

Proposed Ombudsman Complaint Submission Protocol

City of Markham Municipal Ombudsman Investigation Protocol

1. Request for Inquiry

- i. A request for an inquiry shall be in writing.
- ii. All requests shall be signed by an identifiable individual (which includes the signing officer of an organization).
- iii. A request shall set out all reasons for the complaint and shall outline the steps already taken to resolve the complaint.

2. Initial Review by Municipal Ombudsman

- i. The request shall be filed with the City Clerk who shall forward the matter to the Municipal Ombudsman for initial review to determine if an investigation is necessary.
- ii. If the request does not include an outline of the steps taken to resolve the complaint through the appropriate channels, the Municipal Ombudsman shall refer the complainant to the relevant mechanism for resolution.
- iii. The Municipal Ombudsman may report to Council that a specific complaint is not within the jurisdiction of the Municipal Ombudsman.
- iv. The Municipal Ombudsman may report annually to Council on the activities undertaken during that year.

3. Municipal Ombudsman Investigations

- i. If the Municipal Ombudsman is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Municipal Ombudsman shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, shall terminate the investigation.
- ii. Other than in exceptional circumstances, the Municipal Ombudsman shall not report to Council on any complaint described in subsection (i) except as part of an annual or other periodic report.

4. Investigation & Settlement

- i. If a complaint has been classified as being within the Municipal Ombudsman's jurisdiction and not rejected under Section 2 of this Protocol, the Municipal Ombudsman shall investigate and attempt to settle the complaint.
- ii. Section 223.14(3) of the Municipal Act provides for the Municipal Ombudsman to exercise his/her powers and performance of duties under section 19 of the Ombudsman Act.
- ii. When the Ombudsman Act applies to an investigation of a complaint, the Municipal Ombudsman shall comply with the procedures specified in that Act and this Complaint Protocol, but if there is a conflict between a provision of the Complaint Protocol and a provision of the Ombudsman Act, the provision of the Ombudsman Act prevails.
- iv. The Municipal Ombudsman will proceed as follows, except where otherwise required by the Ombudsman Act:
 - a. Serve the complaint and supporting material upon the City (with a request that a written response to the allegation be filed within ten days or such longer period as the Municipal Ombudsman may authorize in writing); and
 - b. Serve a copy of the response provided by the City upon the Complainant with a request for a written reply within ten days or such longer period as the Ombudsman may authorize in writing.
- v. Section 19 of the Ombudsman Act allows the Municipal Ombudsman to summon before him/her and examine on oath any complainant or any person who is an officer or employee or member of any governmental organization and who, in the Ombudsman's opinion, is able to give any information relating to any matter that is being investigated.
- vi. The Municipal Ombudsman shall not issue a potentially adverse report without providing the municipality an opportunity to make representations regarding the adverse report or recommendations.
- vii. The Municipal Ombudsman may make interim reports to Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during the investigation.

5. Final Report

- i. The Municipal Ombudsman shall report to the Complainant and to the municipality, generally no later than 90 days after the making of the complaint.
- ii. Where the complaint is sustained in whole or in part, the Municipal Ombudsman shall also report to Council outlining his or her findings and/or recommendations.

- iii. Where the complaint is dismissed, other than in exceptional circumstances, the Municipal Ombudsman shall not report to Council except as part of an annual or other periodic report.
- iv. Any recommended corrective action must be permitted by the Municipal Act and shall be designed to ensure that the inappropriate behaviour or activity does not continue and is not repeated.

6. Report to Council

- i. The City Clerk shall process the Municipal Ombudsman's report for the next meeting of General Committee, followed by Council. The report shall remain confidential, and discussed in a closed meeting in accordance with section 239(3)(b) of the Municipal Act, until the matter has received complete and final disposition by the Municipal Ombudsman and has been reported out to the Members of Council.

7. Council Review

- i. Council shall consider and respond to the report within 90 days after the day the report is laid before it.

8. Confidentiality

- i. Section 223.15(1) of the Municipal Act provides that the Municipal Ombudsman shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties.
- ii. If the Municipal Ombudsman provides a periodic report to the municipality on his or her activities, the Municipal Ombudsman may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned.

9. Administration

- i. This Protocol may be periodically revised by the City Clerk in consultation with the Municipal Ombudsman.
- ii. A copy of this Protocol shall be posted on the City of Markham's website.