

Public Sector and MPP Accountability and Transparency Act, 2014 Changes to the Ombudsman Role



MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING

MYTHBUSTERS

MYTH	FACT
The Ontario Ombudsman will replace locally established complaint mechanisms.	This legislation will not replace the important work that Ontario municipalities are already doing on transparency and accountability. The Ombudsman would only investigate a complaint made to a local ombudsman, municipal auditor general, lobbyist registrar or integrity commissioner after local complaint processes have been completed.
The public can bypass locally established integrity officer complaint mechanisms and go straight to the Ombudsman.	The Ombudsman may investigate complaints about municipal matters after local complaint processes are complete. The Ombudsman will not be able to investigate complaints within the jurisdiction of the Toronto Ombudsman. The public may wish to contact their municipality first with a complaint.
Municipalities are required to appoint a local ombudsman.	As before, municipalities will continue to have the option to appoint their own ombudsman if they choose. Only the City of Toronto is required by law to have a locally-appointed ombudsman.
The Ombudsman can reverse the decision of a local closed meeting investigation.	The existing system for closed meeting investigations will be maintained. The Ombudsman cannot reverse a decision made by the local closed meeting investigator. As is currently the case, if a municipality does not appoint an investigator, the Ombudsman acts as the meeting investigator.
Municipalities will be required to bear the costs of Ombudsman investigations.	Costs will not automatically increase because of the Ombudsman's new role under the Act. There might be administrative costs to those municipalities that are responding to the Ombudsman but there would be no other new costs. The Office of the Ombudsman is funded by the Province of Ontario.
The Ombudsman can compel municipalities to take action if he/she finds that rules were broken.	The Ombudsman's role is to conduct investigations and to report and make recommendations. It's up to the municipality to decide how to proceed after an Ombudsman's report.

The Government of Ontario respects municipalities and respects the work of municipal councils and their relationships with their constituents.

The Act strengthens accountability, makes the business of government more transparent, and gives Officers of the Legislature more responsibility in their roles.

This is about making sure that every person in every municipality across Ontario has access to an ombudsman.

The current local integrity framework in the Municipal Act, 2001 gives municipalities the powers to develop a local integrity system to meet local needs and capacity.

LOCAL INTEGRITY OFFICERS

- **Integrity Commissioner:** performs, in an independent manner, the functions assigned by council with respect to the application of (1) a code of conduct for members of council and local boards and (2) the procedures, rules and policies governing the ethical behaviour of members of council and local boards.
- **Local Ombudsman:** investigates, in an independent manner, decisions and recommendations made and acts done or not done in the course of the administration of a municipality, local boards or certain municipal corporations, as the municipality specifies.
- **Auditor General:** may assist council in holding itself and municipal administrators accountable for the quality of stewardship over public funds and achieving value for money in municipal operations.
- **Lobbyist Registry and Registrar:** a lobbyist registration system and the linked municipal officer—may include related things, such as a code of conduct for lobbyists and prohibitions on former public office holders from lobbying for a designated time period.
- **Closed Meeting Investigator:** investigates, in an independent manner, complaints made to him/her, on whether a municipality/local board has complied with legislation/the local procedure by-law in respect to a meeting (or part) that was closed to the public.

WHAT ARE KEY CHANGES TO THE OMBUDSMAN'S POWERS THROUGH THE ACT?

- The Ombudsman's role will be expanded to include municipalities Jan 1, 2016.
- Generally, the Ombudsman may investigate any decision or recommendation made or act done or not done in the course of the administration of the municipality and many of its local boards.
- The Ombudsman could include any municipality, including Toronto, in a broad-ranging, systemic investigation, on his or her own initiative.

WHAT THE OMBUDSMAN CAN AND CAN NOT DO

CAN	<ul style="list-style-type: none"> • Investigate complaints made to local integrity officers (except Toronto Ombudsman) after local complaint processes are completed. • Make recommendations / provide a report. • Determine whether to investigate a municipal matter brought to the Ombudsman's attention. • Conduct systemic investigations into matters involving municipalities.
CAN NOT	<ul style="list-style-type: none"> • Compel action by a municipality / impose penalties. • Reverse a local meeting investigator's report. • Override past municipal or board decisions. • Investigate decisions, recommendations, acts or omissions of some boards.

WHAT LEGISLATIVE CHANGES WILL PRIMARILY AFFECT MUNICIPALITIES?

- Ombudsman Act
- Municipal Act
- City of Toronto Act

OTHER CONSIDERATIONS

- It is an offence to obstruct an ombudsman investigation.
- Ombudsman practice is that a request can be made to the Ombudsman for it to re-examine a complaint it already looked at.
- The Act changed the Ombudsman's role as an ombudsman, not as a meeting investigator under the Municipal Act, 2001.
- 444 municipalities fall within the jurisdiction of the Ombudsman.

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