

**1. OFFICE OF THE AUDITOR GENERAL – REPORTS ON INVESTIGATIONS
INTO LONG-TERM CARE HOMES**

**BUREAU DU VÉRIFICATEUR GÉNÉRAL – RAPPORTS SUR LES
ENQUÊTES MENÉES DANS LES FOYERS DE SOINS DE LONGUE DURÉE**

COMMITTEE RECOMMENDATION

That Council consider and approve the reports' recommendations.

RECOMMANDATION DU COMITÉ

Le Conseil examine et approuve les recommandations des rapports.

DOCUMENTATION/DOCUMENTATION

1. Auditor General's Report, dated April 23, 2018 (ACS2018-OAG-BVG-0001)

Rapport du vérificateur général, daté le 23 avril 2018 (ACS2018-OAG-BVG-0001)

2. Extract of draft Minutes, Audit Committee, 30 April 2018

Extrait de l'ébauche du procès-verbal, Comité de la vérification, le 30 avril 2018

**Report to
Rapport au:**

**Audit Committee
Comité de la vérification
30 April 2018 / 30 avril 2018**

**and Council
et au Conseil
9 May 2018 / 9 mai 2018**

**Submitted on April 23, 2018
Soumis le 23 avril 2018**

**Submitted by
Soumis par:
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2018-OAG BVG 0001

SUBJECT: Office of the Auditor General – Reports on Investigations into Long-Term Care Homes

OBJET: Bureau du vérificateur général – Rapports sur les enquêtes menées dans les foyers de soins de longue durée

REPORT RECOMMENDATIONS

That the Audit Committee receive the Reports on Investigations into Long-Term Care Homes and recommend that Council consider and approve the reports' recommendations.

RECOMMANDATIONS DU RAPPORT

Que le Comité de vérification prenne connaissance des rapports d'enquêtes menées dans les foyers de soins de longue durée et recommande au Conseil d'examiner et d'approuver les recommandations des rapports.

BACKGROUND

The Office of the Auditor General investigated two separate incidents with respect to long-term care homes under the jurisdiction of the City of Ottawa, namely a review of medication management at long-term care homes and an incident that occurred at one of the City's long-term care homes.

The Review of Medication Management at Long-Term Care Homes is a special project that was initiated by the Office of the Auditor General in May 2017. This review was conducted in response to concerns raised through the City of Ottawa's Fraud and Waste Hotline in 2017.

As well, in the fall of 2017, the Office of the Auditor General received anonymous letters with respect to allegations of questionable management practices in relation to an alleged incident of abuse that occurred at a Home in 2017. In response to the letters, the Office of the Auditor General initiated a special investigation project to review management practices at this Home.

DISCUSSION

In accordance with the Governance report approved by Council on December 10, 2014, the report will be tabled with the Audit Committee for referral to Council for approval of the reports' recommendations.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

As this is considered an internal administrative matter, no public consultation was undertaken.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide matter.

ADVISORY COMMITTEE(S) COMMENTS

This section does not apply, as this is a city-wide administrative report.

LEGAL IMPLICATIONS

There are no legal impediments to the Audit Committee and Council considering this report.

In preparing this report, Legal Services and the Office of the Auditor General worked together to prepare a public version of the Executive Summary of the Investigation into the Reporting of an Incident at a City-Operated Long-Term Care Home (the “Investigation”) to be presented at the Audit Committee meeting. That Executive Summary does not include commentary which may constitute a breach of personal privacy. In doing so, the City Clerk and Solicitor, in consultation with the Auditor General and the City’s Meeting’s Investigator, has recommended that, should the Committee desire to meet in closed session to discuss the complete Investigation, those matters would not be reported out. The comments set out below explain the underlying rationale for this recommended approach as it relates to the exception to the statutory rule that all meetings of municipal committee and councils should be open to the public: namely, where the issue involves “personal matters about an identifiable individual including municipal or local board employees”.

The so-called ‘open meetings’ rule, whereby “all meetings” of municipal councils and local boards “shall be open to the public” was enacted in the 2006 amendments to the Municipal Act, 2001. In addition, Subsection 239(2) of those revisions set out a number of discretionary provisions which would enable a municipal council or local board to pass a motion and move into closed session (i.e. in camera) to discuss certain matters, including “labour relations” negotiations or the “proposed or pending acquisition or disposition of land”. These same exemptions are reiterated in Section 13 of the City’s Procedure By-law.

In reviewing the case law from the Ontario Ombudsman’s Office, the Closed Meetings Investigator for more than 200 municipalities, the February 2016 ruling with regard to the *Municipality of St.-Charles* is the only one which directly deals with a council

addressing audit reports in closed session. In that instance, draft audit reports of the “municipal and library financial statements for 2011” and the management responses to them were considered by the council at three *in camera* meetings and the exemption relied upon was “personal matters about an identifiable individual”. In rejecting this discretionary exemption, the Ombudsman provided the following distinctions with regard to such financial audits and the performance of individual employees at Paragraph 28:

The auditor’s presentation, report and management letter did not identify individual employees. The presentation, report and management letter did not fit within the personal matters exemption or any other exception to the open meetings requirements of the Act. This portion of the discussion should not have taken place in closed session.

However, the Ombudsman went on to recognize, at Paragraph 30, that some parts of the discussion about the performance of individual and identifiable employees was appropriately addressed in closed session:

While the auditors’ findings may have prompted the discussion about employee performance, the two topics were distinct. Council could have discussed the auditors’ findings, including their draft report and management letter, in open session before proceeding into closed session to address the employee performance issues.

In relying on the discretionary exemption under Subsection 239(2)(b) of the *Municipal Act, 2001*, concerning personal matters about an identifiable individual, staff is of the view that there are comments and observations in the complete Investigation that may reveal personal information about one or more residents of the long-term care facility.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility impacts associated with this report.

TERM OF COUNCIL PRIORITIES

(GP2) “Advance management oversight through tools and processes that support accountability and transparency”.

SUPPORTING DOCUMENTATION

On April 30, 2018, the following report will be tabled at Audit Committee and will be on file with the City Clerk:

- Office of the Auditor General – Reports on Investigations into Long-Term Care Homes – Tabled at Audit Committee April 30, 2018
- Bureau du vérificateur général – Rapports sur les enquêtes menées dans les foyers de soins de longue durée – Déposés au Comité de la vérification le 30 avril 2018

DISPOSITION

The Office of the Auditor General will proceed according to the direction of the Audit Committee and Council.