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What Should a Director General's Office Do when the Commission Municipale du Québec Intervenes?

As part of its administrative functions, the Commission municipale du Québec may carry out compliance and performance audits through its auditing branch, the Vice-présidence à la vérification (VPV), and its municipal integrity investigation branch, the Direction des enquêtes et des poursuites en intégrité municipale (DEPIM). The role that the municipal director general and their office play in this process depends on the type of intervention.

Compliance and performance audits

Compliance and performance audits are part of a continuous improvement process and are aimed at optimizing the management of the municipality's activities. During an audit, the municipality must keep the process confidential.

Before beginning an audit, the VPV communicates with the director general's office and officially informs them that their municipality is being audited. After that, they hold an initial meeting to explain the process. The municipality is invited to designate a resource person for the duration of the audit, in order to facilitate the logistics of the on-site work. This person may or may not be a member of the director general's office.

During the preliminary study, information is requested and interviews are conducted so that the VPV can target the elements to be audited. The director general's office and municipal employees will need to supply any documents, information, or explanations the VPV deems necessary. The subject and objectives of the audit, the evaluation criteria, and the schedule are then presented to the director general's office.

Once the analysis is complete, the main findings and conclusions of the audit are presented to the director general's office. This confirms that the relevant information has been taken into account, and that the VPV has a full, accurate picture of the elements being audited.

The municipality then submits its official comments, explaining why the situation is as it is and setting out what it intends to do to implement the recommendations.

Once the audit report has been completed, it is sent to the mayor and council members via the director general's office. This report must be tabled at the sitting after it is published by the Commission.

Once the report has been tabled, the municipality has three months to produce an action plan for implementing each of the recommendations made, to act on the sources of the major shortcomings identified in the audit report. The action plan must be submitted to the VPV.

Generally, the Commission follows up with the municipality within three years of the report being published. This is to ensure that the recommendations have been implemented and that the measures taken have corrected the shortcomings.

Municipal integrity investigation

The DEPIM is mandated to receive and process disclosures relating to municipal ethics and wrongdoing.

If a disclosure is considered admissible,¹ an administrative investigation is begun to determine whether the code of ethics and conduct has been breached, whether cause for disqualification has arisen, or whether wrongdoing has been or is about to be committed.

To carry out its investigation, the DEPIM will most likely contact the director general's office to obtain their testimony and documents. Like any other witness summoned by the DEPIM, the director general and their staff are obliged to cooperate with the investigation. This means that they cannot refuse to provide the information and documents requested, unless they are protected by the professional secrecy of a lawyer or notary. They must also maintain the confidentiality of the investigation by not discussing it with anyone, including council members and other municipal staff.

Remember that the director general's office has an obligation to disclose to the Commission any information brought to its attention that is likely to demonstrate that wrongdoing has been committed or is about to be committed against the municipality.

The DEPIM must take the necessary measures to ensure that anyone who makes a disclosure in good faith remains anonymous. It is also forbidden to retaliate against someone for having disclosed information or cooperated with a DEPIM investigation. This allows whistleblowers to disclose information and participate in investigations in complete confidence.

¹ Commission municipale du Québec, "Traitement des divulgations: un processus rigoureux assorti de plusieurs filtres," November 10, 2023, [Online] <https://www.cmq.gouv.qc.ca/fr/la-commission/blogue/traitement-des-divulgations-un-processus-rigoureux-assorti-de-plusieurs-filtres>. Post in French.

If the investigation shows that wrongdoing has been committed, the DEPIM may contact the director general's office with its findings and recommendations, and seek its comments on them. A copy of the investigation report, including conclusions and recommendations, is then sent to it for tabling at the next council sitting. Then, within the timeframe specified in the report, the Commission communicates with the director general's office to follow up on the corrective measures taken in response to the recommendations.

The director general is also informed when investigation files are closed because they are unfounded, when a council member is summoned before the Commission's jurisdictional division, or when an action for a declaration of disqualification is filed with the Superior Court. In the latter cases, they may be called to testify.

It is worth noting that despite the formalities surrounding Commission actions, especially those regarding evidence and confidentiality, municipalities cooperate productively in the vast majority of cases. This greatly facilitates the process.



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