



Accountability Officers and Integrity in Canadian Municipal Government

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Outline

Before accountability officers

Bellamy Inquiry & Ontario Response

Types of accountability officers

- Auditors General
- Ombudsmen
- Closed Meeting Investigators
- Lobbyist Registrars

A Closer Look at Integrity Commissioners

Concluding Remarks

Before accountability officers

Elections

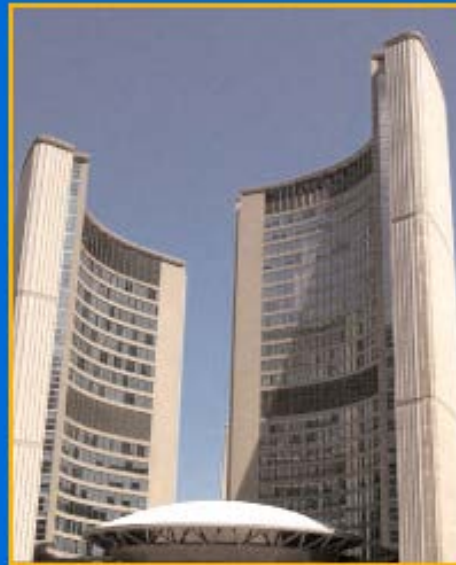
Courts

Toronto Computer Leasing Inquiry

Toronto External Contracts Inquiry

REPORT

1. Facts and Findings
2. Good Government
3. Inquiry Process
4. Executive Summary



The Honourable Madam Justice Denise E. Bellamy
Commissioner

Bellamy Report, 2005

Vol. 1: A fine detective story

(“ I have set out the evidence...more like a story than judges, including me, would usually do”)

Vol. 2: Recommendations not explicitly linked to Vol. 1

- Full-time integrity commissioner with jurisdiction over council and staff and authority to recommend to council that a councillor be removed from office
- Compulsory lobbyist registry

Ontario Legislation, 2006

- Made accountability officers compulsory for City of Toronto, optional for other municipalities
- No independent authority – could only make recommendations to council and even these were limited (as we shall see)
- Some movement to accountability officers in other provinces before 2005, more afterwards

Table 1 – Existence of Accountability Officers for Selected Ontario and Canadian Cities

	Auditor general provided by province	Local auditor general	Ombudsman provided by province	Local ombudsman	Provincial ombudsman for closed meeting investigator	Local closed meeting investigator	Local integrity commissioner	Lobbyist registry
Halifax		x	x					
Montréal		x		x				
Toronto		x		x		x	x	x
Ottawa		x	x			x	x	x
Hamilton		x	x		x		x	x
London			x		x		x	
Winnipeg		x	x				x	
Calgary		x					x	
Vancouver	x		x		x			

Source: Municipal websites

Auditors-General

Key characteristic is ability to launch independent investigations with only limited financial issues

Federal gov't A-G obtained this authority in 1977

Early municipal Auditors-General types of accountability officers:

- Winnipeg (1989) – now City Auditor/Chief Performance Officer
- Montreal and Toronto (2002)

Next: excerpt from a Halifax A-G report in 2011

Corporate Culture: During the review, we often heard comments similar to: “I wasn’t asked,” “I wasn’t told or didn’t know,” “I made someone aware,” “I drafted a memo,” “not my responsibility,” “I carried out instructions received,” and “these actions will not affect my organization so if someone else wants to do it, it is their business.” This thinking is fundamentally flawed and reflects the culture of organizations which appear to lack an attitude of questioning, follow-up or accountability at the highest levels. A number of recommendations speak to improvement in this area of soft controls.

Ombudsmen

Montreal obtained an ombudsman in 2002

My paper contains an account of how the Montreal ombudsman intervened when a woman lost her parked car because the city towed it away and no one knew where it was; including the police when she reported it as stolen

In ON, local ombuds decisions can now be appealed to prov ombuds except in Toronto

Closed Meeting Investigators

Don't exist outside Ontario where provincial ombudsman performs this function if no investigator is appointed

In BC, provincial ombudsman performs this function

City of Ottawa Lobbyist Registry

Search Criteria

Keyword

Lobbyist

Person(s) Lobbied

Date Range

From:  To: 

Subject Matter

Affordable Housing
Agriculture/Rural Affairs
Arts/Culture
Attractions/Tourism
Budget
By-law/Regulation

Affected Ward(s)

CW - City Wide
1 - Orléans
2 - Innes
3 - Barrhaven
4 - Kanata North
5 - West Carleton-March

Reset

Search

Get All Lobbyists

Integrity commissioners-Ontario

Lessons from four cases

- Imposing penalties – Toronto
- Due process – Vaughan
- Investigating vs. advising – London
- Double jeopardy – Sarnia

Rob Ford case in Toronto

Appointing an integrity commissioner does not eliminate litigation.

- The integrity commissioner can do nothing without council approval.
- In some circumstances, a municipal council will take political factors into account, not just the legal and ethical arguments advanced by the integrity commissioner.
- In Ontario, integrity commissioners have no legal authority in relation to the Municipal Conflict of Interest Act, the provisions of which are enforced by courts of law.
- Sanctions available to municipal councils that accept recommendations from integrity commissioners are tightly circumscribed.

Di Biase case in Vaughan

- Integrity commissioners must refer some cases – alleged acceptance of bribes, for example – directly to the police
- Integrity commissioners have a legal obligation to be fair in accordance with principles of natural justice but they are allowed to protect the anonymity of complainants

<http://london.ctvnews.ca/video?clipId=964864>

Brown-Cassidy case in London

- Attempting to cast judgment and/or recommend punitive action with respect to “inappropriate” personal relationships between council colleagues is fraught with difficulty and is perhaps best left to the electorate
- The integrity of integrity commissioners can be called into question if they do not clearly separate their advisory and investigative functions

Bradley case in Sarnia

[In passing, the integrity commissioner questioned the executive authority of the mayor – important for those of us concerned with Ontario municipal institutions.]

- Procedures to deal with workplace harassment by council members should take precedence over any investigation by an integrity commissioner into the same pattern of behaviour by the same person.

Conclusion: Issues facing provinces regarding municipal accountability officers

- Will there be a provincial accountability officer with jurisdiction over all municipalities?
- If not, will municipalities have the option of appointing the officer or will they be required to?
- What degree of security of tenure and independence will the officer have?
- What kinds of reprimands or penalties will the officer be entitled to impose?
- Will officers' decisions have to be approved by municipal councils to take effect?
- Can councillors appeal such decisions to a provincial accountability officer?

Most important function of accountability officers

Providing better information to local media and municipal voters so that more informed decision can be taken at election time

We should resist calls to give them authority of levy penalties independently

Their ability to destroy reputations already gives them a great deal of power