
Subject: Second Progress Report respecting Implementation of Recommendations from the Ontario Ombudsman Report “Inside Job”

Report to: Regional Council

Report date: Thursday, December 17, 2020

Recommendations

1. That Report CAO 24-2020 **BE RECEIVED** and **CIRCULATED** to the Ontario Ombudsman for information.

Key Facts

- The purpose of this report is to provide an update respecting the recommendations provided by the Ontario Ombudsman in the report entitled “Inside Job”.
- At its Special meeting held on December 5, 2019, Regional Council provided direction to staff to prepare various policies and procedures related to the recommendations made by the Ombudsman.
- Recommendation 16 of the report “Inside Job” was for Niagara Region to report publicly, and to the Ombudsman Office, in six months’ time on its progress implementing the recommendations and at six-month intervals thereafter until such time as the Ombudsman is satisfied that adequate steps have been taken to address the recommendations.

Financial Considerations

There are no financial considerations associated with this report.

Analysis

At its meeting held on June 25, 2020, Council received Report CAO 13-2020 which provided an update on the actions undertaken to date with respect to the Ontario Ombudsman Report “Inside Job”. Upon receipt of that report, the Ombudsman requested a further update be provided in six months time. Of the 16 recommendations put forward by the Ombudsman those still requiring action are noted below including actions taken to date with respect to the recommendation or outstanding work still to be done.

Recommendation 5: The Regional Municipality of Niagara should ensure that all officials and employees with access to personal information understand their obligations under the Municipal Freedom of Information and Protection of Privacy Act.

Action Taken: Policies C-IMT-016 Access to Information and Privacy Protection and C-IMT-017 Personal Health Information Protection Policy were approved by Regional Council on August 13, 2020. These new policies more clearly outline how Niagara Region remains in compliance with Ontario's legislative framework for privacy by creating separate policies for each piece of legislation and provide greater clarity respecting the roles and responsibilities of officials and staff throughout the organization. These policies were communicated to staff through their respective managers as well as via the Region's intranet. The COVID-19 pandemic has highlighted the importance of safeguarding personal information with respect to staff now working from home. Staff will be continuing to provide educational opportunities to ensure all staff are aware of their individual obligations with respect to access to personal information.

Recommendation 7: The Regional Municipality of Niagara should ensure that staff and officials act in accordance with the direction of council and committees of council.

Action Taken: As was noted in Report CAO 13-2020, staff are committed to implementing best practices and providing educational opportunities that can be utilized to ensure that staff are aware of their role and the role of Council as well as the legal authority by which they are bound. Staff are considering the development of fact sheets and/or training tools on this topic that can be provided to all staff as part of orientation and shared on the Region's intranet. This will ensure that staff and officials act in accordance with the direction of council and committees. As a part of this, staff will reinforce policies in place that provide the framework to guide staff conduct, including the Code of Ethics policy, Accountability and Transparency and the Delegation of Powers and Duties.

Recommendation 8: The Regional Municipality of Niagara should ensure that staff in the Chair's office do not usurp or undermine the role of professional staff, especially when those roles have been set by council or a committee.

Action Taken: As this recommendation relates specifically to those staff in the Regional Chair's office, staff are committed to reviewing any applicable job descriptions and including standard language in future employment contracts that provide greater clarity and guidance regarding the role of the staff in the Chair's office, responsive to the Ombudsman recommendation in this regard. Staff are also considering developing appointment by-laws for professional staff that clearly outline their roles.

Recommendation 10: The Regional Municipality of Niagara should ensure that all staff and officials receive training on the proper use of corporate email and retention of corporate documents.

Action Taken: Staff continue to work on options to provide education on the proper use of corporate email and retention of corporate documents for both new and current staff; however, some of this work has been delayed or refocused to address concurrent issues associated with staff working from home. In consultation with Human Resources, staff are working to address issues of privacy and access to information and records with staff working from home. Recommendations for the management and retention of COVID related corporate email has been provided to staff. These recommendations will be included in reference material that will be issued on the appropriate use of email for the collection, use and/or disclosure of personal information and personal health information.

Recommendation 12: Before making changes to a contract affecting its legal interests, the Regional Municipality of Niagara should require staff to consult legal and human resources staff to ensure the terms are lawful and consistent with the municipality's interests.

Action Taken: As noted in Report CAO 13-2020, this recommendation has been addressed as part of Policy C-HR-026 Chief Administrative Officer Recruitment, Selection, Offer of Employment, and Performance Management, with respect to the CAO employment contract. Legal Services staff are continuing to review the execution of documents by-law (that provides authority for staff to execute specified documents on behalf of the Region, subject to certain requirements) with proposed amendments to be brought forward to Council for approval in 2021 that will include proposed wording responsive to this recommendation.

14. The Regional Municipality of Niagara should ensure that it establishes comprehensive terms of reference when appointing a municipal ombudsman, including reference to requirements for: Scope of issues to be investigated; Evidence collection; Confidentiality, including of witnesses; and Preliminary reporting.

Action Taken: Staff are continuing to work on researching best practices to implement a policy with standard terms of reference respecting the appointment of a municipal ombudsman. This policy is anticipated to be completed in 2021. The implementation of a policy will ensure that when a municipal ombudsman is hired there are specific requirements that must be considered including those identified by the Ombudsman.

Alternatives Reviewed

As these recommendations were put forward by the Ontario Ombudsman there were no alternatives reviewed.

Relationship to Council Strategic Priorities

This report is based on the recommendations of the Ontario Ombudsman; however, the implementation of the policies and procedures noted aligns with Council's Strategic Priority of Sustainable and Engaging Government.

Other Pertinent Reports

CAO 13-2020 Update on Recommendations from the Ontario Ombudsman
Report "Inside Job"

Submitted by:

Ron Tripp, P. Eng
Acting, Chief Administrative Officer

This report was prepared in consultation with Ann-Marie Norio, Regional Clerk, Franco Meffe, Director, Human Resources, and Donna Gibbs, Director, Legal and Court Services.

Appendices

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