







**Submission to Regulatory Registry Posting 24-MMAH025
Regarding Strengthening Codes of Conduct and Integrity Commissioner Framework**

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Association of Municipal
Managers, Clerks and
Treasurers of Ontario

 5090 Explorer Drive, Unit 510, Mississauga, ON L4W 4T9
 (905) 602-4294
 amcto@amcto.com
 www.amcto.com

Introduction

The [Association of Municipal Managers, Clerks and Treasurers of Ontario \(AMCTO\)](#) thanks the Province for the opportunity to provide feedback on proposals to strengthen and standardize a Code of Conduct and Integrity Commissioner Framework.

AMCTO represents excellence in local government, management and leadership. For over 85 years we have provided advocacy, education, accreditation, leadership and management expertise for Ontario municipal professionals. With over 2,200 members working in municipalities across the province, we are Ontario's largest association of local government professionals.

As the Province is aware, AMCTO has long called for changes to the code of conduct framework. We provided a presentation and [written submission](#) to the 2021 Provincial consultation built from on our first principle that protecting the health, safety and well-being of municipal staff, elected officials and the public is paramount. Since then, the sector has seen increasing incivility and incidents of harassment and political interference within the municipal public service.

AMCTO appreciates that the Integrity Commissioner of Ontario (ICO) has a wealth of expertise in supporting accountability and integrity within the Provincial elected official system as a Legislative Officer. We also note that there are several differences between the provincial system and the local government system, not the least of which is the number of governments and representatives across the provinces and the unique ways in which local governments operate.

Given this, we appreciate that there will be a steep learning curve for the Ministry of Municipal Affairs and Housing, the ICO, members of council, members of staff and the public within this new framework and the implications of the new system. It will be critical that all parties collaborate to identify the potential "growing pains" within a new framework and work through scenarios to determine how processes will be carried out.

Additionally, this new framework presents an opportunity for better education about what municipalities do, how they operate, the roles of members of council and the roles of staff in our local governments.

Bill 241, *Municipal Accountability Act, 2024*, which has died on the order paper due to the provincial election, was an important first step towards addressing the issues and concerns AMCTO and numerous others have flagged. We encourage the Province to take the view of continuous improvement and build on the proposals it has publicized to further strengthen municipal accountability frameworks.

Should a new bill be reintroduced in a new parliament, AMCTO may have additional comments.

Overall, to ensure any new frameworks are working as intended, the *Municipal Act* should be reviewed with the sector and the public more regularly.

Opportunities to Build More Accountability and Public Trust

Additional Penalties

While Bill 241 would have provided measures to deal with egregious cases of misconduct (where they meet the criteria for removal), existing penalties would have remained the same. Existing penalties do not appropriately assist with scenarios and behaviours that demand a stronger remedial sanction, but do not reach, and perhaps should reach, the high bar of removal set by the bill. Instead, they are limited to penalties currently provided in the legislation. Unfortunately, there have been cases wherein the existing two penalties have not adequately corrected or discouraged poor or bad behaviours. Other jurisdictions in Canada, such as Alberta and Nova Scotia, have Minister's regulations that set out a sanctions framework beyond that currently found in Ontario's *Municipal Act*. Any bill would benefit from an additional list of sanctions.

Protection for Staff

While much of the details of the new framework were expected through regulations, AMCTO is flagging the need to encourage stronger ties between the code of conduct and existing legislative employment standards related policies. For example, aligning the Council-Staff Relations (*Municipal Act*, Section 270 and *City of Toronto Act*, Section 212) with the *Occupational Health and Safety Act* policies regarding workplace harassment and violence, as well as the *Municipal Elections Act* requirement for Use of Corporate Resources (section 88.18).

Council, as the board of the municipal corporation, has a duty of care for the welfare and well-being of employees of the municipality, including fostering a welcoming, supportive and civil culture. The increasing incivility, harassment and political interference in the duties and responsibilities of municipal administrators is problematic and not only from a physical, mental and emotional well-being perspective. Municipal environments that are toxic and built on unchecked incivility also have implications from a recruitment and retention perspective. They may have financial and administrative impacts from increasing contractual obligations to difficulties in ensuring that qualified, non-partisan professionals with integrity choose to work for municipalities with poor reputations.

First and foremost, there must be adequate safeguards in place to ensure that workplaces are welcoming, supportive and safe, and when they are not, a better framework for ensuring that administrative leaders and staff have a place to turn for remedy when dealing with problematic members of council or local boards.

Considerations for a Model Code

As the Ministry considers what a model code could look like, we point to our previous recommendations that there should be more standards for what is included. While the *Municipal Act* (MA) and *City of Toronto Act* (COTA) regulations include some basic common elements, it would be beneficial for more criteria and standards to be included in the foundational elements of codes to ensure a more common framework while allowing some flexibility for local cultures. The model should be developed in cooperation with the municipal sector and with qualified integrity commissioners who understand the nuances of municipal government.

An intimate understanding of how municipalities, their municipal councils, local boards operate and how municipal staff interact within these structures is vital to ensure that the new framework is credible, accountable and reflects the realities on the ground. It would also be beneficial to ensure that the developers of the model code are also familiar with the employment standards requirements in Ontario.

Considerations for Training

We appreciate that the bill included AMCTO's recommendation to make education and training mandatory. We note however, that the bill did not specify what the penalty would be if a member does not attend/take the training and whether this would be a violation of the Code of Conduct. As we noted above, as sanctions/remedies have not been extended, and as the existing sanctions are insufficient, a mandatory provision without adequate enforcement is ineffective. How the mandatory training will be enforced should be outlined.

With respect to municipal integrity commissioners (MICs), additional clarity is needed with regards to whether:

- current MICs with contracts would continue should the changes brought by a bill be in place by Fall 2026 or whether they would need to be re-appointed.
- the MICs would be required to take training before being appointed by a municipality and whether training would be ongoing.

Considerations for the Proposed Integrity Commissioner Framework

While AMCTO's previous recommendations advised that recruitment and retention of Integrity Commissioners should not live with Council, the bill unfortunately kept this with council. If the intention of the Ministry is to keep this with council despite calls for a different approach, then AMCTO suggests establishing a roster of qualified integrity commissioners from which council selects a municipal integrity commissioner (MIC). The roster should be established and kept by the Integrity Commissioner of Ontario (ICO) based on established criteria for qualification.

With respect to recruitment, proposed subsection 223.3.1(1) paragraph 1 of the proposed bill states:

223.3.1 (1) *The Integrity Commissioner of Ontario shall perform the following functions:*

1. *Advise municipalities, on request, about the independence of a person being considered for appointment as a Commissioner, including whether the person has a conflict of interest.*

AMCTO is interested in what the Ministry proposes the form of this request will take. For instance, on whose request is this advice made (e.g. the Head of Council, council as a whole, etc.)? What form must this request be in (e.g. council resolution)? From an operational perspective, understanding what the ICO's service standards are for replying to these requests will be helpful.

Consideration will also need to be given to scenarios in which a "strong mayor" might try to influence this process. This is why it may be preferable that there is a mechanism through which qualifications of an IC are identified and independently verified as we suggest above. AMCTO remains concerned that the IC process is not independent from council.

With respect to the new regulations in proposed amendments to section 223.4, regarding requirements, standards and processes, AMCTO appreciates the Ministry responding to our request for standardization of inquiries particularly as a potential solution to manage costs. We remain interested in understanding how complaints will be submitted, and which complaints can be refused. AMCTO called for clarifying the ability of the Integrity Commissioner to dismiss frivolous requests and find informal mechanisms for resolution and the proposed subparagraph b of this section for regulations prescribing the types of complaint which may be refused may respond to our recommendation.

Considerations for the New Proposed Role for the Integrity Commissioner of Ontario

Proposed subsection 223.4.0.1 (1) states:

223.4.0.1 (1) *On completion of an inquiry conducted under section 223.4, the Commissioner may make a recommendation to the Integrity Commissioner of Ontario that the seat of a member of council or of a local board be declared vacant if the Commissioner is of the opinion that all of the following criteria are met:*

1. *The member has contravened the code of conduct.*
2. *The contravention is of a serious nature.*
3. *The member's conduct that is the subject of the inquiry has resulted in harm to the health, safety or well-being of any person.*
4. *The penalties set out in subsection 223.4 (5) are insufficient to address the contravention or to ensure that the contravention is not repeated.*

AMCTO agrees that there needs to be a high bar for the removal of a member of council. However, there are some concerns that the criteria for evaluating whether a seat should be declared vacant are subjective. For instance, with respect to subparagraph 4, it is unclear what "serious nature" constitutes and what information the MIC is expected/required to submit to prove

this point.

Given this, MICs may be apprehensive about invoking this measure. Without also providing additional penalties and remedies as AMCTO and others recommended, there is a perception that other egregious behaviours such as acting unethically or fraudulently, matters of incivility and interference with professional duties do not warrant stronger remedy. We raise these issues as they may have implications for whether these provisions will work as intended in practice.

Proposed subsection 223.4.0.2 (1) authorizes the ICO to conduct an inquiry to determine whether a member's conduct meets all the criteria. For operational purposes, it would be helpful to understand what the service standards are for the length of the investigation and the report are back to council. There are some concerns about the length of this process given it creates the need for two inquiries. It could be further lengthened if a member subject to the investigation were to request a judicial review which would lead to a third "inquiry". This lengthy process requires witnesses and the complainant to be interviewed multiple times. In cases of harassment, this could be very challenging and perhaps traumatic for complainants and witnesses.

Practically, AMCTO is also interested in understanding whether the costs of ICO investigating local matters will be covered by the existing or increased budget of the ICO or whether the municipality will be responsible for paying these associated costs.

There does not appear to be a provision that would require the MIC, before seeking ICO investigation, to provide notice to council of their decision or requirement to publish reasons for utilizing the ICO, similar to the requirement when applying to a judge for an *Municipal Conflict of Interest Act* (MCIA) complaint.

The proposed legislation also creates a separate process from what is defined under the MCIA wherein a Superior Court judge makes the decision to declare a seat vacant.

With respect to subsection 223.4.0.4 (5), AMCTO is interested in understanding how this resolution was arrived at as there are two competing interests within this bill:

On one hand, one may assume that given the deliberative powers provided to council in this updated framework, that by voting no to removal, the member is deemed to be not in violation by their peers and so reconsideration of other penalties is moot.

On the other hand, this approach could appear to be inconsistent with the whole purpose of the proposed bill because:

- a) Despite providing council with the ultimate authority to remove their peer, this clause would limit the ability of members of council as individual decision-makers, to impose other penalties where they may be opposed to removing the member, particularly as this would be their first opportunity to do so in this two-investigation process.

Whereas, if the MIC opts not to make a recommendation to the ICO, then the current process would take place, and council would have the authority to impose penalties. Further, at this stage in the process, two independent accountability officers have determined that the matter is serious enough to warrant removal. Despite this, if one

council colleague does not agree with removal for whatever reason, the member avoids a penalty and;

- b) Moreover, it limits the complainant's ability to seek an appropriate remedy which could give the perception that the complainant was not able to hold someone accountable for their actions and that the process lacks fairness.

Clarity for Implementation

There are several other practical questions for implementation that the sector would appreciate clarity on either through legislative update or through the proposed regulations or guidance. Below are recommendations for additional clarity.

1. While the framework was proposed to be in force with the next term of council, more details will be needed as to whether there are any lingering investigations/reports that for one reason or another were not completed or did not come before council for decision even prior to the municipal nomination and election period in 2026.
2. Similarly, as noted above, AMCTO members have advised that there is a problematic connection between the *Municipal Act* and *Municipal Elections Act* (MEA) with respect to MIC investigations and getting them before council. Presumably, this would extend in the new framework to the ICO as well. An enforcement mechanism is required to ensure that a report must be brought forward in a timely manner so that investigations and reporting are fulfilled to avoid scrutiny. The process should prevent any party from causing delay and should apply to existing processes and the newly proposed processes. In establishing a mechanism, it would protect the integrity of the investigative process and accountability for infractions of the code while at the same time, avoiding the perception of interference with electoral processes.
3. Proposed subsection 223.4.0.3 (2) mentions receiving the report made by the ICO. Further clarity is needed on the definition of 'received' and by whom. If it is intended to be council receipt as per an agenda item, what mechanism is in place to ensure that an item is brought forward and that a council does not refuse to receive the item. While subsection 223.4.0.4 (1) specifies that a council shall vote, there could be future scenarios wherein a council or bloc of members of council withhold consideration by not meeting within 30 days despite the requirement to do so.

The proposed legislation does not contemplate penalties for failing to consider the report within the stated timeline and perhaps it should. As noted above as well, AMCTO is interested in understanding how scenarios where a strong mayor is the subject of such a recommendation would play out. Investigating for whether gaps or loopholes that may allow a "bad actor" strong mayor to influence this process through their existing powers and create voting blocs on council to avoid a unanimous vote should be considered.

4. Clarity is needed as to whether excluded members who are absent with leave request, where

a bylaw has been passed, appoint a proxy as per 194.1 and 243.1 despite subsection 223.4.0.4 (3).

It should be noted that the list of members who are excluded from taking part in a vote to declare a vacant seat references a member who has a pecuniary interest, but such matters might require adjudication. It should be clarified that this would include any member who has self-declared a conflict, as well as any member who has been found to have a conflict by a judge (or possibly by a commissioner).

Further consideration should be given to scenarios wherein if a member is not present at the meeting but does not have a resolution from Council authorizing the absence, and the repercussions that could bring forward.

5. With respect to subsection 223.4.0.4 (4) wherein a member subject to the recommendation may take part in the discussion of the matter, AMCTO assumes that this is to allow that member a measure of “due process” within a council deliberation. However, we can foresee scenarios where this could lead to significant disruption of proceedings. Moreover, AMCTO’s previous recommendations related to the review of the MCIA in 2015 still stand: we would recommend that the Ministry provide more clarity on the use of terms such as ‘pecuniary interest’.

With respect to subsection 223.4.0.4(7), clarity with respect to dual vacancies is appreciated. We note that it would be beneficial to bring forward additional clarity that when penalties per the listed sanctions are applied at either the local or upper tier level, these should also then apply at both tiers.

6. With respect to substituted section 223.24, in proposed amendments to COTA, the bill proposed to have the minister regulate a “restricted definition”. Whereas the MA 223.24 states that the minister can prescribe the definition of “local board” for purposes of definition in section 223.1, clarity on the Ministry’s intention for definition differing between COTA and MA would be appreciated.

AMCTO has called on the Government to generally clarify the definition of “local board” to provide consistency across Acts. Any new regulation should not add to the existing murkiness of the definition.

Conclusion

AMCTO appreciates the opportunity to provide feedback to inform a new bill for the next parliament expected after the 2025 Provincial election as well as to provide additional considerations for any regulation development that may be contemplated.

We were pleased to see a bill come forward to deal with bad actors and appreciate the consideration the Ministry has given to constitutionality. However, we would request that the Ministry, along with other Provincial stakeholders consider the feedback AMCTO has provided to bring additional improvements to this framework as there are a number of potential impacts,

implications and unintended gaps that could come from implementing the bill as it was introduced.

Should the previous bill be reintroduced, going forward the sector would appreciate collaborative engagement, guidance and resources to provide clarity to areas that we have flagged in this submission, and to support the implementation of new legislative requirements.