



Title: Municipal Closed Meeting Investigation Policy	
Policy Group: Your Government and People	Policy Administrator: Corporate and Legislative Services
Resolution No.: CW-146-2022	Policy Number: CLS-04
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1. Policy Statement

- a) The County of Prince Edward (The County) is committed to ensuring that any request for an investigation under Section 239 of the Municipal Act, 2001 as amended (the Act) is dealt with in a fair, open and expeditious manner.
- b) Section 239.2(1) of the Act, allows municipalities to appoint a person to investigate, in an independent manner, complaints made to by any person as to whether the municipality or a local board or committee has complied with Section 239 of the Act and/or procedure by-law enacted pursuant to subsection 238(2) of the Act in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation.
- c) The investigator is completely independent and arms length from the County, and the municipality commits to full co-operation including the provision of all information requested by the Municipal Closed Session Investigator (Investigator) to assist the Municipal Investigator in their investigations.

2. Purpose

- a) The purpose of this Policy is to:
 - a) express the guiding principle that all council, committee and board meetings are public, except in certain specific circumstances;
 - b) a framework for closed meetings, including the calling, time and place of closed meeting, requirement to pass a resolution at an open meeting indicating that a closed meeting is being held and what the general nature of the matter to be considered is; and,
 - c) a process for receiving closed meeting investigations in a fair, open and expeditious manner.

- d) This policy applies to Council, to all local boards (excluding the Police Services Board and Public Library Board) and to committees of which at least 50 percent of the members are also members of Council or members of local boards.

3. Scope

- a) This Policy shall govern the actions of Council, local boards and committees;
- b) The actions of the Clerk, or Deputy Clerk and closed meeting investigator.

4. Legislative Authority

- a) This policy is subject to the following:
 - a) Sections 239(2) and 239(3) of the [Municipal Act, 2001, S.O. 2001, c. 25](#)
 - b) The [County's Procedural By-law](#) as it relates to rules of procedure for Meetings of Council and its Local Boards and Committees.
 - c) The Local Authority Services (LAS) Agreement with the closed meeting investigator.
 - d) The Ombudsman Act

5. Definitions

- a) **"Local Authority Services"** means an affiliate company of AMO, with independent governance through its own Board of Directors contracted by the County as the Municipal Closed Meeting Investigator and authorized to conduct investigations upon receipt of a complaint in respect of meetings or part of meetings that are closed to the public to determine compliance with the Act or the Municipal Procedure By-law and to report on the results of such investigations.
- b) **"local board"** section 1 of the Municipal Act Municipal Act, means a municipal services board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any act with respect to the affairs or purposes of one or more municipalities excluding a school board and a conservation authority". But Section 238, further states: "local board" does not include police services boards or public library boards".
- c) **"Clerk"** means the person appointed by Council under Section 228 of the [Municipal Act, 2001, S.O. 2001, c. 25](#).

- d) "**Committee**" Section 238 of the Act that "committee means any advisory or other committee, subcommittee or similar entity of which at least 50% of the members are also members of one or more councils or local boards".

6. Request for a closed meeting investigation complaint Procedure

- a) Prior to submitting a request for investigation, any member of the public is encouraged to discuss their concerns or inquiries with the Clerk.
- b) Members of the public, including corporations, may submit complaints to the Investigator relating to compliance with the Act or the Municipal Procedure By-law for meetings or part of meetings that are closed to the public. All complaints will be treated as confidential, unless authorization is given by the complainant to release their identity.
- c) All request for closed meeting investigations shall be submitted in writing, by delivery to the municipal Clerk in a sealed envelope or electronically via email confidentially, clearly marked as a request for a closed meeting investigation.
- d) All requests for a closed meeting investigation shall contain:
- Name of Municipality
 - Complainant's contact information
 - Date of Closed Meeting under consideration
 - Nature and Background of the particular occurrence
 - Any activities undertaken (if any) to resolve the concern
 - Any other relevant information
 - Direction with respect to release of identity
 - Original signature
- e) Upon receipt of a request for a closed meeting investigation, the Clerk or Deputy Clerk shall:
- Take all measures to ensure the request remains and its contents remain confidential.
 - Assign a file number and record file number on the file.
 - Log the file number together with the date and time received.
 - Forward, forthwith to the Municipal Investigator by mail or electronically.
- e) For all request for investigations the municipality shall supply forthwith the following or any other information or documentation as requested by the Investigator related to a complaint. This checklist of material required for each investigation is standardized and designed to minimize investigation costs and ensure the credibility of the investigation process. The checklist includes but not limited to:

- The original request for an investigation;
- A certified copy of the municipal procedure by-law and, if applicable, the procedure by-law for the local board;
- A certified copy of the municipal notice by-law and, if applicable, the notice by-law for the local board;
- A certified copy of the agenda with all relevant attachments or handouts relating to the meeting(s) in question, including any closed meeting materials;
- A certified copy of the notice given for the meeting(s);
- A certified copy of the minutes of the meeting(s);
- A certified copy of any audio or audio-visual recording of the meeting(s);
- A certified copy of any duties assigned by the municipality to the investigator;
- A certified copy of the municipality or local board's investigation request or complaint procedure or protocol under s. 239.1 of the *Municipal Act, 2001*;
- A contact list for all members of the council, local board or committee about which the request is made and for all other persons present at the meeting(s), including mailing and email addresses and telephone numbers;
- Such other information or documentation that the Clerk deems relevant

7. Duties of the closed meeting investigator

- a) An investigator is given significant powers to carry out its investigation, including the powers set out in s. 19 of the *Ombudsman Act*, including the authority to summons any person and examine them under oath, and to require any officer, employee or member of a municipality to provide such information and to produce such documents or things that the investigator requires. The investigator acts independently; neither the municipality nor the requester can direct or dictate the investigator's actions in an investigation.
- b) An investigator is given significant powers to carry out its investigation, including the powers set out in s. 19 of the *Ombudsman Act*, including the authority to summons any person and examine them under oath, and to require any officer, employee or member of a municipality to provide such information and to produce such documents or things that the investigator requires. The investigator acts independently; neither the municipality nor the requester can direct or dictate the investigator's actions in an investigation.
- c) The Act provides in section 239.1 that the mandate of the investigator is to determine whether a municipality or local board has complied with section 239 or the procedure by-law of the municipality or local board. The LAS

program reviews only the procedure as it relates to the acceptability of a closed meeting and not the issue at hand in the complaint.

8. Report

- a) The time spent on conducting an investigation will depend on a number of factors. depending on the complexity of the situation, the number of persons to be interviewed and the organization of interviews by the Review Office and the municipality.
- b) The Municipal Act, 2001 imposes a duty of confidentiality on every person involved with the Investigation. This duty prevails even over the Municipal Freedom of Information and Protection of Privacy Act.
- c) Upon completion of the investigation, if the appointed investigator is of the opinion that the meeting in question, or part of it, appears to be closed to the public contrary to s. 239 of the Act or the municipality's procedure by-law, the investigator shall report their opinion and the reasons for it to the municipality or local board, as the case may be, and may make such recommendations as the investigator thinks fit pursuant to s. 239(10) of the Act.
- d) The final LAS report of the Investigator will be made available to the public, in a manner determined by the Clerk in collaboration with the CAO.

9. Responsibility and Implementation

- a) Council shall:
 - a) approve this Policy and participate in requests, as applicable for closed meeting investigation.
- b) The Chief Administrative Officer (CAO) is responsible for
 - a) directing compliance and resolving any conflicts with this Policy.
 - b) approving any procedures.
- c) The Clerk, or Deputy Clerk shall:
 - a) be responsible for the administration, training and implementation of the policy.