that you are all different in your own way.
 - 11 It has allowed us to help citizens with hundreds of complaints, and help councils ensure that their meeting practices are open, transparent and consistent with the law.
 - 12 Unfortunately, I know it also led to a lot of confusion and concern, because it cast the Ombudsman's office in a law enforcement role.
 - 13 For many people, this created the mistaken belief that our role was to police local councils, which is not at all what we do. An enforcement role simply doesn't allow an ombudsman's office to play to its strengths.
 - 14 What an ombudsman's office normally does – and what ours excels at – is to resolve most complaints informally. We do a great deal of work behind the scenes helping citizens who have problems with bureaucracy or feel they are being treated unfairly by public sector bodies. We call this "maladministration" and try to get people they
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- help they need and get issues resolved at the lowest level possible. We look for simple, sensible solutions to problems, usually without having to resort to formal investigations.
- 15 And we do that hundreds of times per month. That very important and successful work does not get much fanfare.
- 16 But we have many examples of these individual success stories, which we share in our annual reports, on our website and on social media, and in our monthly newsletters. We have already shared several good news stories about municipalities, and there will be a lot more to come.
- 17 I'll tell you about one particular example that might resonate with those of you from the north. In our provincial work, we receive complaints every year about the Northern Health Travel Grant. In one case a few years ago, a woman had to travel from Westree to Sudbury for medical services. Sudbury was 193 kilometres from her home, but in order to qualify for the grant, she needed to travel 200 kilometres – so she was seven kilometres short, and wasn't able to get funding for the travel.
- 18 We worked behind the scenes to raise concerns with the Ministry of Health and Long-Term Care about the need for flexibility in such cases. After two years of discussion and review, the Ministry established the Northern Health Travel Grant Medical Appeals Committee, to evaluate exceptional circumstances. The committee reviews applications and recommends exceptions to the eligibility criteria. Finally, the woman was granted her travel allowance.
- 19 More recently, a man from Timmins was denied funding to travel to Toronto for a treatment for chronic asthma, because the drug was not administered at a Ministry-approved facility. However, the manufacturer of the drug had specifically hired this clinic to prepare the drug and monitor patients according to strict specifications. The

- newly-formed committee looked at his case and ultimately reimbursed the man \$6,000 for his travel.
- 20 This legacy of our pro-active, collaborative work behind the scenes is a strong foundation for our new jurisdiction. My goal is to build the same strong working relationships with you, as well as with our other new stakeholders in universities and school boards.
 - 21 Occasionally, in the various areas of our jurisdiction, we come across issues that haven't been resolved and that warrant a formal investigation. Even more rarely, we will tackle broad, systemic problems that affect hundreds or even millions of people. Those are the cases you probably have heard about – such as our investigation last year into the massive billing problems at Hydro One.
 - 22 In those cases, we will publish a report with recommendations – and those recommendations are almost always accepted, because we suggest feasible solutions that improve public services. Our aim is not just to resolve individual complaints, but to make sure the underlying problems are fixed and future complaints are averted.
 - 23 We collaborate with the public sector body involved to ensure we have all the relevant facts and that our recommendations are feasible. Then we use moral suasion to convince that body to do the right thing and accept our recommendations. And frankly, we usually demonstrate that it is in that body's own interests in the long run to do the right thing.
 - 24 So, let me give you a quick primer on how we work. We are an office of around 100 people and we handle more than 20,000 complaints every year. Most of them you never hear about, because they are quickly and quietly resolved – usually by our staff making a few phone calls. But that is the bulk of what we do: We resolve cases as quickly as possible, and at the lowest level possible.

- 25 My senior team and I also meet regularly with the managers of provincial government organizations, so we can talk about what is working and what is not working, and alert them to problems. This gives them a chance to fix issues before they mushroom into something worse and by working in partnership with them, we are able to achieve better outcomes and better service for all.
- 26 In doing this, we often avert the need for a major investigation, simply by making sure complaints are being addressed by those who are directly responsible.
- 27 I call this a win-win-win: it's a win for the people we helped, whose lives were so drastically affected by these serious issues; It's a win for the public servants involved, who are often well aware of the problems but don't have the wherewithal to get them fixed. And it's a win for us because our recommendations are accepted and the value of our Office is reinforced. Our solutions usually benefit all stakeholders.
- 28 Of course, most of our work doesn't involve large-scale, systemic investigations. In fact, most of our work is informal, quiet, and done by our competent staff behind the scenes.
- 29 Now, I'm sure you're wondering how all this applies to municipalities, so I'd like to give you an update on how things have been going since January 1. We have received more than 2,000 complaints about municipalities so far, from about 250 different municipalities. Over eighty percent of them have already been closed.
- 30 And how many formal investigations have we launched into municipalities? As of today, only two.
- 31 This should not come as a surprise. That's because the vast majority of complaints have been resolved quickly and informally. Most complaints – more than 700 of them – have been referred back to the

- proper local mechanisms or to other organizations outside our jurisdiction.
- 32 In some cases, our staff make informal inquiries with the relevant municipal officials. Most of the time, they are able to resolve problems to everyone's satisfaction, all without need for a formal investigation.
- 33 What are people complaining about? Most of you can probably guess. In the winter, it was snow removal, now it's water and sewer issues or garbage collection. Ontario Works, housing programs and, of course, bylaw enforcement account for a lot of complaints. (So does customer service in general.)
- 34 So we have many good examples of informal resolutions about municipalities already. Earlier this year, one of our staff helped a 16-year-old homeless youth get Ontario Works funding after it was initially denied at the municipal level. In February, we helped a man sort out a longstanding problem with a snow-covered sidewalk in front of his home. It only took a few phone calls from our staff to determine that his property had been inadvertently removed from the snow removal route.
- 35 However, the number one most common topic of complaints so far has been municipal councils themselves. This category includes complaints about council members and their conduct, policies and decisions of councils (which, generally speaking, we do not get involved in), as well as communications and conflict of interest.
- 36 As with all other complaints we receive, the first thing we do is determine if it can be resolved locally.
- 37 And this is where you can ask yourselves, what can our municipality do to make sure we're able to help the people in our community?

- 38** Do you have a process for handling local complaints? Do you have a code of conduct? Better yet, do you have a local accountability officer, like an integrity commissioner, an ombudsman or both?
- 39** All of this will make your municipality more accountable, more open, and ultimately, a more democratic government for the people you serve.
- 40** From the start of this expansion of our mandate, our office has made it clear that we encourage municipalities to have their own accountability officers, and clear processes for dealing with complaints. Our role is to be there for your citizens as a last resort, to ensure local mechanisms are working well, and to recommend ways they can be improved.
- 41** This is exactly what we have done at the provincial level for more than 40 years. We don't substitute ourselves for provincial investigative bodies or administrative tribunals. We don't redo their investigations or reopen their files. Rather, we review the actions they took and, where warranted, recommend reforms.
- 42** We are doing the same thing with municipal complaints. If it's a matter that the municipality or its integrity commissioner or local ombudsman is dealing with, we won't intervene. If those avenues have been exhausted, or it's beyond their scope, then we will review it.
- 43** We will look at the circumstances and the reasons for the decision. Did your officials act in accordance with the relevant legislation? Did they consider the issues? Did they provide sufficient reasons for their actions?
- 44** So we help improve the process for all concerned. For example, a council member complained that she wasn't told that the integrity commissioner's report on her conduct would be discussed at an open

meeting. After our staff made informal inquiries with the municipality, it made changes to ensure that all parties are given clear information about how code-of-conduct issues are handled.

- 45 Now, of course, not all complaints can be resolved easily and informally. Occasionally, the watchdog has to show its teeth, and sometimes a formal investigation is warranted. I can promise you that if or when we do launch a formal investigation related to your municipality, you will be informed. You will receive formal notice and – according to our standard practice of over 40 years – you will have a chance to respond to our findings before any report is released. My motto is “no surprises.”
- 46 As an ombudsman promoting procedural fairness, I have always been careful to proceed fairly. Parties are entitled to know what we are looking into and have ample opportunity to have their input considered, as well as receive an explanation of the reasons for a decision.
- 47 This dialogue is crucial because we seek to work collaboratively with you every step of the way.
- 48 Once again, you can prepare for this simply by putting in place some local accountability processes. We have seen quite a lot of variation across municipalities so far – some have a code of conduct but no integrity commissioner; some have neither. If and when we do conduct a formal investigation where this is an issue, I can tell you that I won’t hesitate to recommend that the municipality take these steps as a way of improving local accountability.
- 49 These days, I am being asked regularly what our office is doing to encourage and promote the establishment of accountability officers at the local level. How are we responding to local councils who say there’s no need to set up such an office because the Ombudsman will do it for free?

- 50 So I checked. We have said all along that our role is not to replace local accountability officers. That would not be feasible, or advisable. Local problems are best solved locally. The Ombudsman's best role is as a last resort.
- 51 Our Office has said this in our last two annual reports, our latest provincewide report on closed meetings, and in press releases before and after the implementation of our new oversight. We have said it in articles, interviews, webinars, and in at least 30 slide presentations so far. We also stressed this point in consultations with the Minister of Municipal Affairs.
- 52 But lest there still be any doubt, I am happy to reiterate it here today, and as often as I need to in the future: I encourage municipalities to have codes of conduct and local accountability officers. This is simply in the best interests of local democracy, and of the people we all serve.
- 53 My Office's role is to ensure that those mechanisms are functioning as they should. And to help, wherever necessary, by recommending solutions and best practices to bolster those efforts.
- 54 We will also use our unique position and powers to monitor and address issues that are beyond the scope of local officials, outside of their jurisdiction. We constantly track the issues that we see across the province, watching for trends or patterns in problems that may be recurring or spreading across municipalities. Our powers of investigation can take us into places where local accountability officers cannot go. And don't forget: If we find the issue relates to bodies in our provincial jurisdiction, we can go there, too.
- 55 Finally, I want to assure you that being prepared for Ombudsman oversight works both ways. My office has been working to prepare for our oversight of municipalities for more than two years, before Bill 8 was even called Bill 8.

- 56 I have made it a priority to meet and speak to as many stakeholders in our new jurisdiction as I can. You will see me and my team all over the province, participating in municipal conferences, trade shows and workshops in every region. Just last week I attended the Ontario East Municipal Conference, and last month the Association of Municipalities of Ontario's annual conference.
- 57 Both of these conferences were productive and engaging, and helped me learn more about the issues and challenges municipalities face.
- 58 I hope all of this demonstrates our commitment to working with you. We all share the common goal of ensuring transparent, accountable local government, and improving public services in your communities.
- 59 So thank you again for this opportunity. I recognize that in some contexts, people don't like to say "I hope we meet again". But if we do, I believe that it can be a positive experience for you – either to have your practices vindicated by a credible and independent Ombudsman, or to receive constructive feedback that will help you be more responsive to the needs of your stakeholders.
- 60 In the meantime, I'm happy to answer questions today if time permits, and I invite you to contact my office if you have anything else you'd like to discuss.
- 61 Thanks again for this invitation and enjoy the rest of your conference.