

## **“Ombudsman Oversight: Are You Prepared?”**

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**Ontario Small Urban Municipalities  
63<sup>rd</sup> Annual Conference**

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- 1** Good morning, and thank you for being here bright and early. It’s an honour to kick off the final day of your sixty-third annual conference.
- 2** In fact, I was particularly honoured when I first heard that the theme of this conference was “Are you prepared?” I thought, this group is really dedicated to getting ready for the new mandate of the Ombudsman!
- 3** Of course, now I know this was actually a reference to the tornado that struck Goderich in 2011, and that the conference focus is on making sure communities are prepared to face the unexpected. Still, with that in mind, I want to take this opportunity to make a few things clear:
- 4** First, when members of your community complain to my office, you need not fear the unexpected. (I can promise you, we will not hit you like a tornado, no matter what you might have heard.) There will be no surprises, and we will work with you to help you serve your citizens.
- 5** But all that said, the best way you can do that is to be prepared. And so I’m here to do what I can to explain our processes to you, so you know exactly what to expect when the Ombudsman’s Office calls.
- 6** While I will talk about processes, I want to emphasize that I am here today with a message of goodwill. Municipalities are a key stakeholder group for my office. My goal is to establish productive and positive working relationships with all stakeholders. It’s by working collaboratively that we can best serve the people of Ontario.
- 7** Now, although our full jurisdiction over municipalities under Bill 8 only came into effect on January 1, I know many of you are quite familiar with us because of our role as closed meeting investigator.
- 8** 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. 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.
- 9** 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. 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.
- 10** 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 to humanize

government and remove the irritants confronted by citizens. We look for simple, sensible solutions to problems, usually without having to resort to formal investigations.

- 11 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.
- 12 This is the kind of work our office has done for more than 40 years at the provincial level. I think it's helpful to have that historical perspective. I know that from the municipal vantage point, it may have seemed that Bill 8 and the expansion of our mandate came quickly. But it's actually something has been discussed since the inception of our Office.
- 13 The very first Ontario Ombudsman, Arthur Maloney, opened the office in 1975. Right away, he noticed that he was receiving hundreds of complaints that weren't about the Ontario government – they were about municipalities, the level of government closest to the people. Unfortunately, the *Ombudsman Act* didn't allow Mr. Maloney's office to help these people. As the complaints mounted, he called for the Act to be amended. And it finally was – in 2014.
- 14 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 Mr. Maloney called "humanizing government." Forty years of developing relationships with senior public servants throughout the provincial bureaucracy right up to deputy ministers and ministers.
- 15 This legacy is a strong foundation for our new jurisdiction. My goal is to build the same strong working relationships with you, (as well as our other new stakeholders in universities and school boards).
- 16 So, let me give you a quick primer on how we work. Our office handles 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.
- 17 My senior team and I also meet regularly with the managers of provincial government organizations, so we can alert them to problems and give them a chance to fix them before they mushroom into something worse. 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.
- 18 Occasionally, we will come across issues that haven't been resolved and that warrant a formal investigation. But remember that we are impartial. We don't take a complaint at face value and we do not advocate for the complainants. We look at the facts; we investigate. And as I like to say, coming from a small town, it doesn't matter how thin you make the pancakes, there's always two sides, so we know that.
- 19 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.
- 20 In those cases, we will publish a report with recommendations – and those recommendations are almost always accepted, because we recommend 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.

- 21** That's what I call a win-win-win: It's a win for us because our recommendations are accepted; it's a win for the person who complained; and it's a win for the public servants involved, who are often well aware of the problem but don't have the wherewithal to get it fixed.
- 22** 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 1,200 complaints about municipalities so far, from about 250 different municipalities.
- 23** And how many formal investigations have we launched? As of today, none.
- 24** This should not come as a surprise. That's because the vast majority of complaints have been resolved quickly and informally, with most complainants being referred back to the proper local mechanisms. 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.
- 25** 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 accounts for a lot of complaints. As does customer service in general.
- 26** We have many good examples of informal resolutions already. A couple of weeks ago, 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.
- 27** However, the No. 1 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.
- 28** As with all other complaints we receive, the first thing we do when we receive a complaint like this is determine if it can be resolved locally.
- 29** And this is where you can ask yourselves, "Are we prepared?" 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?
- 30** 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.
- 31** 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.
- 32** 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 if it's beyond their scope, then we will review it.

- 33** We will look at the circumstances and the reasons for decision. Did your officials act in accordance with the relevant legislation? Did they consider the issues? Did they provide sufficient reasons for their actions? Those are the questions we ask.
- 34** We have already dealt with a few complaints like this about local integrity commissioners, for example. We were able to determine quite quickly that their actions were reasonable.
- 35** But we have also helped 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.
- 36** 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 and 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.
- 37** 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.
- 38** 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.
- 39** I am being asked regularly these days 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?
- 40** 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.
- 41** 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 Bill 8. 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 and Housing.
- 42** 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.
- 43** 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.
- 44** 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 – in particular, 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.

- 45** 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.
- 46** Last fall, many of you participated in our roundtable consultations in partnership with Canada's Public Policy Forum. The feedback we received from you was enormously helpful, and I thank you for sharing your expertise and your candid views with us.
- 47** 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.
- 48** I hope all of this demonstrates our preparedness for this important new responsibility, and our commitment to working with you. We all share the common goal of ensuring transparent, accountable local government.
- 49** 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.
- 50** 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. And I would be happy to meet with you one on one. Thank you, merci beaucoup.