

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON JULY 26, 2016</b>
<b>FROM:</b>	<b>CATHY SAUNDERS CITY CLERK</b>
<b>SUBJECT</b>	<b>POLICY FOR PROCESSING ONTARIO OMBUDSMAN INVESTIGATIONS</b>

<b>RECOMMENDATION</b>
-----------------------

That, on the recommendation of the City Clerk, the attached proposed by-law (Appendix "A") to establish a policy for the processing of information pertaining to Ontario Ombudsman investigations BE INTRODUCED at the Municipal Council Meeting to be held on July 26, 2016.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
--

None.

<b>BACKGROUND</b>
-------------------

Municipal Council Meeting at its meeting held on March 22, 2016, resolved that:

- "c) the Ontario Ombudsman BE REQUESTED to put in place a process that publicly discloses that an investigation is being undertaken;
- d) the Ontario Ombudsman BE REQUESTED to confirm, in writing, that the municipality may publicly disclose that an investigation has been commenced and the general nature of the investigation; and
- e) upon receipt of the written confirmation requested in d), above, the Civic Administration BE DIRECTED to prepare a policy outlining the process that will be followed when the City of London has been advised by the Ontario Ombudsman that an investigation has been commenced and the process that will be undertaken by the City of London with respect to public disclosure of the Ontario Ombudsman's Final Report related to the closed meeting investigation."

### **DISCUSSION**

In response to the above-noted Municipal Council resolution, the Ontario Ombudsman provided the attached written response (Appendix "B"), dated May 12, 2016. In summary, the response indicates the following:

"Although the Ombudsman may choose to publicly announce an investigation in some cases, such as where there is a high degree of public interest or where persons directly affected may wish to come forward, the Ombudsman does not make a public announcement each time an investigation is launched. Should the City of London wish to publicly confirm that it has received notice of an Ombudsman investigation, there is nothing preventing the City from doing so."

The Civic Administration is also mindful of Section 18(2) of the *Ombudsman Act R.S.O. 1990 c.O.6* which states as follows:

"(2) Every investigation by the Ombudsman under this Act shall be conducted in private."

The Ombudsman's Office has confirmed this by indicating that "although the fact that a complaint has been received and an investigation is ongoing may be disclosed to the public, the Ombudsman's investigation itself is conducted in private".

In support of the Municipal Council's desire to be open and transparent, it is recommended that the proposed attached policy (Appendix "A") be put in place to provide for notifying the public when the City has been advised by the Ontario Ombudsman that an investigation has been commenced and for publicly releasing the Final Report of the Ontario Ombudsman with respect to an investigation.

It is noted that the City of London currently has an informal process in place with respect to the release of Final Reports from the Ontario Ombudsman whereby a Final Report is released to the public shortly after the Council Members have been provided with a copy of the Final Report. The Final Report is then placed on the next relevant Standing Committee Agenda to be considered and formally received. The proposed attached policy (Appendix "A") also formalizes the above-noted informal process that is currently in place.

<b>RECOMMENDED BY:</b>
<b>CATHY SAUNDERS CITY CLERK</b>

Attachments

## APPENDIX "A"

Bill No.  
2016

By-law No. A.-

A by-law to implement a new Council Policy entitled "Process for the public release of information pertaining to investigations being undertaken by the Ontario Ombudsman".

WHEREAS the Ontario Ombudsman is the closed meeting investigator for the City of London under 239.2 (1) of the *Municipal Act, 2001*, as amended;

AND WHEREAS the Council of The Corporation of the City of London wishes to put in place a Council Policy that provides for processes regarding the public disclosure of information pertaining to investigations being undertaken by the Ontario Ombudsman in accordance with the *Ombudsman Act R.S.O. 1990 c.O.6* ;

AND WHEREAS section 5(3) of the *Municipal Act, 2001*, as amended, provides that a municipal power shall be exercised by by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Council Policy entitled "Process for the Public Release of Information Pertaining to Investigations Undertaken by the Ontario Ombudsman" attached as Schedule "A" to this by-law, to provide for processes regarding the public disclosure of information pertaining to investigations being undertaken by the Ontario Ombudsman in accordance with the *Ombudsman Act R.S.O. 1990 c.O.6*, is hereby approved.
2. This by-law comes into force and effect on the day it is passed.

PASSED in Open Council on July 26, 2016.

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First Reading – July 26, 2016  
Second Reading – July 26, 2016  
Third Reading – July 26, 2016

## Schedule "A"

### **5(36) Process for the Public Release of Information Pertaining to Investigations Undertaken by the Ontario Ombudsman**

#### Notification of Commencement of an Investigation by Ontario Ombudsman

1. Upon written notification from the Ontario Ombudsman of the intent to commence an investigation related to a matter under the Ontario Ombudsman's jurisdiction, the City Clerk, or his/her designate, shall advise Members of Council of the investigation by email.
2. After Members of Council have been advised of the Ontario Ombudsman's intent to conduct an investigation, the City Clerk, or his/her designate, shall notify the public that the City of London has received notice of an Ombudsman investigation and the general nature of the complaint, by posting the information on the City of London's website.
3. In accordance with section 18(2) of the *Ombudsman Act R.S.O. 1990 c.O.6*, no further details of the investigation shall be released to the public, in order to uphold the legislated privacy requirements.

#### Receipt of Final Report

1. Upon receipt of the Final Report of the Ontario Ombudsman regarding an investigation, the City Clerk, or his/her designate, shall circulate the Final Report to Members of Council by email.
2. After Members of Council have been provided a copy of the Final Report, the City Clerk, or his/her designate, shall provide a copy of the Final Report to the public by posting the Final Report on the City of London's website.
3. The City Clerk, or his/her designate, will make the necessary arrangements to place the Final Report on the next available appropriate Standing Committee Agenda for formal consideration and receipt by the Municipal Council.