



**Submission to the Standing Committee on Heritage,
Infrastructure and Cultural Policy regarding Bill 9,
*Municipal Accountability Act, 2025***

**Paul Dubé
Ombudsman of Ontario**

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Overview

The Standing Committee on Heritage, Infrastructure and Cultural Policy (the “Committee”) is currently considering Bill 9, *An Act to amend the City of Toronto Act, 2006 and the Municipal Act, 2001 in relation to codes of conduct*, also known as the *Municipal Accountability Act, 2025*. This Bill, if passed, would amend the provisions of the *Municipal Act, 2001* and the *City of Toronto Act, 2006* (collectively, the “Acts”)¹ related to municipal codes of conduct and the integrity commissioner framework for Ontario municipalities.

Drawing upon my Office’s deep experience in the municipal sector, including responding to complaints about municipal codes of conduct and integrity commissioners, I am pleased to provide this submission, along with additional relevant documents, to assist the Committee with its work.

I commend the government’s efforts to standardize codes of conduct and integrity commissioner inquiry processes, and to improve integrity commissioner education and qualifications. In my view, these changes will help ensure that more Ontarians are served by local governments that have adequate codes of conduct with high-quality mechanisms to address concerns about misconduct.

I first called for similar changes in my 2021 submission to the Ministry of Municipal Affairs and Housing (the “Ministry”) on strengthening accountability in the municipal sector.² In February 2025, I provided a detailed submission to the Ministry in response to its consultation about Bill 9’s predecessor, Bill 241 (the “February 2025 submission”).³ The February 2025 submission, which contains recommendations for the content of standardized codes and procedures, is enclosed at Appendix A. The submission that I am providing to the Committee today is intended to complement my February 2025 submission to the Ministry and to offer six evidence-based proposals for the Committee’s consideration.

¹ *City of Toronto Act, 2006*, SO 2006, c 11, Sched A; *Municipal Act, 2001*, SO 2001, c 25.

² Ombudsman of Ontario, *Submission to the Ministry of Municipal Affairs and Housing’s consultation on strengthening accountability for municipal council members* (July 2021) [“2021 Submission”], online: <<https://www.ombudsman.on.ca/en/our-work/submissions-government/submission-ministry-municipal-affairs-and-housing>>.

³ Ombudsman of Ontario, *Submission to the Ministry of Municipal Affairs and Housing regarding proposed changes to the municipal code of conduct and integrity commissioner framework* (February 2025) [“February 2025 submission”], online: <<https://www.ombudsman.on.ca/en/our-work/submissions-government/submission-regarding-proposed-changes-municipal-code-conduct-and-integrity-commissioner-framework>>.

Ombudsman role and jurisdiction

The Ombudsman is an independent, non-partisan Officer of the Ontario Legislature, appointed by all parties under the *Ombudsman Act*,⁴ whose role is to ensure that the provincial government and public sector serve people in a way that is fair, accountable, transparent, and respectful of their rights.

My Office intervenes to resolve or investigate issues involving government and public sector administration and makes evidence-based recommendations for corrective action when necessary. We do so based on complaints or on our own initiative and are recognized internationally for the calibre and impact of our work.

My Office has deep expertise in the municipal sector. Since 2008, the Ontario Ombudsman has served as the closed meeting investigator for municipalities that have not appointed their own. A municipality's closed meeting investigator can take complaints that a council, local board, or committee of either has not complied with the open meeting rules in the *Municipal Act, 2001* or the *City of Toronto Act, 2006*. My Office has reviewed and investigated hundreds of closed meetings since 2008, and maintains a digest of past cases, a guide for municipalities on the closed meeting rules, and other public resources on our website.⁵ I currently serve as the closed meeting investigator for 286 municipalities.

In 2016, my Office also gained the authority to review and investigate complaints about the administrative conduct of municipalities, including concerns about integrity commissioners and municipal code of conduct complaint processes. As of March 1, 2019, all municipalities have been required to have a code of conduct and use the services of an integrity commissioner.

As Ombudsman, I do not act as an integrity commissioner for municipalities. However, my Office can review and investigate complaints about municipal integrity commissioners once they have completed a review or inquiry, declined to review a complaint, or the time for bringing a complaint has expired. We do not act as an appeal body and do not substitute our decisions for those of integrity commissioners. Instead, we assess whether integrity commissioners have acted in accordance with relevant legislation and procedures, considered the issues before them, followed fair practices, obtained and considered relevant information, and provided sufficient and adequate reasons to support their decision based on the available evidence.

⁴ RSO 1990, c O.6.

⁵ Ontario Ombudsman, "Municipal government", online: <<https://www.ombudsman.on.ca/en/info-public-bodies-and-officials/municipal-government>>.

My Office received nearly 400 cases (complaints and inquiries) related to codes of conduct and integrity commissioners between March 1, 2019 and March 31, 2025. Ontario's 444 municipalities differ in population, geography, and resources, but their residents all have the same rights to fairness and accountability. Given our experience resolving cases about codes of conduct and integrity commissioners, we have developed best practice resources for municipalities and the public about these topics, which were recognized and noted by the former Integrity Commissioner of Ontario in his September 2024 advice and recommendations to the Premier.⁶

Resources available to the committee

As noted above, I have appended my February 2025 submission to the Ministry (Appendix A) regarding potential content of standardized codes of conduct and inquiry procedures as proposed in Bill 241. To further assist the Committee as it considers the implications of standardizing codes of conduct, I have also appended our recent publication, *Codes of Conduct and Integrity Commissioners – Guide for Municipalities*,⁷ a handbook offering best practices for municipal council members, staff and integrity commissioners, as Appendix B. This publication offers additional context for this submission, and I encourage members of the Committee to review it.

Standardized codes of conduct

The *Municipal Accountability Act, 2025* would enable the Lieutenant Governor in Council to prescribe a code of conduct for members of municipal councils and local boards. Consistent with my 2021 and February 2025 submissions to the Ministry, which suggest that codes of conduct be standardized and expanded, such a change would address inconsistency across municipalities and increase certainty for both council and local board members as well as the public.

In addition to topics currently required in codes of conduct by regulations under the *Municipal Act, 2001* and the *City of Toronto Act, 2006*,⁸ in my February 2025 submission (enclosed as Appendix A), I suggested that standardized codes of conduct should also address the use of social media, communication on behalf of

⁶ J. David Wake, KC, Integrity Commissioner of Ontario, "Advice and Recommendations on the Ontario Municipal Integrity Commissioner Framework" (30 September 2024, Ontario Legislative Library collection) ["ICO Advice and Recommendations"].

⁷ Ontario Ombudsman, "Codes of Conduct and Integrity Commissioners – Guide for Municipalities" ["Guide"], online: <<https://www.ombudsman.on.ca/en/codes-conduct-and-integrity-commissioners-guide-municipalities>>.

⁸ O. Reg. 55/18; O. Reg. 58/18.

a council or local board, conflicts of interest beyond the scope of the *Municipal Conflict of Interest Act*, and decorum during meetings.

Regarding decorum during meetings, my Office is aware that different integrity commissioners have taken different approaches concerning their ability to address such complaints. Creating legislative clarity about the jurisdiction of integrity commissioners to take complaints about member conduct during meetings could help harmonize approaches across the province.

Proposal 1

Proposed amendments to sections 223.2 of the *Municipal Act, 2001* and 157 of the *City of Toronto Act, 2006* should be amended to clarify whether integrity commissioners may review member conduct during meetings.

Standardized inquiry processes

I commend the Ministry for proposing to adopt standardized processes for integrity commissioners to receive, review, investigate, and report on complaints. Most complaints to my Office about integrity commissioners relate to the processes followed or not followed during an inquiry. Robust, fair, and flexible standardized processes could prevent many of the problems we observe.

In my February 2025 submission to the Ministry, I further highlighted key elements from my Office's resource, *Codes of Conduct and Integrity Commissioners – Guide for Municipalities*, to be included in standardized procedures. If Bill 9 is passed into law, I would welcome the opportunity to provide the government with additional insight into my Office's experience in this realm – including our recommended best practices for all stages of an integrity commissioner's investigation, from the initial receipt of a complaint, to the dismissal of a complaint or the conclusion of an inquiry. These also include removing barriers from making complaints; a commissioner's discretion to dismiss a complaint or discontinue an inquiry on specified grounds; time limits and extensions; confidentiality; participation rights; and preliminary and final reporting processes.

Removing fees to make integrity commissioner complaints

One significant discrepancy my Office has frequently encountered is that some municipalities impose a fee to make a complaint to an integrity commissioner. To enhance equal access to this important accountability mechanism across

Ontario, I have consistently called for the removal of fees, including most recently in my latest annual report.⁹ I have also encouraged the removal of other barriers to making code of conduct complaints, such as requiring complainants to file sworn affidavits.¹⁰

In lieu of fees (or other administrative barriers) for making a complaint to an integrity commissioner, standardized complaint procedures could empower integrity commissioners with the discretion to dismiss complaints that are frivolous and vexatious, are outside the commissioner's jurisdiction, have been addressed by another process (such as a court proceeding or workplace harassment investigation), or deal with a matter that clearly would not be a breach of the code of conduct, even if the allegations were proven.

To ensure that all Ontarians can access their local integrity commissioner, regardless of ability to pay a fee, the Bill should be amended to prohibit municipalities from charging a fee to make a complaint to an integrity commissioner.

Proposal 2

Sections 223.4 of the *Municipal Act, 2001* and 160 of the *City of Toronto Act, 2006* should be amended to introduce prohibitions on municipalities from charging a fee for members of the public to request an inquiry under the relevant Part of each Act about whether a member of council or a local board has contravened the code of conduct applicable to the member.

Addressing multiple avenues of complaint

I have previously suggested that standardized codes of conduct should address how complaints under a code of conduct interact with workplace harassment policies, and provide protections for complainants and anyone co-operating with

⁹ Ombudsman of Ontario, *Annual Report 2024-2025* ["2024-2025 Annual Report"], online: <<https://www.ombudsman.on.ca/en/our-work/annual-reports/2024-2025-annual-report>>.

¹⁰ See my 2023-2024, 2021-2022, 2020-2021, and 2017-2018 annual reports, 2017 Submission to the Standing Committee on Social Policy on Bill 68, and best practices guides: Ombudsman of Ontario, "Annual Reports", online: <<https://www.ombudsman.on.ca/en/our-work/annual-reports>>; Ombudsman of Ontario, *Submission to the Standing Committee on Social Policy on Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017* (April 2017), online: <<https://www.ombudsman.on.ca/en/our-work/submissions-government/submission-bill-68-modernizing-ontarios-municipal-legislation-act-2017>>; Ombudsman of Ontario, *Tips for Municipalities: Codes of Conduct and Integrity Commissioners*, online: <<https://www.ombudsman.on.ca/sites/default/files/Files/sitemedia/Documents/Resources/Codes-of-Conduct-and-Integrity-Commissioners-EN-accessible.pdf>>; Guide, *supra* note 7.

an integrity commissioner as well as penalties for failing to comply with an integrity commissioner carrying out their mandate.

While sections 223.8 of the *Municipal Act, 2001* and 164 of the *City of Toronto Act, 2006*, address the steps an integrity commissioner should take during an inquiry if they identify that a member has contravened another Act or the *Criminal Code*, the legislation does not address what steps an integrity commissioner should take in the event that the subject matter of a code of conduct complaint is also covered by a municipal workplace harassment policy. My Office has received complaints about incidents that could have been addressed under the code of conduct as well as under a municipal workplace harassment policy.

As stated in a government press release regarding Bill 9, harassment and discrimination are specifically listed as potential topics for standardized codes of conduct to address.¹¹ The absence of clear and consistent guidance about how integrity commissioners should address such complaints creates uncertainty and potential duplication of proceedings, which can increase the burden on both a complainant and a member subject to an integrity commissioner inquiry related to workplace harassment issues. Giving integrity commissioners clearer legislative guidance would address the potential for procedural gaps within a municipality and inconsistency across municipalities.

Similarly, we have received many complaints that involve alleged violations of both the code of conduct and conflict of interest under the *Municipal Conflict of Interest Act*. While existing municipal legislation enables integrity commissioners to take complaints under both, there is no statutory or regulatory guidance regarding how an integrity commissioner should address a complaint that raises issues under both the code of conduct and the *Municipal Conflict of Interest Act*, given the different procedural requirements for each.

In my February 2025 submission to the Ministry, I proposed that a standardized process should set out the steps an integrity commissioner should take to address complaints that raise issues under both the code of conduct and another statute or policy.¹² While the detailed procedural steps are appropriate for regulation, the Acts should be amended to determine which complaint avenue should be prioritized. Because the Acts already clarify that *Criminal Code* investigations should take precedence, the Acts should be amended to clarify how other proceedings, whether under another Act or a municipal policy, are affected, including whether a commissioner would be able to suspend and

¹¹ Ontario Newsroom, "Ontario Taking Action to Strengthen Local Governance," News Release (1 May 2025), online: <<https://news.ontario.ca/en/release/1005862/ontario-taking-action-to-strengthen-local-governance>>.

¹² February 2025 submission, *supra* note 3, and attached as Appendix A.

recommence an inquiry either under the code of conduct or the *Municipal Conflict of Interest Act* following the conclusion of a parallel complaint avenue.

Proposal 3

Sections 223.8 of the *Municipal Act, 2001* and 164 of the *City of Toronto Act, 2006* should be amended to reflect how integrity commissioners should proceed when there are parallel complaint processes, such as under a municipal workplace harassment policy, that address the same underlying member conduct. The amendments should specify whether an integrity commissioner can suspend and recommence an inquiry following the conclusion of a parallel complaint process.

Making integrity commissioners' reports public

Subsections 223.6(3) of the *Municipal Act, 2001* and 162(3) of the *City of Toronto Act, 2006* presently require municipalities to make integrity commissioners' reports public. My Office has received complaints in cases where municipalities did not make such reports public in a timely manner.

The Acts should be amended to clearly require timely publication of municipal integrity commissioner reports to ensure transparency for the public, including in cases subject to the Integrity Commissioner of Ontario's role under the proposed sections 223.4.0.1 for the *Municipal Act, 2001* and 160.0.1 for the *City of Toronto Act, 2006*. To ensure clarity and consistency, integrity commissioner reports should be made publicly available in advance of the next meeting of council and placed on the agenda for that meeting.

Proposal 4

Subsections 223.6(3) of the *Municipal Act, 2001* and 162(3) of the *City of Toronto Act, 2006* should be amended to require municipalities to make integrity commissioners' reports public in a timely manner, such as by ensuring that, once completed, they are added to the agenda of the next council meeting.

Minimum qualifications for integrity commissioners

I am pleased to see that the Bill contains provisions to establish required education and training for appointed integrity commissioners. However, to ensure that all individuals appointed as municipal integrity commissioners possess the relevant background skills prior to their appointment, I suggest that the

Committee consider increasing the standards for integrity commissioners by enabling the creation of minimum qualifications. As I noted in my 2021 and February 2025 submissions to the Ministry, mandated professional standards or accreditation would further ensure that the public has access to fair and high-quality reviews regardless of where they happen to live.¹³

I would encourage further amendments to the Bill that would enable the creation of minimum qualifications or accreditation for integrity commissioners, and require municipalities to appoint integrity commissioners who meet prescribed minimum qualifications. A minimum qualification requirement would ensure that municipalities appoint integrity commissioners with the requisite experience and skills, whose existing expertise would serve as a foundation for the education and training contemplated in the Bill. A minimum qualifications requirement in the municipal context would be consistent with recent amendments to the *Education Act* that now require that school board integrity commissioners satisfy certain prescribed qualifications.¹⁴

Proposal 5

Sections 223.3 of the *Municipal Act, 2001* and 159 of the *City of Toronto Act, 2006* should be amended to include a provision that would require municipalities to appoint an integrity commissioner who meets prescribed minimum professional standards for municipal integrity commissioners.

Independence of integrity commissioners

Subsections 223.3(1) of the *Municipal Act, 2001* and 159(1) of the *City of Toronto Act, 2006* require that integrity commissioners perform their functions in an independent manner and report directly to municipal council. However, as noted in my 2021 and February 2025 submissions to the Ministry,¹⁵ and highlighted in my recent annual report,¹⁶ my Office has received complaints about multiple municipalities regarding the independence of integrity commissioners who perform other roles for the same municipality.

Municipal integrity commissioners play an essential role in the democratic process by promoting accountability and ethical and respectful conduct at the local level. If someone believes a municipality's ethical rules have been broken, the integrity commissioner can review and investigate that person's complaint,

¹³ 2021 submission, *supra* note 2; February 2025 submission, *supra* note 3.

¹⁴ See *Education Act*, RSO 1990, c E.2, s 218.3(6); O Reg 306/24, s 2.

¹⁵ 2021 submission, *supra* note 2; February 2025 submission, *supra* note 3.

¹⁶ 2024-2025 Annual Report, *supra* note 9.

and ensure that concerns about conduct and potential conflicts of interest are considered by an independent party. By reporting publicly and to council on their findings and recommendations, an integrity commissioner can shine a light on unethical conduct or dispel unfounded allegations. To be effective in their roles, integrity commissioners must be credible and their independence beyond reproach.

I am pleased to see that Bill 9 proposes steps to strengthen public confidence in the independence of integrity commissioners by proposing that municipalities could consult the Integrity Commissioner of Ontario regarding the independence of a person who may be appointed as integrity commissioner.

Bill 9 should further strengthen the public's confidence in the independence of integrity commissioners by introducing provisions that restrict integrity commissioners from serving in multiple roles for the same municipality. Having a fully independent official carry out inquiries, separate from other functions provided to the municipality, increases public confidence in municipal government and helps to ensure councils and local board members can do their work free from disrespectful or unethical conduct.

It is a fundamental tenet of fairness that justice must not only be done, but also be seen to be done. Public confidence in the independence of integrity commissioners and their decisions can be undermined when they are permitted to act in multiple roles within a single municipality. When they do so, there is significant potential for public confusion, distrust and both real and perceived conflicts of interest.

Professional relationships between a municipality and its integrity commissioner beyond the duties of an integrity commissioner – such as concurrently serving in other capacities, or recently having done so – may lead to the integrity commissioner being perceived as too closely connected with the interests of the council members whose conduct they oversee.

I encourage amending the Bill to ensure that municipalities cannot appoint a recent or current employee, or recent or current provider of legal, investigative, or other professional services, as their integrity commissioner. This proposal is consonant with former Integrity Commissioner of Ontario's September 2024 advice and recommendations to the Premier, in which the former Commissioner expressed that an effective municipal integrity framework required integrity commissioner independence, including that the commissioner not provide other paid services to the municipality.¹⁷

¹⁷ ICO Advice and Recommendations, *supra* note 6.

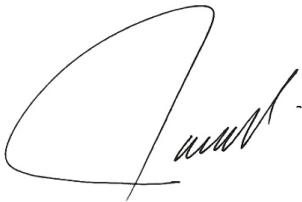
Proposal 6

Sections 223.3 of the *Municipal Act, 2001* and 159 of the *City of Toronto Act, 2006* should be amended to prohibit municipalities from appointing an individual as an integrity commissioner if that individual is currently or has recently been employed by the municipality, or who is providing or has recently provided legal, investigative, or other professional services to that municipality.

Conclusion

I commend the government for taking steps towards establishing standardized municipal codes of conduct and integrity commissioner inquiry processes, which will help ensure all Ontarians have access to high-quality integrity commissioner services. To this end, I encourage the Committee to adopt my proposals to further strengthen the legislative framework.

I would like to thank the Committee for the opportunity to present these resources and proposals. My Office and I are available to offer observations and best practices as any standardized codes and processes are developed and implemented. Likewise, we are ready to assist in raising awareness of any changes to municipal codes of conduct and integrity commissioner processes, and to update our own processes as needed, including by supporting and co-operating with the Office of the Integrity Commissioner of Ontario in any new role in the municipal accountability sector.



Paul Dubé
Ombudsman of Ontario

Ce mémoire est aussi disponible en français



Appendix A:

The Ombudsman's 2025 submission to the Ministry of Municipal Affairs and Housing regarding proposed changes to the municipal code of conduct and integrity commissioner framework

February 2025



Appendix B:

The Ombudsman's Codes of Conduct and Integrity Commissioners – Guide for Municipalities

2024