
Subject: Update on Outstanding Recommendations from the Ontario Ombudsman Report “Inside Job”

Report to: Regional Council

Report date: Thursday, February 20, 2020

Recommendations

That Report CAO 4-2020 respecting Update on Outstanding Recommendations from the Ontario Ombudsman Report “Inside Job”, **BE RECEIVED** for information.

Key Facts

- The purpose of this report to provide Council with an update respecting the outstanding recommendations made by the Ontario Ombudsman in his report “Inside Job”.
- At its special meeting held on December 5, 2019, Regional Council considered Report CAO 17-2019 which directed staff to proceed with a number of actions related to some of the recommendations of the Ombudsman, most specifically those related to a Chief Administrative Officer recruitment.
- The report further directed staff to provide an update on the recommendations of the Ombudsman Report that did not require immediate action by staff.

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” respecting the investigation he conducted regarding the process Niagara Region undertook in the 2016 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 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 made in implementation of the recommendations).

Report CAO 17-2019, provided direction to staff to undertake work regarding the Ombudsman Report recommendations, specifically recommendations 1, 2, 3, 4, 6, 9, 11, and 13. As such, staff have already put forward reports respecting the above recommendations.

The remaining recommendations from the Ombudsman's report are listed below including proposed actions to be taken to address them.

Recommendation 4

The Regional Municipality of Niagara should ensure that the terms of reference it establishes for a recruitment committee provide for a complete list of the staff and officials permitted to access confidential information.

Action to be taken:

The above recommendation as it relates specifically to a CAO recruitment committee, has been addressed in a policy that was an appendix to Report HR 1-2020. A revised version of this report was considered by the Corporate Services Committee at its meeting being held on February 12, 2020, with a further revised draft to be considered by Council at its meeting of February 20, 2020.

Staff are cognizant of the fact that a recruitment committee could be struck for a position other than that of the CAO. In order to ensure that the concerns brought forward by the Ombudsman are addressed, Human Resources staff will be responsible to ensure that any terms of reference established for a recruitment committee will specify what staff and officials are permitted access to confidential information, will include the requirement for a signed confidentiality agreement and that anyone else requiring involvement in the process will need to be approved by the committee prior to being able to attend meetings or access meeting materials.

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 to be taken:

Staff will be bringing two new policies forward for consideration that deal with access to personal information in the coming months. These new policies will provide additional direction to staff with respect to what they are required to do to remain in compliance with the legislation. Additionally, to ensure the understanding of these expectations,

following approval of the policies, Clerk's Office staff will lead an education campaign targeted to take place throughout the Spring of 2020, to ensure all staff are aware of the policy changes and their individual obligations as defined therein. In addition, staff are considering the inclusion of the policies as part of the orientation/onboarding for all new staff.

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 to be taken:

Staff are currently working on a revised Code of Ethics policy in accordance with Recommendation 1 of the Ombudsman Report. As indicated in Correspondence Item CSC-C 4-2020, this policy will be brought forward for consideration at the March 11, 2020 Corporate Services Committee meeting. It would be appropriate that this policy would also include language around staff acting in accordance with the direction of Council and committees of Council. There are further 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 such as during orientation/onboarding of new staff and through the Region's intranet.

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 to be taken:

As this recommendation relates specifically to those staff in the Regional Chair's office, staff are committed to 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.

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 to be taken:

Staff are currently working on options to provide education on the proper use of corporate email and retention of corporate documents for both new and current staff and are considering the inclusion of provisions regarding this in either new or existing policies/procedures. Training for new staff will be undertaken as part of the onboarding process. Staff are currently examining options to provide refresher training to current staff.

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 to be taken:

This recommendation has been addressed as part of the policy included as an appendix to HR 1-2020 Revised with respect to the CAO employment contract. Legal Services staff are also currently in the process of reviewing 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 2020 that will include proposed wording responsive to this recommendation.

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 to be taken:

In order to ensure that any future appointments of a municipal ombudsman address the requirements noted by the Ombudsman, staff will begin researching best practices to implement a policy with standard terms of reference respecting the appointment of a municipal ombudsman. 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.

Recommendation 15

Before appointing or retaining external investigators, the Regional Municipality of Niagara should obtain information about their skills, experience, and availability, so that council can make an informed decision about their qualifications for the position.

Action to be taken:

This recommendation of the Ombudsman should be addressed by the preparation and submission to Council of a staff report upon the receipt of direction from Council that an external investigator be retained, prior to the appointment of an investigator by Council. The need for a staff report in this regard may be directed by Council or identified by staff as necessary.

Alternatives Reviewed

No alternatives were reviewed as these actions are being undertaken as a result of the Ombudsman recommendations.

Relationship to Council Strategic Priorities

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

Other Pertinent Reports

CAO 17-2019	Recommendations from the Ontario Ombudsman Report "Inside Job" November 2019
-------------	--

Prepared and Recommended by:
Ann-Marie Norio
Regional Clerk

Submitted by:
Ron Tripp, P. Eng.,
Acting Chief Administrative Officer

This report was prepared in consultation with D. Gibbs, Director, Legal and Court Services and F. Meffe, Director, Human Resources.

Appendices

Appendix 1

CAO 17-2019

page 7