

NEWMARKET OMBUDSMAN



ADR Chambers Ombuds Office

2016 ANNUAL REPORT

TABLE OF CONTENTS

Introduction.....	Page 3
What We Do.....	Page 4
Ombudsman Process.....	Page 6
Investigations.....	Page 7
Statistics.....	Page 8
ADR Chambers Contact Information.....	Page 10

INTRODUCTION

The Ombudsman is in place to help people who have had problems with the delivery of municipal services.

The Office of the Ombudsman mandate is to impartially and confidentially investigate complaints from residents about the services provided by the Town, when all other efforts to resolve the issue have failed. We are involved in conflict resolution, prevention and change. We attempt to reach a resolution, often through recommendations or mediation.

In order to resolve problems, our office deals directly with city staff and people who bring complaints to us, often using mediation. In some cases, we will undertake an investigation to determine if a recommendation is warranted to deal with a complaint. We also conduct systemic investigations, if we see trends and patterns in the complaints or if we otherwise identify an issue requiring this.

The Ombudsman's office is neutral and does not advocate for either the complainants or the municipality. It provides a resource and an opportunity for individuals to have their complaints heard and dealt with after the municipality has not in their view dealt with their complaint. Our investigations also save money by ensuring that municipal services run efficiently and quickly.

ADR Chambers Ombuds Office was appointed as the municipal ombudsman for Newmarket effective March 1, 2016, through February 29, 2020. As Newmarket's municipal ombudsman, ADR Chambers Ombuds Office investigates in an independent manner any decision or recommendation made, or act done or omitted in the course of the administration of the Town of Newmarket.

ADR Chambers Ombuds Office is headed by the Ombudsman, Marshall Schnapp, who has both a legal background and extensive training and experience in dispute resolution. The Ombudsman is supported by a Deputy Ombudsman, administrative staff, and a roster of experienced investigators, who also have experience in law, dispute resolution, and complaint handling municipal matters.

ADR Chambers Ombuds Office and its staff act in compliance with accessibility, privacy legislation, obligations of confidentiality and applicable codes of conduct.

WHAT WE DO

ADR Chambers Ombuds Office reviews complaints brought by members of the public about the Town of Newmarket. If a complainant is dissatisfied with the provision of services, a decision or recommendation made by the Town in the administration of municipal services, and the complainant has gone through the Town's internal complaint system and is not satisfied with the outcome, they may escalate their complaint to the ADR Chambers Ombuds Office. People may contact our office by phone, online and through the mail.

We investigate complaints with a view to resolving them either by agreement among the parties, or by issuing a report with analysis and recommendations. Investigations are conducted in private and are confidential as between the parties. ADR Chambers Ombuds Office strives to ensure that all investigations it performs are conducted in a fair, neutral, independent and confidential manner while respecting the rights and time constraints of the individuals involved.

Types of Complaints

The types of complaints that may be submitted by complainants are varied, including complaints about the denial of services or the failure to provide a proper quality of service; complaints that the Town has made a decision that is not within their legal power to make; complaints that the Town has not followed the appropriate procedures in reaching a decision; and complaints that the Town has failed to take a certain action that it is required to take under its rules, procedures or by-laws.

Process

Upon receiving a complaint, ADR Chambers Ombuds Office first considers whether it has the jurisdiction to investigate the complaint.

Situations where ADR Chambers Ombuds Office Will Not Investigate

There are certain matters that are not within our mandate to investigate. These include:

- Matters that are not within the exclusive jurisdiction of the Town of Newmarket
- Matters that are in litigation
- Matters that fall within the jurisdiction of the Town's Closed Meeting Investigator, Integrity Commissioner or Auditor General
- Matters that are related to labour and employment matters
- Matters for which there is a right of appeal, under an Act, to a court or tribunal, unless this right has been exercised or the time to exercise this right has expired

We may also not investigate where a complainant has not exhausted the Town's existing complaints process or where more than 12 months have elapsed from the completion of the Town's complaint process, unless the Complainant can establish that there were exceptional circumstances justifying the delay.

There are other circumstances where we may decide not to investigate, such as cases where the subject matter of the complaint is trivial or the complaint is frivolous or vexatious, or where we believe that it is highly unlikely that an investigation would yield a different conclusion than the Town.

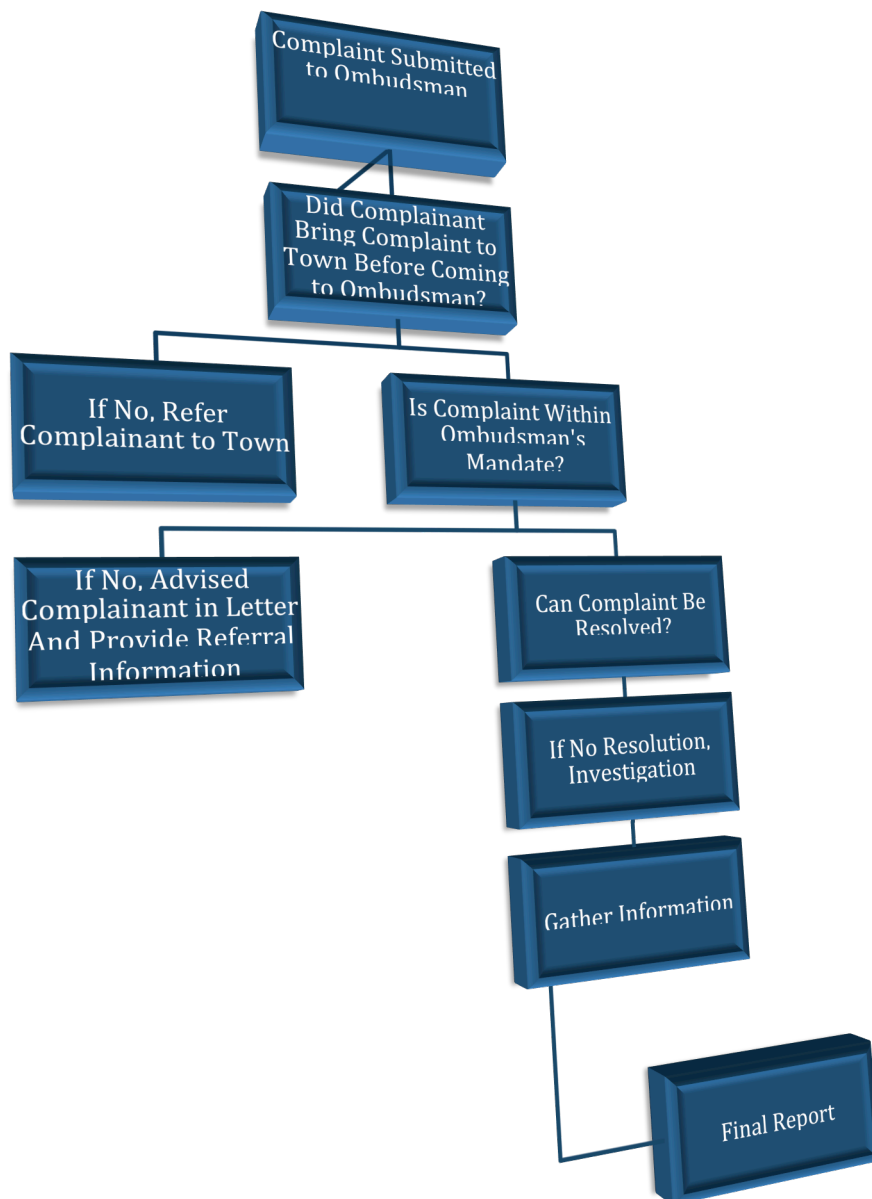
If ADR Chambers Ombuds Office does not investigate a complaint for one of the above reasons, the complainant will be notified of this decision and reasons will be provided. Whenever possible, referral information will also be provided.

Complaints Within ADR Chambers Ombuds Office's Mandate

In cases where ADR Chambers Ombuds Office decides that it has the mandate to investigate, the Complainant and the Town are informed of the decision and the file is assigned to an investigator. The investigator reviews the file and first considers whether a mediated resolution might be possible. Where possible, the investigator will seek to facilitate a resolution. Where no resolution is achieved, the investigator will proceed to gather information and ultimately draft a report containing a description of the complaint, the Ombudsman's findings, and a conclusion and recommendation. Recommendations seek to achieve a satisfactory resolution of the complaint, however, all recommendations are non-binding.

Draft reports are submitted to the Ombudsman, who reviews the reports, along with another senior staff member. The reports are then circulated to both the complainant and the Town, who are invited to provide comments. The Ombudsman and the investigator consider the comments and make any necessary changes to the report. The final report is then provided to both parties.

OMBUDSMAN PROCESS



INVESTIGATIONS

ADR Chambers Ombuds Office received 11 contacts regarding complaints about the Town of Newmarket. 10 of those complaints were from members of the public, while 1 was from a business.

To date we have completed one investigation. A citizen of Newmarket complained that Newmarket staff erred by taking it upon themselves to investigate a Code of Conduct issue that was raised by the Complainant and that they should have referred to the matter to Newmarket's Integrity Commissioner.

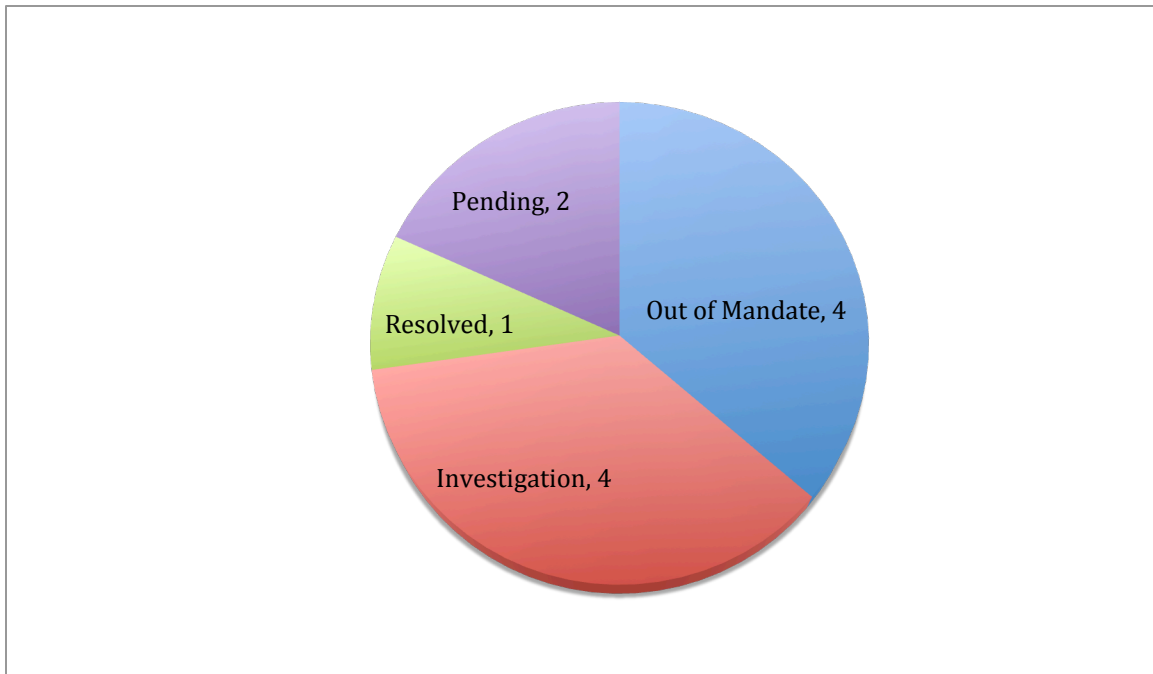
After conducting an investigation the following findings were made. The applicable By-Law allows for any person, Member of Council or Council to submit a complaint to the Integrity Commissioner, so the complainant did not need to seek action by Newmarket as an intermediary. Additionally, the By-Law did not give Newmarket staff the ability to initiate a complaint on behalf of Newmarket. Staff could bring an issue to the attention of Newmarket Council, but there was nothing in the By-Law compelling them to do so in such circumstances. The recommendation contained in the final report was that the Town of Newmarket did not need to take any further action concerning the complaint.

There were three active investigations at the time this Annual Report was published.

Complaints were also received regarding a number of various issues, including whether the Town erred when it reimbursed a Council Member's costs in relation to the construction of a website. One complaint related to a Councillor's refusal to meet with a complainant to allow the complainant an opportunity to review materials, which the Councillor had previously offered to share with any member of the public. Another complaint was about a two-month limitation period imposed on making complaints. There was also a complaint about zoning and site plan approval wherein the complainant alleged that it was misled, which resulted in significant costs and delays.

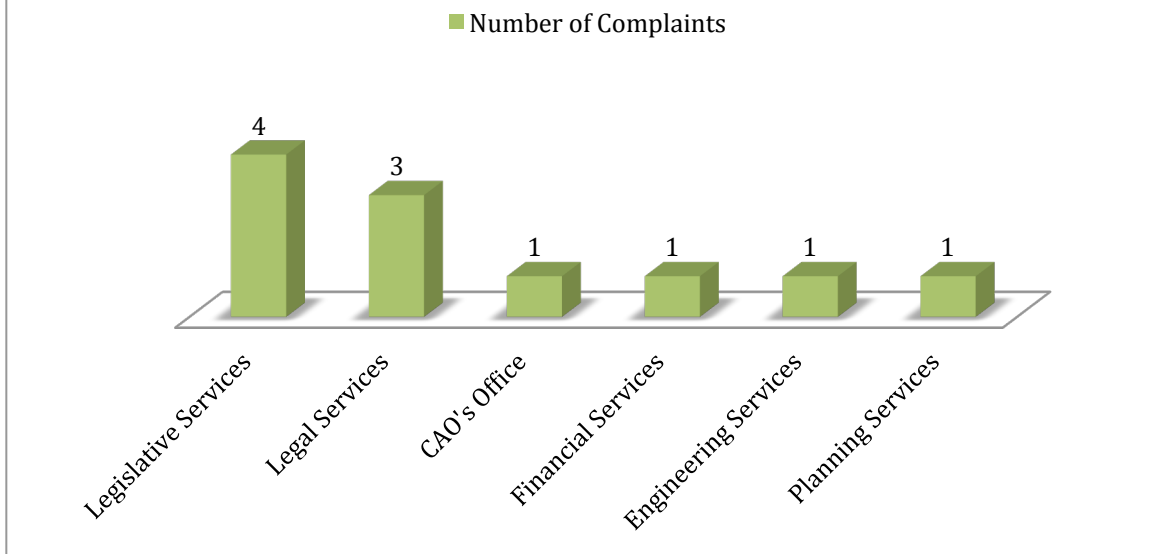
STATISTICS

Out of the 11 complaints made to our office, 4 involved complaints that were outside of our mandate and were referred elsewhere, 4 complaints were assigned for investigation, 1 complaint was resolved prior to being assigned for investigation, and 2 complaints are pending.



We received complaints about a number of different departments at the Town of Newmarket. Some of the complainants identified more than one department on their complaint form when selecting which department they were complaining about. The chart below indicates the number of times that each department was identified as the subject of a complaint.

Subject of Complaints



Out of the four files that were assigned for investigation, one investigation was completed at the time of publishing of this report. This complaint did not result in a recommendation that the Town of Newmarket take any action.

ADR CHAMBERS OMBUDS OFFICE CONTACT INFORMATION

Marshall Schnapp B.A, J.D., LL.M.
Ombudsman

ADR Chambers Ombuds Office

P.O. Box 1006, 31 Adelaide Street East, Toronto, ON, M5C 2K4

Tel: 1-844-235-4442 | Fax: 1-877-803-5127

Email: ombudsman@adr.ca www.municipalombuds.ca/



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