

CANADA'S  
PUBLIC POLICY

**FORUM**

DES POLITIQUES PUBLIQUES  
DU CANADA

# The expanded mandate of the Ontario Ombudsman

JUNE 2016



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The Public Policy Forum works with all levels of government and the public service, the private sector, labour, post-secondary institutions, NGOs and Indigenous groups to improve policy outcomes for Canadians. As a non-partisan, member-based organization, we work from “inclusion to conclusion,” by convening discussions on fundamental policy issues and by identifying new options and paths forward. For 30 years, the Public Policy Forum has broken down barriers among sectors, contributing to meaningful change that builds a better Canada.

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ONTARIO'S WATCHDOG  
CHIEN DE GARDE DE L'ONTARIO

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## A letter from Darren Gilmour, Vice President of the Public Policy Forum



Throughout the industrialized world the parliamentary ombudsman helps protect the rights of citizens, and promotes transparency in governments and organizations. A robust ombudsman function greatly enhances the quality of a democracy. Ontario's ombudsman, like those in most Canadian provinces, has demonstrated its value in this regard for more than 40 years.

When the Ontario government passed the *Public Sector and MPP Accountability and Transparency Act* in December in 2014, it left more than 500 municipalities, universities and school boards with a broad range of questions. Known as Bill 8, the law subjects these organizations to the Ombudsman's oversight and investigative powers for the first time. What were they in for? How would the process work? What burdens and risks would it mean for them?

To help answer these questions, the Public Policy Forum partnered with the Office of the Ombudsman of Ontario to develop a consultation process for these new stakeholders. Because one of the hallmarks of an ombudsman's office is its independence, the project was an excellent fit for the Forum, which works with all levels of government and with actors throughout the private and public sectors to improve policy outcomes for Canadians. The Forum works "from inclusion to conclusion" by convening multi-stakeholder communities and moving toward meaningful common ground.

Through this project, we created space for many diverse stakeholders across Ontario to speak openly about the anticipated impact of the new legislation, and to engage with an oversight office with which they had had limited contact to date. The process allowed the Office of the Ombudsman to hear concerns from people apprehensive about its impending oversight, and to respond to these concerns. This was the "inclusion" portion of the project.

Throughout the winter of 2015-2016, the Office of the Ombudsman undertook engagement activities beyond the scope of our work together that you will learn more about in this report.

The process culminated in a conference in Toronto in February 2016 that convened new stakeholders and other oversight experts in the spirit of constructive conversation. The conference served as the "conclusion" of a year-long journey, and it was noteworthy in its forward-looking conversations that were not grounded in apprehension, but rather curiosity and possibility.

The Forum is grateful to Ontario's former Ombudsman, André Marin, who launched this project; to Rhonda Moore, the Forum's lead on the project; to Deputy Ombudsman Barbara Finlay, who served as Acting Ombudsman through most of the project; and to new Ombudsman Paul Dubé and the team at the Office of the Ontario Ombudsman, who have embraced its findings. We are also grateful for those leaders in municipalities, school boards, and universities who generously shared their time, and those who participated in the conference.

## A letter from Paul Dubé, Ombudsman of Ontario



It has been an honour and a privilege to become Ombudsman of Ontario at this historic time in the Office's mandate. Our jurisdiction has effectively doubled with the implementation of Bill 8, allowing us to help thousands more Ontarians and closing an oversight gap that existed in the broader public sector for more than four decades.

Today, in addition to more than 500 Ontario government organizations we oversee, our Office takes complaints about the province's 444 municipalities, 21 publicly funded universities, and 82 school boards and school authorities. As of May 2016, we had received more than 2,000 complaints from these new areas – many of which have been quickly and informally resolved.

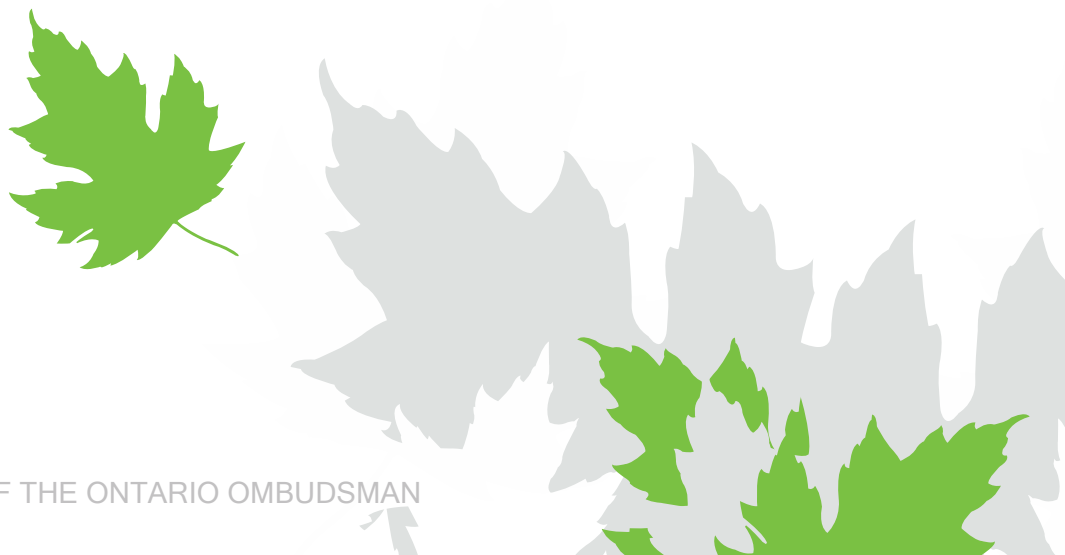
Finding simple, sensible solutions to bureaucratic issues – and resolving them at the lowest level possible – is what the Office of the Ombudsman does best. Explaining what we do to hundreds of new stakeholder organizations and millions of citizens is both a challenge and a priority. For officials at many municipalities, universities, and school boards, the prospect of Ombudsman oversight brought with it understandable concerns and fears of the unknown.

To assist in reaching these new stakeholders and to provide them a means to air their concerns openly and candidly, the Office of the Ombudsman engaged the Public Policy Forum to do what it excels at – convene the various parties for constructive discussion. The resulting consultations, roundtables and conference did just that, providing our Office with a wealth of feedback that we have used to shape our extensive communications and outreach efforts.

I have made it a priority to build trusting relationships with all our stakeholders, especially in these new areas of jurisdiction. The better communication and collaboration we have with our stakeholders, the more effectively we can serve Ontarians.

I am indebted to my predecessor André Marin for initiating this project and to Deputy Ombudsman Barbara Finlay, who oversaw it as Acting Ombudsman prior to my assuming office in April 2016. The briefing materials provided by Ms. Finlay, the Forum's Darren Gilmour and Rhonda Moore, and the Ombudsman senior staff who travelled the province to the roundtables were invaluable to me. I also would like to thank the ombudsman of Quebec and New Brunswick for sharing their expertise and insight for the benefit of our new stakeholders, as well as Rick O'Connor, Ottawa's Clerk and City Solicitor, Tony Brown, former Toronto District School Board general counsel, and Steve Orsini, Secretary of the Cabinet and Head of the Ontario Public Service, who reinforced the importance of local accountability mechanisms, and the shared goal of improving public services.

This project will continue to bear fruit as we proceed with work in our new jurisdiction. Our future interactions will be stronger for it.



## A letter from Steve Orsini, Secretary of the Cabinet, Head of the Ontario Public Service and Clerk of the Executive Council



On behalf of the Ontario Public Service, I would like to congratulate the Ombudsman's Office and the Public Policy Forum for convening an excellent conference on the *Expanding Mandate of the Ontario Ombudsman* and for their final report.

The role of the Ombudsman's Office in reviewing the performance of programs and services is more complex today than ever before. I applaud their efforts to confront these challenges head-on while simultaneously accepting a significant increase in their mandate as a result of the *Public Sector and MPP Accountability and Transparency Act, 2014*.

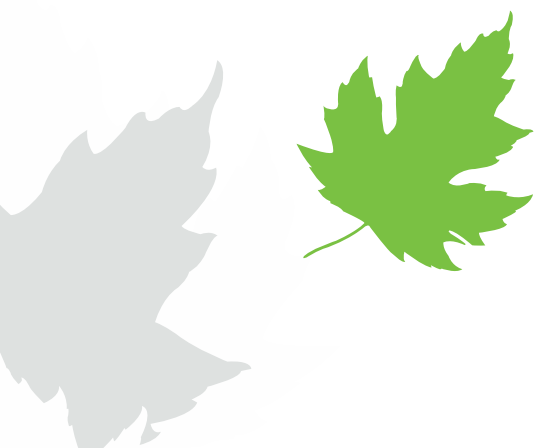
The future of the public service is designed around integrated, client-focused services that meet the needs of Ontarians. To achieve this vision, we must collaborate more closely within government, across governments, and with stakeholders outside of government — like our partners in the education, post-secondary and municipal sectors.

That is why the Ombudsman's Office is so vital for all Ontarians — to help ensure that governments are more accountable and responsive to the people they serve.

By focusing on the citizen, the public service will be more innovative, integrated and outcomes-focused.

Bill 8 sets a high standard for oversight across the public sector and is an important part of Ontario's commitment to being more open and transparent. It also strengthens political accountability, makes the business of government more transparent, and gives Officers of the Legislature — including the Ombudsman — more responsibility in their roles. The Bill also provides for greater oversight and accountability at broader public sector entities, ensuring tax dollars are spent wisely.

*The Expanding Mandate of the Ontario Ombudsman* is an important step forward in reinforcing our culture of accountability in the province of Ontario, and building positive relationships with our partners in the education, post-secondary, and municipal sectors. I commend the Ombudsman's Office and the Public Policy Forum for their excellent work in preparing this valuable resource material.



## Executive Summary

Transparency, accountability, and fair administrative processes are hallmarks of effective governance systems. The Office of the Ontario Ombudsman ensures that provincial government and public sector bodies develop and observe these values in delivering their programs and services. In doing so, the Office aims to improve government practices and processes for all Ontario citizens.

In December 2014, the Ontario Legislature passed the *Public Sector and MPP Accountability and Transparency Act, 2014*. This bill doubled the size of the Ombudsman's mandate, bringing under its purview Ontario's 444 municipalities, 21 publicly funded universities, and 82 school boards and school authorities.

This report details the consultation process undertaken in the subsequent 14 months by the Ombudsman's Office and the Public Policy Forum with stakeholders

from municipalities, school boards, and universities. It serves to mark the progress since the passage of Bill 8, to document the main messages that were shared, and to record the lessons learned as guidance for future engagements, communications and interactions between the Ombudsman's Office and broader public sector bodies.

### The challenge and the process

**Background:** The Ombudsman's Office investigates public complaints about provincial government administration and services and makes recommendations to improve governance, as well as to improve the delivery of programs and services to the public. It was established in 1975 by the *Ombudsman Act* as an independent office of the Legislature. Every year, the Ombudsman handles tens of thousands of individual complaints and conducts broad systemic investigations.<sup>1</sup> Although the Ombudsman's recommendations are not binding, they have been

<sup>1</sup> The Ombudsman's Office handled 193,038 individual complaints and conducted 35 systemic investigations between 2005 and 2015.

Expanding mandate of the Ontario Ombudsman conference speakers are (left to right): Rick O'Connor, City Clerk and Solicitor, City of Ottawa; Darren Gilmour, Vice-President, Public Policy Forum; Charles Murray, Ombudsman of New Brunswick; Laura Pettigrew, General Counsel, Ontario Ombudsman; Wendy Ray, then-Acting Deputy Ombudsman and General Counsel, Ontario Ombudsman; Raymonde Saint-Germain, La protectrice du citoyen du Québec; Steve Orsini, Secretary of the Cabinet, Head of the Ontario Public Service and Clerk of the Executive Council; Barbara Finlay, then-Acting Ombudsman of Ontario; and, Tony Brown General Counsel (retired), Toronto District School Board.





overwhelmingly accepted by government and have led to such significant reforms as improved security of the province's lottery system, fairer property tax assessments, and expanded screening for potentially fatal diseases in newborn babies.

The Ombudsman's initial mandate did not extend to the broader public sector, collectively referred to as the "MUSH" sector, which includes municipalities, universities, school boards, hospitals, long-term care homes, children's aid societies, and police. From 1975 onward, successive Ontario Ombudsmen and many other officials called for the Office's mandate to be extended to these areas. Between 2005 and 2014, there were 142 petitions and 16 private member's bills calling for Ombudsman jurisdiction over all or part of the MUSH sector. During this time, the Office turned away more than 10,000 complaints about these areas.

In December 2014, the Ontario government passed legislation extending the jurisdiction of the Ombudsman to municipalities, universities, and school boards – the M, U, and S of MUSH.<sup>2</sup> Under Bill 8, the Office began accepting, investigating and resolving complaints about school boards in September 2015, and municipalities and universities in January 2016.

With just nine months between the time Bill 8 passed and when its first provisions were to come into effect, the Ombudsman's Office moved quickly to launch a consultation process in order to build relationships with municipalities, universities, and school boards. The Office was allocated additional resources by the Legislative Assembly to handle the anticipated increased caseload, which it used to hire more staff with expertise in the new sectors. This also enabled the Office to conduct research, create new communications materials, and participate in relevant stakeholder conferences and speaking engagements around the province.

**Preparation and consultation:** The Forum partnered with the Ombudsman's Office to organize roundtable discussions with stakeholders in Ottawa, Toronto, Sarnia, Sudbury, Thunder Bay, and Sault Ste. Marie. Additional stakeholders were engaged by phone and email. The purpose of these consultations was to deepen the Ombudsman's understanding of each group's concerns and questions, and to share information about how the Office



Then-Acting Ombudsman of Ontario, Barbara Finlay addresses conference delegates on February 25, 2016.

works. The consultations also culminated in a one-day stakeholder conference in Toronto convened by the Forum and the Office of the Ombudsman in February 2016.

The background discussion paper prepared for the conference summarizes the key issues raised in the roundtables. It can be found at [ppforum.ca](http://ppforum.ca).

The conference was attended by more than 50 stakeholders – 16 directly representing municipalities, 22 from school boards and related affiliations, and the remaining from the Office of the Ombudsman, and provincial departments of housing and municipal affairs or education.<sup>3</sup> (The Office of the Ombudsman conducted a separate one-day symposium for university ombudsman offices and other university representatives in November 2015. All but one university was present at this event. Ombudsman staff have since met with officials

<sup>2</sup> The "H" part of the MUSH sector will be the responsibility of the new Patient Ombudsman, to be established within the Ministry of Health and Long-Term Care later in 2016. The Provincial Advocate for Children and Youth was given the authority to investigate children's aid societies as of March 1, 2016. Oversight of police services in Ontario has not changed.

<sup>3</sup> Due to the weather, 35 registrants were unable to attend the conference.

at that university as well.) Conference sessions offered participants information on how ombudsman offices work generally, how Ontario's Ombudsman works with provincial government bodies, and how the Office will operate in its new areas of jurisdiction. In addition to the then-Acting Ombudsman and members of the Office's executive team, featured speakers were Steve Orsini, head of the Ontario Public Service and Secretary of the Cabinet<sup>4</sup>, the Ombudsman of New Brunswick and Quebec (Mr. Charles Murray and Mme. Raymonde Saint-Germain), Rick O'Connor, City of Ottawa clerk and solicitor, and Tony Brown, former Toronto District School Board general counsel.

Participants also held group discussions where they offered suggestions on how the Ombudsman's oversight could assist them in improving transparent, accountable, quality service to the public in their communities.

**Ombudsman outreach:** In addition to its collaboration with the Forum, the Ombudsman's Office began and has continued with an extensive outreach campaign, to reach as many stakeholders in its new areas of jurisdiction as possible. It delivered 35 presentations to distinct groups in 2015 and more than 50 in the first half of 2016, covering various associations of municipal and school board officials across the province, as well as numerous other stakeholder groups.

The Ombudsman, Deputy Ombudsman and other Office representatives have spoken at and participated in all major municipal conferences so far in 2016, as well as workshops and meetings around the province. Those represented at these conferences include the Large Urban Mayors Caucus of Ontario, the Rural Ontario Municipal Association, Ontario Small Urban Municipalities, the Northwestern Ontario Municipal Association, the Federation of Northern Ontario Municipalities, the Municipal Integrity Commissioners of Ontario, the Ontario Municipal Administrators' Association, Association of Municipal Managers, Clerks and Treasurers of Ontario, and the Municipal Law Departments of Ontario.

In the school board sector, Ombudsman staff have engaged with such groups as the Ontario Public School Boards Association, the Ontario Catholic School Trustees' Association, the Association des conseils scolaires des écoles publiques de l'Ontario, the Ontario College of Teachers, the Ontario Public Supervisory Officers' Association, the Ontario Federation of Home and School Associations, and the Ontario Association of School Business Officials, as well as numerous parent groups, including People for Education, Parents partenaires en éducation, and the Ontario Association of Parents in Catholic Education. The Office is also working to meet directly with senior officials from every school board; meetings to date have included the district school boards in Toronto, Ottawa-Carleton, Thunder Bay, and York Region, and Catholic boards in Durham and the northern Aurores boréales and Grandes-Rivières districts.

In the university sector, Ombudsman senior team members and staff have spoken at and attended events representing such groups as the Ontario University Registrars Association, the Council of Ontario Universities, the Ontario Confederation of University Faculty Associations, the Ontario Federation of Students, the Ontario Undergraduate Students Association and the Canadian University Press.

The Ombudsman's Office hosted two free webinars focused on municipal and school board complaints in March 2016 based on stakeholder suggestions. Almost 300 people participated live, and the webinars remain available on the Ombudsman's website for viewing anytime. They explain how the Office works, the process for resolving complaints, and answer frequently asked questions.

Text and videos of the Ombudsman's speeches can be found here: <https://www.ombudsman.on.ca/Resources/Speeches.aspx>

The webinars can be found here (in English only; French versions will be offered in the near future):

For municipalities: <https://www.youtube.com/embed/Wjv3rZMyl7g>

For school boards: <https://www.youtube.com/embed/e82lbNLBkW4>

<sup>4</sup> Mr. Orsini's speech to the conference can be viewed on the Ontario Ombudsman's YouTube channel, here: <https://www.youtube.com/watch?v=tKFIbJMjN3I>

# The Way Forward

Throughout this project, the consultations by the Forum and the Ombudsman's Office provided stakeholders with opportunities to articulate their concerns, exchange information and ideas, and establish relationships for future interactions. From the wealth of constructive comments, questions and suggestions gathered, three main themes emerged: (1) Local resolutions and solutions; (2) Proactive communication; and (3) Improving governance.

## Local resolutions and solutions

Overwhelmingly, discussions throughout this process focused on clarifying the role of the Ombudsman as an office of last resort – a recourse for those who have exhausted existing avenues of complaint, not a replacement for local accountability mechanisms. The Ombudsman's Office emphasized – and has demonstrated, in its handling of most complaints received in all three new areas of jurisdiction to date – that it seeks to resolve complaints at the local level (i.e., through the existing mechanisms at the municipality, university, or school board in question) whenever possible.

In its outreach and communications, the Office has stressed that it encourages and welcomes the establishment of local accountability officers (e.g., ombudsman, integrity commissioners), codes of conduct, and clear complaint processes, so that complaints can be addressed at the lowest level possible. It also makes clear that the Ombudsman's role is to review administrative conduct and processes, to ensure they are fair and working as they should. The Ombudsman cannot overturn decisions and does not advocate for complainants or public sector bodies. However, the Office can recommend solutions to resolve administrative problems, or provide independent, impartial assurance that a body has responded reasonably to a complaint.

These principles – fundamental to how the Ombudsman's Office has always worked with provincial government bodies – will continue to be at the heart of the Ombudsman's interactions with stakeholders in the municipal, university, and school board sectors.

## Proactive communication

Stakeholders conveyed appreciation for the opportunity to learn how the Ombudsman's Office functions and what they can expect from the complaint process – particularly if they work for an organization that is the subject of a complaint. During the course of this project, the Ombudsman's Office created several new communications products, including brochures, presentations, posters, speeches, videos, and webinars, to explain its process and address questions raised by those consulted.

Participants requested statistics and details about the types of complaints received by the Ombudsman in their areas and relating to their particular organizations. The Ombudsman's Office has committed to working proactively with public sector bodies to flag significant complaint trends when warranted – as it does with provincial government bodies.

Since the fall of 2015, the Ombudsman's Office has shared statistics and trends with "MUS" stakeholders at outreach events and published examples of cases it has informally resolved in its monthly e-newsletter. Many more such cases and further information about complaint trends will be included in the Ombudsman's forthcoming Annual Report.

## Improving governance

A third theme emerging from this project was the common purpose shared by the Ombudsman's Office and its stakeholders: Ensuring high-quality and accountable services to the public.

Many organizations requested that the Ombudsman's Office develop materials in future to serve as guides for specific stakeholder groups, and for best practices in such areas as creating codes of conduct and complaint processes. It was also emphasized that the Ombudsman's Office is uniquely placed to assist with matters that are beyond the scope of local accountability mechanisms or individual organizations themselves; for example, systemic issues that extend across a particular sector, or that may even involve provincial bodies.

## Conclusion

The roundtables, conference, and other consultation activities convened by the Public Policy Forum provided the Office of the Ombudsman with the neutral, impartial, and credible platform it sought to initiate significant and lasting engagement with stakeholders in its new areas of jurisdiction. The Office of the Ombudsman has embraced the findings of roundtables, the conference, and other Forum consultations, together with the results of its own research and outreach, in its ongoing work.

Far from a “conclusion,” this report will serve as the first milestone in a continuing journey, in which the Office of the Ombudsman will build relationships with its new stakeholders as it seeks to resolve individual complaints at the local level and foster systemic improvements, and pursues its engagement and outreach strategies.



Tony Brown, General Counsel (retired), Toronto District School Board, facilitates a small group discussion of conference delegates on February 25, 2016.

# Notes



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