



**“Bill 8 and Strengthening Municipal Accountability”**

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**Municipal Integrity Commissioners of Ontario  
Spring Meeting**

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- 1** Thank you so much for inviting me to speak to you today.
- 2** *Merci de m'avoir invité à m'adresser à vous aujourd'hui. J'apprécie énormément cette opportunité de parler de mon rôle en tant qu'ombudsman et la relation mutuellement bénéfique que j'espère cultiver avec vous.*
- 3** I have to confess a bit of trepidation, because this is my first official public speaking engagement as Ombudsman of Ontario. It was one thing to do a string of media interviews in my first week on the job; speaking to a roomful of lawyers who are experts in municipal accountability is quite another.
- 4** It's déjà vu all over again, because my first presentation as Taxpayers' Ombudsman was a keynote address to an annual convention of over 400 Chartered Accountants. My message to them was similar to my message today: We can help each other if we work collaboratively.
- 5** So I'm comforted by the fact that we are all colleagues – if not partners – in the same business: Ensuring that municipal governments are transparent, ethical and accountable.
- 6** And you should be comforted by the fact that I am promoting your business! My office continues to encourage municipalities to appoint their own accountability officers, including integrity commissioners.
- 7** We have very similar aims and objectives, and some aspects of our processes are the same. We also share many of the same challenges – including dealing with high public expectations, as well as some public confusion about what our roles entail.
- 8** So I hope we can work collaboratively to serve the people of Ontario's municipalities, and by extension, the province as a whole.
- 9** Thanks to Bill 8, our challenges have increased, but in a positive way. Public demand for – and appreciation of – integrity commissioners is stronger now than at any time since 2008, when the *Municipal Act* first allowed them to be established. At the same time, as communities across the province work to address that demand, there is also a lot of discussion about how the work of integrity commissioners and the Ombudsman overlap, and even whether both roles are necessary.

- 10** Even before our oversight of municipalities took effect on January 1, our office’s answer to that question was a resounding yes. My colleague Barbara Finlay, who, as Acting Ombudsman, had the enormous task of rolling out our new Bill 8 jurisdiction, repeatedly made it clear that our office would be there to enhance the role of local accountability officers, not to replace them or redo their work.
- 11** I have reinforced that message since my first day. I’m particularly honoured to speak with you today, because I believe this is the ideal time to build and strengthen relationships between our organizations.
- 12** That 2008 date I mentioned is another thing we have in common. Those same changes to the *Municipal Act* also brought our office into the municipal world for the first time, making us the default investigator for complaints about closed municipal meetings. I know some of you were hired by municipalities to take on that role in place of the Ombudsman, while a few of you took blazed the trail as the first integrity commissioners.
- 13** I did not have the pleasure of experiencing those early days, but my colleague Ms. Finlay and many of our staff certainly did. And as she candidly put it her speech to the ROMA conference in February, let’s just say it was not the best way for municipalities to get to know the Office of the Ombudsman.
- 14** (In fact, I’m told that when the prospect of a closed meeting complaints regime was first broached, more than a decade ago, the idea was that it would fall to my fellow officer of the Legislature, the Information and Privacy Commissioner. I see Mr. Beamish is here today, and Brian, I’m willing to talk if you’d still like to take this on.)
- 15** Aside from the difficulty in explaining to the public why we were the investigator in some places but not others, the role itself was really an unnatural fit for an ombudsman’s office. It required the office to focus on narrow questions of law – specifically, whether or not the open meeting rules were followed; nothing more.
- 16** This is entirely different from what an ombudsman’s office normally does, and what ours excels at, which 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 a formal investigation.
- 17** Unfortunately, for many people, our closed meeting investigator role created the mistaken belief – or hope, or fear, depending on your perspective – that our role was to police local councils, which is not at all what we do.

- 18** This is another thing we have in common: I'm sure many of you have had to deal with misplaced expectations in your roles. I think there is strong potential for us to work together to address this, so the public has a clear understanding of what kind of help we offer, and what kind of problems we can solve.
- 19** My two main priorities as Ombudsman are (1) building and maintaining productive and appropriate relationships, and (2) educating and engaging stakeholders through outreach. You know, we all have the potential to reduce and even prevent complaints through education. And at the very least, a more informed citizen is a more realistic complainant.
- 20** I believe we all have, in our respective capacities, an ongoing duty to educate and advise stakeholders about their responsibilities before complaints arise.
- 21** To be clear, we have seen significant benefits from our work in promoting open meetings. We have handled hundreds of complaints and helped councils across the province ensure their meeting practices are open, transparent and within the law. We have developed a solid body of recommendations for all sorts of closed meeting situations, and of course, we learned a great deal about municipalities and how they work. We're now working on a searchable database of all the investigations by our Open Meeting Law Enforcement Team (or OMLET), and it should prove to be a useful and informative resource.
- 22** (I am sure there is a potential joke in there somewhere about municipalities walking on eggshells when they encounter the OMLET, but that is definitely not the atmosphere we want to foster).
- 23** Still, I think it's fair to say that if it had been within our power, we would have preferred to see Bill 8 come into effect first, and the open meeting investigator role second. It's unfortunate that for many municipal stakeholders – including many of you – your first exposure to the Ombudsman's work was through the rigid, formal process of open meeting enforcement. An enforcement role simply doesn't allow an ombudsman's office to play to its strengths.
- 24** In all of our other work, we always seek informal resolution first. We are not about finding fault, but finding solutions. We aren't there to name, shame and blame, but to help improve how government works for the people we all serve. What we strive to be is an agent of positive change.
- 25** Occasionally, we will do that through formal investigations and reports, but in the vast majority of cases, the help we deliver is informal; simple, quick and effective.
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- 26** With Bill 8, we now have the opportunity to provide municipal stakeholders with the same services we provide to the tens of thousands of people who complain to us about provincial government bodies every year. The benefits of this approach are already being demonstrated, and I'd like to share a few details with you.
- 27** Since January 1, we have received more than 1,100 complaints about municipalities. How many formal investigations have we launched? So far, none.
- 28** I'm happy to say that the vast majority of these complaints have been handled through quick, informal resolution – usually by referring people to the appropriate local mechanisms. In some cases, we have used the classical ombudsman tool of “shuttle diplomacy” – that is, through a few phone calls or informal inquiries with the proper municipal authorities, we have been able to resolve problems to everyone's satisfaction.
- 29** Complaints have come in from across the province – about 240 different municipalities so far. As expected, the topics have run the gamut from complaints about services, like garbage collection or snow removal, to allegations of conflict of interest among council members.
- 30** We have many good examples of informal resolutions already. For example, just a few days 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. We helped a senior sort out a longstanding problem with a snow-covered sidewalk in front of his home: All it took was a few phone calls from our staff to determine that his property had been inadvertently removed from the snow removal crew's route.
- 31** However, the No. 1 most common topic of complaints so far has been municipal councils themselves. This category of complaints 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.
- 32** I'm sure none of this comes as a surprise to this group. For the record, our full “Top 10” list of municipal complaint topics is as follows:
1. Council/committees
  2. Hydro/electricity
  3. Bylaw enforcement
  4. Ontario Works
  5. Police

6. Housing
7. Water/sewer
8. Planning/zoning
9. Customer service
10. Infrastructure

- 33** Now, I'm sure what you really want to know is, how many of complaints have we received about integrity commissioners? The answer, as of today, is a grand total of seven. If we add complaints about other municipal accountability officers such as auditors general and ombudsmen, it's 10.
- 34** As I mentioned, we have not launched any formal municipal investigations so far. Just as we do with all other complaints we receive, the first thing we do when we receive these types of complaints is to determine if it can be resolved locally.
- 35** 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. We are there as a last resort, to ensure local mechanisms are working well, and to recommend ways they can be improved.
- 36** This is exactly what have done at the provincial level for more than 40 years. We do not reopen the investigations of provincial investigative bodies or the files of administrative tribunals. Rather, we review the actions they took and, where warranted, recommend reforms. As well, we track serious, recurring complaint trends and intervene when necessary to get to the bottom of broad, systemic problems.
- 37** We will do the same with municipalities. If and when we do launch a formal investigation, whether it involves an individual problem or a systemic one, the municipality will receive formal notice, just as provincial bodies do.
- 38** I can assure you we will keep the municipality informed – there will be no surprises. 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.
- 39** Thus far, we have had considerable success with our informal process. In the interest of no surprises, let me quickly tell you how it works.

- 40** When we receive a complaint about the conduct of a council member – a conflict of interest, for example – we will first ask if the municipality has a code of conduct and an integrity commissioner. If so, we will refer the complainant to you.
- 41** If it's a matter you are dealing with, we won't intervene. If it's something you have finished dealing with – or that you refused to investigate – then we will review the circumstances and your reasons.
- 42** To be more specific, we will consider whether you acted in accordance with the relevant legislation, considered the issues and relevant information, and provided sufficient reasons for your decision.
- 43** We have done a few reviews like this already, and were able to determine quite quickly that the actions of the integrity commissioners in question were reasonable.
- 44** But we can also intervene to help improve the process for all concerned. For example, one council member complained to us that she wasn't told that an integrity commissioner's report relating to her conduct would be discussed at an open meeting. After our staff made inquiries with the municipality, it agreed to provide clearer information about how the process works and what all parties should expect.
- 45** We have dealt with complaints about council members in municipalities where there is a code of conduct but no integrity commissioner – and in municipalities that have neither. Again, while each case and each municipality is different, we encourage them to establish integrity commissioners, codes of conduct and clear complaint processes. We have yet to conduct a formal investigation, but when we do, I will not hesitate to recommend municipalities take these steps as a way of improving local accountability.
- 46** And that brings me to the other type of work that our office is uniquely positioned to do – the broad, systemic investigations into issues that are outside of your jurisdiction, and that of any other local officials. We track the issues that we see across the province, watching for trends – in particular, problems that may recur across municipalities. Our powers of investigation can take us into places where local accountability officers cannot go – and if we find the issue relates to bodies in our provincial jurisdiction, we can go there too.
- 47** I hope this gives you a good idea of what we have done with our new jurisdiction so far, and how I plan to approach it. This is an exciting time, not just for me because of my new role, but for all of us, because Bill 8 has really bolstered a new era of accountability for local governments.

- 48** I believe in finding win-win-win situations, and it seems to me that Bill 8 has given all of us that opportunity. The increased public demand for local accountability is a win. The proliferation of local integrity commissioners, auditors general and ombudsmen is a win. The expansion of my office’s jurisdiction is a win. The winners are the people we all serve.
- 49** Everyone in this room has a role to play in developing this important area of administrative law and in improving municipal governance for Ontarians. I look forward to working with you in these areas.
- 50** Once again, I want to thank you for the opportunity to meet and speak to you today. I hope my remarks give you a better understanding, not only of the role of my Office, but also of the way we will strive to fulfill that role.
- 51** And now I’d be happy to answer any questions you might have.

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