



**Ombudsman  
Saskatchewan**



**Public Interest  
Disclosure  
Commissioner**

# **Handling Code of Ethics Complaints the Right Way: Establishing a Good Complaint- handling Process**

SUMA Summer School  
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**1-800-667-9787**

# Today's Outline

- Ombudsman's role
- Legislation requires municipalities to have a process to deal with complaints under Code of Ethics
- Key elements of a good complaint-handling process
- Ombudsman's process when a complaint is received



# Ombudsman's Role

- An independent, impartial public official with authority to take, informally resolve or investigate complaints about government decisions and actions
- Has the power to make findings, recommendations and issue public reports
- Powers & duties: *The Ombudsman Act, 2012*
- Officer of the Legislative Assembly of Saskatchewan



# Who can the Ombudsman investigate?

- **Provincial** ministries, agencies, boards, tribunals and Crown corporations, Saskatchewan Health Authority, Saskatchewan Cancer Agency, and other publicly-funded health entities
- **Municipal entities** – cities, towns, villages, resort villages, rural municipalities, northern municipalities, their committees and controlled corporations
- **Municipal council members**



# What can the Ombudsman investigate?

- **Matters of administration** that aggrieve persons in their personal capacity, including any act, omission, decision or recommendation done or made “in the exercise of any power, duty or function conferred or imposed on them by an Act”
- Allegations of **conflict of interest or contravention of a code of ethics** by a council member



# Ombudsman's Role

- Reviews complaints and determines if legislation, bylaws, policies were fairly applied by the municipality when carrying out its duties
- Makes recommendations aimed at improving how municipalities carry out their role and duties
- An office of last resort – gets involved when a municipality has failed to address a problem



# Code of Ethics:

- Municipalities must have a *Code of Ethics* bylaw which applies to council members
- Code must set out the standards and values that council members must comply with when dealing with each other, municipal employees, and the public
- Code must include what is in the ‘prescribed model code’

# ***Must* have a Code of Ethics complaint process:**

- Code of Ethics must set out the process for dealing with contraventions of the code of ethics
- The prescribed code of ethics does not provide any guidance about how to set up a process to fairly and effectively deal with (receive, review, decide) complaints



# A good complaint-handling process:

- Is highly visible (everyone knows about it) and accessible (it is easy to make a complaint).
- Describes how to make a complaint.
- Establishes a fair, effective, responsive and efficient process for reviewing complaints and making decisions about them.
- Sets out the involvement of all parties.



# Highly Visible and Accessible

- Citizens should be aware of their right to complain about council member conduct.
- Promote the process: Information about the process should be clear and easily accessible at all times.
- Make information available on website or in brochures.
- Make sure staff knows how to direct someone to the process, and that staff know their role in the process.



# Highly Visible and Accessible

- Materials should answer these questions:
  - What can and cannot be complained about?
  - Who can complain? Fellow council members? Employees? Ratepayers? The public?
  - How are complaints made? To Whom? What information needs to be in a complaint?
  - How will a complaint be handled? Who investigates? When? How will the council make a decision about the complaint?
  - How will I be informed of the decision?



# Taking Complaints: Make it Easy

- Easy - no fees or other barriers
- In writing: by mail, fax, email, or in person
- To whom are complaints made? – the CAO? Council? An integrity commissioner?
- Dealing with complainants with special needs? 3<sup>rd</sup> party complaints? Anonymous complaints?

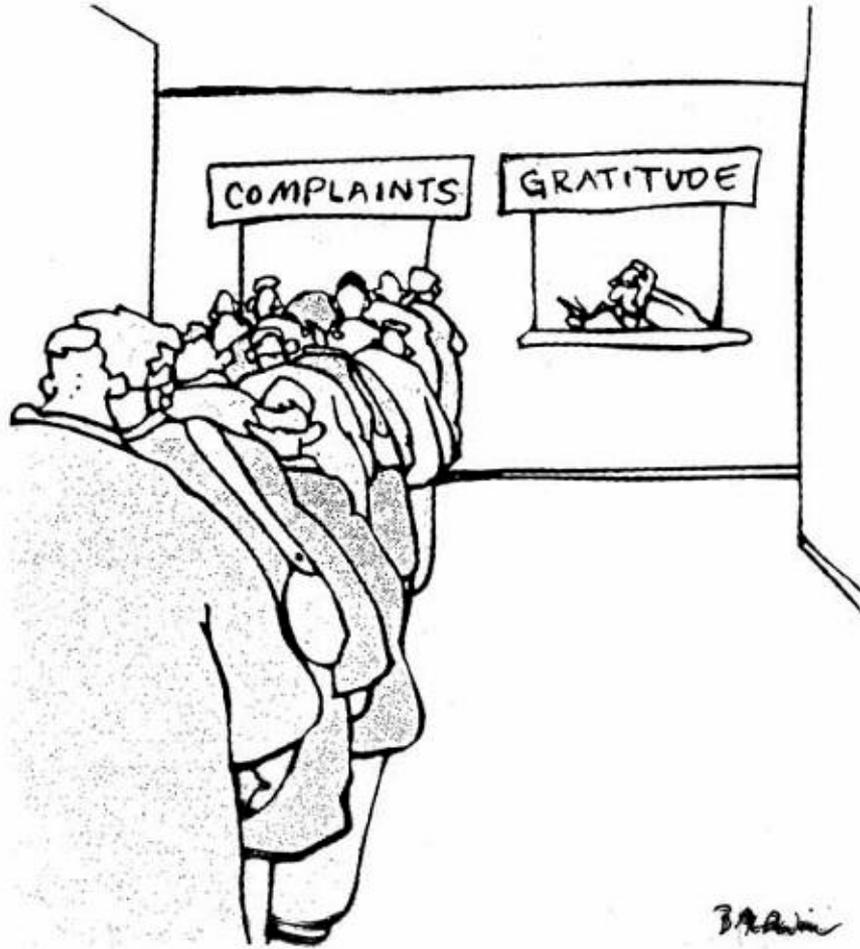


# Taking Complaints: Get the Facts

- Does a complaint form need to be filled out? Or, can a complaint be made verbally to someone?
- Get the facts:
  - Complainant's contact information
  - Name of council member and specific code standard/value that the council member is alleged to have contravened
  - Details: specific facts and circumstances that show the council member contravened the specific ethical standard
    - Dates, times, locations of conduct
    - Names, contact information and other details about every person involved and all other witnesses
    - All documents (letters, emails, meeting minutes, reports, policies, procedures, etc.) that the complainant has that are related to the circumstances of the complaint.



# Now what?



# A Fair Review Process

- Acknowledge receipt of complaint and describe the review process and timelines
- Should allow you to resolve complaints at the earliest point, if possible
- Complaints should be responded to quickly, investigated objectively, fairly and confidentially
- Every stage of the investigation should be fair



# A Fair Review Process

- Should give you the authority and ability to dismiss frivolous complaints expeditiously, if appropriate
- Keep good records. (i.e. for review by Ombudsman)
- Decision makers who follow a fair process are more likely to reach a fair and correct decision



# A Fair Review Process: Informal and Formal?

- Having both allows you to be flexible.
- Informal complaint process:
  - May be appropriate for some interpersonal relationship issues
  - 3<sup>rd</sup> party facilitator
- Formal complaint process:
  - In writing
  - Suitable if allegations are serious, or in dispute
- Have guidelines for what types of complaints are suitable for informal resolution.

17



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# A Fair Review Process: Procedural Fairness

- Ensure all relevant information is considered before deciding, and that no irrelevant information is considered.
- Everyone must be free from bias or reasonable perception of bias.
- Set out the information complainant will get, keep them apprised of progress, but respect confidentiality.
- State what will be reviewed with *in camera* (decisions cannot be made *in camera*).
- Ensure that a meaningful (i.e., clear and understandable) response is provided and they have an opportunity to ask reasonable questions and seek clarity (whilst respecting confidentiality, etc.).



# A Fair Review Process: Participation of the Council Member

- The council member complained about should not participate in the review of the complaint, including how it will be reviewed, or in the decision.
- However, procedural fairness requires that the council member has the opportunity to respond to the allegations before a final decision is made.



# Making a Decision

- Make sure all relevant information has been properly considered (and that irrelevant information is not considered).
- Are you providing reasons for making the decision that are understandable and stand up to scrutiny?



# Decision: If a complaint is founded

- If contravention of the Code of Ethics is founded – what is an appropriate sanction?
  - Should be reasonable and
  - Where appropriate, reparations should be made to complainants and others found to have been negatively affected by contravention of the code.



# Your Code of Ethics bylaw should be:

- Approved by council.
- Valued and supported by council and administration.
- Posted publicly.
- Note: Oath/Affirmation states that you have read, understand and agree to abide by Code of Ethics.



# When the Ombudsman Receives a Complaint

- If a person thinks the municipality did not handle their complaint reasonably, we might investigate.
- An investigation would focus on, for example, did the municipality:
  - Follow legislation and its code of ethics?
  - Consider the issues presented?
  - Use a fair process?
  - Review and consider all relevant information?
  - Provide reasonable reasons to support decision?



# Final thoughts

- Complaints are a gift!
- Important part of effective public governance.
- Set the right tone – it is council’s responsibility to ensure complaints are addressed fairly, efficiently and effectively.
- A key contribution council members can make is setting the right culture that truly values complainants and recognizes the role they play in improving municipal governance.
- Will provide feedback and learning for council members to improve and restore positive relationships with citizens who feel let down by poor governance.
- If handled badly, they erode public confidence and trust.





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**Thank you!**

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