Ombudsman
ONTARIO

J. Paul Dubé, Ombudsman

BY EMAIL

November 11, 2025

London Transit Commission
c/o Skylar Franke, Chair
450 Highbury Avenue North
London ON N5W 5L2

Dear Commissioners of the London Transit Commission:

Re: Report – Office of the Ontario Ombudsman

I have completed my investigation into a meeting held by the London Transit Commission on February 28, 2024. Please find my final report enclosed.

In accordance with subsection 14.1(8) of the *Ombudsman Act*, the Commission should make my report available to the public, and we ask that this be done no later than the next Commission meeting. In accordance with subsection 239.2(12) of the *Municipal Act, 2001*, the Commission should pass a resolution stating how it intends to address this report.

Pursuant to subsection 14.1(9) of the *Ombudsman Act*, I will also post a copy of the report on my website at www.ombudsman.on.ca.

Sincerely,

Paul Dubé
Ombudsman of Ontario

CC: Kelly Paleczny, General Manager, London Transit Commission

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Ombudsman Report

Investigation into a meeting held by the London Transit Commission on February 28, 2024

Paul Dubé
Ombudsman of Ontario

November 2025

Overview

1 My Office received a complaint about a closed meeting held by the London Transit Commission (the "Commission") on February 28, 2024. The complaint raised concerns that the Commission's discussions about training from the City of London's integrity commissioner did not fit into any of the exceptions to the open meeting rules in the *Municipal Act, 2001* (the "Act").[1]

2 My investigation determined that the Commission's discussions during the February 28, 2024 closed meeting fit within the cited open meeting exception for personal matters about an identifiable individual. However, I determined that the Commission failed to include any descriptive information in its resolution to move *in camera* about the subject matter to be considered during the closed session.

3 My investigation also found that the Commission did not have a procedure by-law in place at the time of the closed meeting in February 2024. The Commission rectified this omission by adopting a procedure by-law in November 2024.

4 The Commission should ensure that all its meeting minutes are diligently recorded, including a detailed description of the substantive and procedural matters discussed.

Ombudsman jurisdiction

5 Under the Act, all meetings of council, local boards, and committees of either must be open to the public, unless they fall within prescribed exceptions.

6 As of January 1, 2008, the Act gives anyone the right to request an investigation into whether a municipality or local board has complied with the Act in closing a meeting to the public. The Act designates the Ombudsman as the default investigator for municipalities that have not appointed their own.

7 The Ombudsman is the closed meeting investigator for the London Transit Commission.

8 When investigating closed meeting complaints, we consider whether the open meeting requirements in the Act and the municipality's or local board's procedure by-law have been observed.

[1] SO 2001, c 25.

9 Our Office has investigated hundreds of closed meetings since 2008. To assist municipalities, staff, and the public, we have developed an online digest of open meeting cases. This searchable repository was created to provide easy access to the Ombudsman's decisions on, and interpretations of, the open meeting rules. Members of local boards and staff can consult the digest to inform their discussions and decisions on whether certain matters can or should be discussed in closed session, as well as issues related to open meeting procedures. Summaries of the Ombudsman's previous decisions can be found in the digest: www.ombudsman.on.ca/en/info-public-bodies-and-officials/municipal-government/municipal-meeting-digest.

10 The Ontario Ombudsman also has the authority to conduct impartial reviews and investigations of hundreds of public sector bodies. This includes municipalities, local boards, and municipally-controlled corporations, as well as provincial government organizations, publicly funded universities, and school boards. In addition, the Ombudsman's mandate includes reviewing complaints about the services provided by children's aid societies and residential licensees, and the provision of French language services under the *French Language Services Act*. Read more about the bodies within our jurisdiction here: www.ombudsman.on.ca/en/make-complaint/what-we-can-help-you/organizations-you-can-complain-about.

Investigative process

11 On September 20, 2024, my Office advised the Commission of our intent to investigate this complaint.

12 We reviewed relevant meeting materials including the agenda and minutes. At the time of the February 28, 2024 meeting, the Commission did not make audio or video recordings of its open or closed meetings. The Commission begun video recording its open meetings in September 2024.[2] After reviewing a preliminary version of this report, the Commission indicated to my Office that it intended to start audio or video recording its closed sessions in October 2025.

13 We spoke with the Commission's General Manager and interviewed all seven individuals who were members of the Commission at the time of the February 28, 2024 meeting.

14 My Office received full co-operation during this investigation.

[2] London Transit Commission, *Commission meeting agendas and minutes,* online: <https://www.londontransit.ca/agendas-and-minutes/>.

Background

15 The London Transit Commission is a local board created by a City of London by-law and is responsible for the operation and management of the City's local transit system.[3] The by-law creating the Commission provides that it is a local board under the *Municipal Act, 2001*. At the time of the February 28, 2024 meeting, and during our investigation, it consisted of seven Commissioners appointed by council, two of whom were members of council.[4]

February 28, 2024 meeting

16 The Commission's meeting on February 28, 2024 began at 5:00 p.m. and was held in person. All seven Commissioners and Commission staff were in attendance.

17 After discussion of the open meeting agenda items, the Commission passed a resolution to move into closed session citing three exceptions: Litigation or potential litigation, personal matters about an identifiable individual, and plans and instructions for negotiations. The resolution did not contain a general description of the issues to be discussed.

18 My Office confirmed that the three open meeting exceptions were cited for three distinct closed session items, two of which are unrelated to the matter raised by the complaint. The complaint to my Office pertains only to the matter closed under the exception for personal matters, described under an agenda item titled "Commission Meeting Protocols."

19 With respect to this matter, the closed meeting minutes state only that the Commission considered two motions: One proposing that the Commission receive training from the City of London's integrity commissioner, and one proposing to review whether the Commission should make audio or video recordings of its future meetings.

20 Several Commissioners told us that the discussion included specific comments about, and scrutiny of, the personal conduct of some Commissioners, who were identified by name during the discussion. We were told that these discussions referenced prior interactions between members of the Commission.

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[3] City of London, by-law No A-6377-206, *A By-law to continue the London Transit Commission* (29 June 2009) online: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=100777>.

[4] Our investigation began in September 2024. On April 1, 2025, council for the City of London adopted a by-law amending the Commission's membership, and all seven Commissioners serving at the time of the February 28, 2024 meeting were replaced by seven members of council, none of whom were part of the Commission at the time our investigation began.

21 In addition to the discussion about the conduct of identified Commissioners, my Office was told that the Commissioners discussed receiving training from the integrity commissioner. Many Commissioners told my Office that it was clear to them that the prior interactions between Commissioners were the basis for this discussion.

22 With respect to making audio or video recordings of Commission meetings, my Office was told that the Commission had discussed this topic frequently in the past, but as many of the Commissioners were new, the discussion may have been reignited by the recent interactions between Commission members. Most Commissioners explained to my Office that this topic was closely intertwined with the discussions about prior interactions between Commissioners and personal conduct. For example, one Commissioner told our Office that the recordings would allow the Commissioners to review past meetings to evaluate the tone and subject matter of their conversations.

23 After returning to open session, a motion to receive training from the integrity commissioner was defeated, while a motion to review the feasibility of making audio or video recordings of Commission meetings passed unanimously.

Analysis

Applicability of the exception for personal matters about an identifiable individual

24 The Commission relied on the exception for personal matters about an identifiable individual to discuss the merits of receiving training from the integrity commissioner, and to explore options for recording Commission meetings.

25 This exception applies to discussions that reveal personal information about an identifiable individual. To qualify as personal information, it must be reasonable to expect that an individual could be identified if the information were disclosed publicly.[5] Generally, the information must also qualify as personal; that is, not as professional information or information in a business capacity.[6] However, information may qualify as personal if it involves scrutiny or opinions of an individual's conduct.[7]

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[5] *Ontario (Correctional Services) v Goodis*, 2008 CanLII 2603 (ON SCDC), online: <https://canlii.ca/t/1vkb1>.
[6] Letter from the Ontario Ombudsman to the Township of Russell (8 August 2014), online <https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/municipal-meetings/2014/township-of-russell>.
[7] *South Huron (Municipality of) (Re)*, 2015 ONOMBUD 6 (CanLII), online: <https://canlii.ca/t/gtp80>.

26 During the closed session, the Commissioners discussed obtaining training from the City's integrity commissioner, and options to make audio or video recordings of future meetings. A discussion about the merits of receiving training from the integrity commissioner and the feasibility of recording Commission meetings would not normally reveal any personal information. This subject matter is not, taken independently, covered by the exception for personal information about an identifiable individual, nor would they normally fit under any other open meeting exception.

27 However, we were told that the *in camera* discussion included several references to, and commentary about, the personal conduct of Commissioners who were identified by name. Based on the information my Office obtained about the nature of this discussion, I am satisfied that the information related specifically to scrutiny and opinions of this conduct and therefore qualifies as personal information. As Commissioners were identified by name, they would have been identifiable to the public had the discussion taken place in open session.

28 Accordingly, the Commission's discussion about personal information relating to Commissioners who were identified by name qualifies under the cited exception for personal matters about an identifiable individual.

Parsing the discussion

29 In the past, my Office has found it unrealistic to parse a discussion between open and closed sessions when the topics of the discussion are significantly intertwined.[8] The Ontario Divisional Court has explained that it is unreasonable to expect subjects to be parsed where it would "detract from free, open and uninterrupted discussion."[9]

30 Many Commissioners told my Office that the discussions regarding the merits of receiving training from the integrity commissioner, recording Commission meetings, and the discussions about the personal conduct of Commissioners were intertwined.

31 Most Commissioners told my Office they did not believe that the discussions about personal conduct and the discussions about training and whether or not to record meetings could have been parsed. We were told that prior interactions

[8] Letter from the Ontario Ombudsman to Township of South Frontenac (29 September 2021), online: <https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/municipal-meetings/2021/township-of-south-frontenac>.
[9] *St. Catharines (City) v IPCO*, 2011 ONSC 2346 (CanLII), online: <https://canlii.ca/t/fkqfr>.

between Commissioners were the motivation for proposing training and considering the merits of recording Commission meetings.

32 In this case, the personal information was central to discussions about whether training was necessary, and the merits of recording Commission meetings. Parsing the discussion between an open and closed session would have detracted from a free and uninterrupted discussion.

Resolution to move into closed session

33 Subsection 239(4) of the Act requires local boards to pass a resolution prior to entering a closed session that includes the fact of holding a closed meeting, and the general nature of each matter to be considered at the closed meeting.

34 In *Farber v. Kingston*, the Ontario Court of Appeal noted that a resolution to go into a closed meeting "should provide a general description of the issue to be discussed in a way that maximizes the information available to the public while not undermining the reason" for proceeding into closed session.[10]

35 As I explained in a past report, publicly stating that a meeting will be closed and identifying what issues will be discussed in the closed session is not a mere procedural technicality. The purpose of this obligation is to enhance the transparency of local democracy and ensure that decision-makers are accountable when they discuss matters behind closed doors. Failing to comply with this requirement can result in a loss of public confidence in municipal governance.[11]

36 In this case, the Commission's resolution did not include information about the general nature of the subject matter to be discussed *in camera*. The resolution merely stated the open meeting exception the Commission relied on. My Office was told that the Commission did not typically provide additional information in its resolutions to close meetings.

37 There may be some instances where merely referring to the applicable exception satisfies subsection 239(4) but, in my experience, those cases are rare. Generally, it is possible to provide additional information in the resolution to move *in camera* without undermining the reason for the closed session.[12]

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[10] *Farber v. Kingston (City)*, 2007 ONCA 173.
[11] *Casselman (Municipality of) (Re)*, 2022 ONOMBUD 14 (CanLII) ["*Casselman*"], online: <https://canlii.ca/t/jrkx7>.
[12] *Casselman, supra* note 11.

38 In this case, the Commission's open meeting minutes described this item as "Commission meeting protocols." It could have included this description in its resolution to move *in camera* without disclosing any personal information about identifiable individuals or undermining the reason for closing the meeting.

Procedure by-law

39 Section 238 of the Act requires all local boards to pass a procedure by-law governing the calling, place and proceedings of meetings and providing for public notice of meetings.[13]

40 At the time of the February 2024 meeting, the Commission did not have a procedure by-law in place. My Office was advised that as of November 2024, a document titled "London Transit Commission Meeting Protocols" was adopted by the Commission as its procedure by-law.[14]

41 I commend the Commission for addressing this omission as required by the Act.

Closed meeting minutes

42 Subsection 239(7) of the Act provides that all resolutions, decisions and other proceedings that take place during a meeting must be recorded. This requirement also applies to closed meetings. In a report to the Town of South Bruce Peninsula, my Office explained that the minutes should include a detailed description of the substantive and procedural matters discussed.[15]

43 In this case, the minutes for the February 28, 2024 meeting lack details about the substantive discussions that took place, and my Office found only limited information about the discussions that occurred *in camera*.

44 As a best practice, the Commission should keep complete and comprehensive minutes of closed sessions in future. This practice helps members of the public feel confident that matters dealt with in closed session are appropriate for *in camera* discussion and that the requirements of the Act have been followed.

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[13] s 238(2.1).
[14] London Transit Commission Meeting Protocols: online: <https://www.londontransit.ca/wp-content/uploads/2024/11/LTC-Meeting-Protocols-2024-pdfa.pdf>.
[15] *South Bruce Peninsula (Town of) (Re)*, 2010 ONOMBUD 1, online: <https://canlii.ca/t/gttg6>.

45 The lack of information about the *in camera* discussion in the minutes was detrimental to my Office's review of this complaint. Had the Commission made an audio or video recording of the closed meeting, it would have greatly assisted in our review.

46 My Office has consistently recommended that all municipalities, local boards and committees of either make audio or video recordings of all meetings, both open and closed.[16] Many municipalities are opting to make audio or video recordings of closed meetings, including council for the City of London.[17] Audio or video recordings of closed sessions provide the most clear and accessible record for closed meeting investigators to review and assist in ensuring that officials do not stray from the legal requirements during the closed session.

Opinion

47 The London Transit Commission did not contravene the *Municipal Act, 2001* on February 28, 2024 when it discussed personal information about Commissioners in closed session. While the Commission's discussions about integrity commissioner training and making audio or video recordings of meetings did not fit within any of the exceptions on their own, they were intertwined with discussions that did fit within the exception for personal matters about an identifiable individual. I find that these discussions could not have been parsed without detracting from the Commission's free and open debate.

48 However, the London Transit Commission contravened subsection 239(4) of the Act by failing to state by resolution the general subject matter to be discussed in closed session.

49 The London Transit Commission also contravened subsection 238(2) of the Act by failing to adopt a procedure by-law at the time of this meeting. The Commission has since complied with the requirements of the Act by adopting a procedure by-law in November 2024.

[16] Bruce (County of) (Re), 2022 ONOMBUD 7, online: <https://canlii.ca/t/jpbf9>.
[17] City of London, by-law 74(b)-185, *Audio recording of municipal council and standing committee in closed session meetings policy* (22 August 2017), online: <https://london.ca/council-policies/audio-recording-municipal-council-standing-committee-closed-session-meetings> ; and Ontario Ombudsman, *2019-2020 Annual Report: Trends in cases – open meetings*, online: <https://www.ombudsman.on.ca/en/our-work/annual-reports/2019-2020-annual-report#Trends%20in%20cases%20%E2%80%93%20open%20meetings>.

50 To improve the accountability and transparency of its meeting practices, as a best practice, I encourage the London Transit Commission to ensure that in future, meeting minutes record the substance of closed meeting discussions.

Recommendations

51 I make the following recommendations to assist the London Transit Commission in fulfilling its obligations under the *Municipal Act, 2001* and enhancing the transparency of its meetings:

Recommendation 1
All Commissioners of the London Transit Commission should be vigilant in adhering to their individual and collective obligation to ensure compliance with their responsibilities under the *Municipal Act, 2001*.

Recommendation 2
The London Transit Commission should ensure that all resolutions to proceed *in camera* provide a general description of all issues to be discussed in a way that maximizes the information available to the public while not undermining the reason for excluding the public.

Recommendation 3
The London Transit Commission should ensure that, at all times, it has a procedure by-law in place governing the calling, place and proceedings of meetings.

Recommendation 4
The London Transit Commission should ensure that complete and accurate records are kept of all meetings, including closed meetings.

Recommendation 5
As a best practice, the London Transit Commission should make audio or video recordings of its closed meetings.

Report

52 The London Transit Commission was given the opportunity to review a preliminary version of this report and provide comments to my Office. All comments received were considered in preparation of this final report.

53 In its response, the London Transit Commission indicated that it was supportive of the recommendations I proposed and that it intended, starting in October 2025, to make audio and video recordings of its closed meetings. I commend the Commission for taking this step to improve the transparency of its meeting practices.

54 This report will be published on my Office's website and should be made public by the London Transit Commission. In accordance with s. 239.2(12) of the *Municipal Act, 2001*, the Commission is required to pass a resolution stating how it intends to address this report.

Paul Dubé
Ombudsman of Ontario