

Procedure By-law

The *Municipal Act, 2001* provides that every municipality and local board in Ontario is mandated to enact a by-law to govern the calling, location and proceedings of their meetings under s.238.

Open Meeting Rule

All municipal council meetings, a local board, or a committee of either of them must be held in an open public session unless an exception applies pursuant to s.239(1).

Exceptions for Closed Meetings

The *Municipal Act, 2001* sets out a number of exceptions to the open meeting rule based on the subject matter of the item that the council, local board, or committee is considering (ss.239(2), (3) and (3.1)). Council, local board, or committee must follow certain procedural requirements prior to convening into a closed session.

Investigations

Since 2008, s.239.1(1) of the *Municipal Act, 2001* has allowed any person to request that an investigation be conducted to determine whether a municipality or local board has complied with s.239, or a procedure by-law passed under s.238.

Investigator

Municipalities are authorized to appoint an independent investigator to conduct what has become known as a "closed meeting investigation" under s.239.2. In appointing an investigator, the municipality is to consider the following matters:

- the investigator's independence and impartiality
- confidentiality with respect to the investigator's activities
- the credibility of the investigative process

If a municipality does not appoint an investigator, the default investigator is the Ontario Ombudsman.

Investigator's Powers

An investigator is given significant powers to carry out its investigation, including the powers set out in s.19 of the *Ombudsman Act* which include 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 operates under a duty of confidentiality but is entitled to disclose such matters as they consider appropriate in any report.

No Challenge

The investigator's powers are paramount and its proceedings cannot be challenged, except for lack of jurisdiction, and no decision or report from the investigator can be challenged, reviewed, quashed or called into question in any court.

Reports

If the investigator determines that there has been a contravention of the procedure by-law or s.239 of the *Municipal Act, 2001*, a report will be provided to the municipality or local board and the council or the local board are required to pass a resolution stating how they intend to address the report. The report is required to be made publicly available.

Why Appoint LAS as Investigator?

LAS offers closed meeting investigation services as it complements our programming. This service will assist municipalities in demonstrating they are responsible and accountable orders of government, capable of managing their own business and affairs.

As part of the program, LAS will provide an educational component to help municipalities in the understanding of the opening meeting rule, its exceptions, and the investigative process.

The LAS Program will ensure:

- municipal transparency and accountability
- independent, impartial and credible investigations and reports

Benefits to Participating Municipalities:

- experienced, knowledgeable and qualified investigators
- access to all completed reports via a secure website
- availability of on-going education/information
- no review by provincial Ombudsman



LAS INVESTIGATOR PROGRAM

Helping Municipalities Deal with Closed Meeting Investigations

For more information, please
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INVESTIGATION REQUEST PROCESS

