
MEMORANDUM

CSC-C 4-2020

**Subject: Update on Recommendations from Report CAO 17-2019 –
Recommendations from the Ontario Ombudsman Report “Inside Job” November
2019**

Date: February 12, 2020

To: Corporate Services Committee

**From: Franco Meffe, Director, Human Resources, and Ann-Marie Norio, Regional
Clerk**

At its special meeting held on December 5, 2019, Regional Council approved the recommendations from Report CAO 17-2019 respecting Recommendations from the Ontario Ombudsman Report “Inside Job” November 2019. Some of those recommendations directed staff to provide information at the Corporate Services Committee meeting being held on February 12, 2020.

This memo provides an update on those items for Committee’s information.

Recommendation 2:

*That staff **BE DIRECTED** to prepare a policy respecting employee code of conduct or ethics that includes for the protection of confidential information, pursuant to Recommendation 1 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are undertaking revisions to the current Code of Ethics/Conflict of Interest Policy. At its meeting held on December 12, 2019, Regional Council approved a motion directing staff to prepare a Whistleblower Policy to be considered by the Corporate Services Committee. Given that these two policies will closely align, they will both be brought forward for consideration at the Corporate Services Committee meeting being held on March 11, 2020. As part of its review, staff have reached out to other municipalities to obtain best practices concerning both policies.

Recommendation 3:

*That staff **BE DIRECTED** to include clauses in all employment contracts respecting the protection of confidential information pursuant to Recommendation 2 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are undertaking work to include clauses in all employment contracts respecting the protection of confidential information, including seeking advice of external legal counsel concerning the inclusion of such wording in all union and non-union contracts of employment.

Recommendation 4:

*That staff **BE DIRECTED** to ensure specific confidentiality agreements are signed at the start of a hiring process by all officials and staff with access to confidential hiring process information pursuant to Recommendation 3 of the Ombudsman's Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020.*

At its special meeting held on January 23, 2020, Council considered Report HR 01-2020 – Chief Administrative Officer (CAO) Recruitment, Selection, Offer of Employment and Performance Management Policy and Procedures. Council subsequently referred the report to the Corporate Services Committee meeting being held on February 12, 2020 to allow staff to provide additional options. This report addresses the confidentiality agreements with respect to a CAO hiring process. Staff are currently investigating options to ensure compliance with this Ombudsman Recommendation.

Recommendation 6:

*That staff **BE DIRECTED** to review and update the Employment and Staffing Policy (C-HR-010) to ensure it contains provisions to clarify that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process including assisting candidates by providing inside information such as interview questions and suggested answers pursuant to Recommendation 6 of the Ombudsman's Report for the Corporate Services Committee meeting being held on February 12, 2020.*

Staff are currently reviewing the Employment and Staffing Policy to include provisions related to employees engaging in behaviour that provides an unfair advantage to a candidate during a hiring process. As part of its review, staff have reached out to other municipalities to obtain best practices. An updated policy will be provided to the Corporate Services Committee at its meeting being held on March 11, 2020.

Respectfully submitted and signed by

Franco Meffe
Director, Human Resources

Ann-Marie Norio
Regional Clerk

Subject: Recommendations from the Ontario Ombudsman Report “Inside Job”
November 2019

Report to: Regional Council

Report date: Thursday, December 5, 2019

Recommendations

1. That Regional Council **CONFIRMS** their agreement with the recommendations of the Ontario Ombudsman Report “Inside Job” (dated November 2019) respecting the investigation into matters relating to the Regional Municipality of Niagara’s hiring of its Chief Administrative Officer, and its administration of his contract;
2. That staff **BE DIRECTED** to prepare a policy respecting employee code of conduct or ethics that includes for the protection of confidential information, pursuant to Recommendation 1 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020;
3. That staff **BE DIRECTED** to include clauses in all employment contracts respecting the protection of confidential information pursuant to Recommendation 2 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020;
4. That staff **BE DIRECTED** to ensure specific confidentiality agreements are signed at the start of a hiring process by all officials and staff with access to confidential hiring process information pursuant to Recommendation 3 of the Ombudsman’s Report and provide an update at the Corporate Services Committee meeting being held on February 12, 2020;
5. That staff **BE DIRECTED** to prepare a draft Terms of Reference for a Chief Administrative Officer Recruitment Committee taking into consideration Recommendation 4 of the Ombudsman’s Report for the Regional Council meeting held on January 23, 2020;
6. That staff **BE DIRECTED** to review and update the Employment and Staffing Policy (C-HR-010) to ensure it contains provisions to clarify that employees should not engage in any behaviour that provides an unfair advantage to a candidate during a hiring process including assisting candidates by providing inside information such as interview questions and suggested answers pursuant to Recommendation 6 of the Ombudsman’s Report for the Corporate Services Committee meeting being held on February 12, 2020;

7. That staff **BE DIRECTED** to prepare a policy respecting the hiring process for a Chief Administrative Officer including the appropriate roles of staff and their accountability to Council or a committee of Council charged with the hiring, pursuant to Recommendation 9 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
8. That staff **BE DIRECTED** to prepare a by-law setting the parameters of the relationship between Council and the Chief Administrative Officer including the role of Council with respect to amending the Chief Administrative Officer's contract and salary, pursuant to Recommendation 11 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
9. That staff **BE DIRECTED** to prepare a policy governing the process for Chief Administrative Officer performance appraisals pursuant to Recommendation 13 of the Ombudsman's Report for the Regional Council meeting held on January 23, 2020;
10. That staff **BE DIRECTED** to report to Regional Council regarding the implementation of Recommendations 4 (as it relates to recruitment committees apart from the CAO) 5, 7, 8, 10, 12, 14 and 15 for the Regional Council meeting being held on February 20, 2020; and
11. That Staff **BE DIRECTED** to report to Regional Council in six months' time on progress in implementing the recommendations of the Ontario Ombudsman Report "Inside Job" in accordance with Recommendation 16 of the Ombudsman's Report.

Key Facts

- The purpose of this report is to seek Council's approval for staff to take the necessary steps to implement the 15 recommendations provided in the Ontario Ombudsman Report "Inside Job" dated November 2019, and proposed timelines.
- Niagara Region currently has policies and practices related to some of the recommendations; however, staff are committed to reviewing and updating these items to ensure the Ombudsman's recommendations are satisfied.

Financial Considerations

The recommendations contained within the Ombudsman Report are primarily policy focused and do not have any direct financial implications apart from staff time to undertake the work.

Analysis

On November 29, 2019, the Ontario Ombudsman released his report titled “Inside Job” (attached as Appendix 1) respecting the investigation he conducted regarding the process Niagara Region undertook in the hiring of its Chief Administrative Officer (CAO); the administration of the CAO’s contract, including any extension and amendment; and Niagara Region’s response to concerns about the CAO’s hiring, including the municipal ombudsman’s investigation and the external governance auditor.

The Ombudsman put forward 15 recommendations within the report to address the issues that were identified as part of his investigation (and a 16th recommendation requiring Niagara Region to report back at six month intervals on progress in implementation of the recommendations).

Niagara Region currently has some policies in place that are relevant to some of the recommendations such as: Code of Ethics/Conflict of Interest, Accountability and Transparency, Delegation of Powers and Duties, Execution of Documents By-law, Records and Information Management Policy, Employment and Staffing Policy, and Information Access and Privacy Protection Policy. Staff will ensure, in light of the Ombudsman’s recommendations, that those policies are strengthened, supplemented and supported by training for consistent application.

In accordance with the recommendations of this report, staff will review what is currently in place and research best practices to ensure that new/updated policies, by-laws and practices are put in place, subject to Council approval, that satisfy the recommendations of the Ombudsman..

Pending the completion of the Provincial governance review and the Ombudsman’s Report into the 2016 CAO hiring process, the recruitment of a permanent CAO has been held in abeyance. Given that both of those matters have now been concluded Staff have proposed an expedited timeline to provide the policies and by-laws that the Ombudsman recommended be implemented that relate specifically to the CAO recruitment/role in order to allow those policies and by-laws to be approved by Council prior to a CAO recruitment process being initiated.

Alternatives Reviewed

No alternatives were reviewed.

Relationship to Council Strategic Priorities

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

Other Pertinent Reports

There are no other pertinent reports.

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk
Administration

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services, and Franco Meffe, Acting Director, Human Resources.

Appendices