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The Director General: A Tattletale?

Sections 212 of the *Municipal Code of Québec* (MC) and 114.1 of the *Cities and Towns Act* (CTA) require directors general to send the Commission municipale du Québec (CMQ) or the Protecteur du citoyen, as applicable, any information brought to their attention regarding past or imminent wrongdoings against the municipality.

But what is the purpose of this obligation and what are its actual repercussions? Given the director general's strategic position, what concerns does it raise in real-life situations? These are just some of the questions we'll be trying to answer.

Reporting no matter what? Thoughts on a blanket responsibility

Directors general have been responsible for reporting wrongdoing to the relevant authorities since April 1, 2022.² This "new" role was imposed by Bill 49, which, among other things, aimed to centralize the collection and processing of disclosures related to wrongdoing against a municipality.

There were concerns that municipalities would set up their own inspection offices, allowing some matters to fly under the radar of the authorities,³ so making the director general the single point of contact seemed like the perfect solution.

Since then, and as reported by the Ministère des Affaires municipales, it is now mandatory for the director general of a municipality to send the CMQ any information brought to their attention that a wrongdoing (as defined by section 4 of the *Act to facilitate the disclosure of wrongdoings relating to public bodies*⁴) has been committed against the municipality.⁵

However, Héту and Duplessis stress the importance of not making this obligation too broad:

"In our opinion, the director general's obligation to report any 'wrongdoing' to the Commission municipale du Québec must be interpreted restrictively, as the obligation to report situations or lodge complaints is fairly exceptional in our law. Directors general carry a heavy enough burden without having to become the municipality's 'watchdog' as well."⁶

I fully agree with this stance, especially because, as we will see later, this responsibility is something of a poisoned chalice!

Examples of wrongdoing

With these premises in mind, let us review a few of the examples of wrongdoing⁷ provided by the CMQ:⁸

- A mayor who oversteps her boundaries by performing administrative tasks or monopolizes the control and management of certain administrative matters
- Council members who negotiate an amendment to the director general's employment contract without a resolution
- Council members who deliberate and make decisions in caucus rather than in an open sitting
- A mayor who demands that permits be issued in violation of municipal by-laws
- A mayor who owns or uses a credit card

¹ The opinions expressed in this text are solely those of the author. He would also like to acknowledge the contribution of articling student Raphaël Tremblay, whose research led to the drafting of this text.

² Sections 58, 74, and 146 of the *Act to amend the Act respecting elections and referendums in municipalities, the Municipal Ethics and Good Conduct Act and various legislative provisions* (Bill 49; SQ 2021, c. 31).

³ Hansard of the Committee on Planning and the Public Domain, 42nd Legislature, 1st Session, September 21, 2021, Vol. 45, No. 107.

⁴ CQLR, c. D-11.1.

⁵ Ministère des Affaires municipales et de l'Habitation, *Loi modifiant la Loi sur les élections et les référendums dans les municipalités, la Loi sur l'éthique et la déontologie en matière municipale et diverses dispositions législatives* (Projet de loi no 49), Muni-Express No. 21, November 10, 2021.

⁶ Translated from Jean Héту and Yvon Duplessis, *Droit municipal, Principes généraux et contentieux*, Wolters Kluwer, electronic version updated July 23, 2025, para. 5.7.

⁷ Translated from Nicolas Dallaire and Dave Tremblay, *Projet de loi no 49: un rôle accru pour la Commission municipale du Québec*, in *Développements récents en matière d'intégrité publique* (2023), Montréal, Éditions Yvon Blais, 2023, pp. 343–348.

⁸ The Direction des enquêtes et des poursuites en intégrité municipale (DEPIM) is responsible for receiving and processing reports of wrongdoing.

From DG to Dwight

With this new responsibility, directors general could be likened to the well-meaning but utterly inflexible Dwight Schrute from *The Office*. The comparison may be humorous, but the implications are no laughing matter.

This requirement to report on wrongdoings puts directors general in a delicate position; they are caught between the whistleblowers and the subjects of the reports, who, as we have seen, may very well be council members. It's the perfect recipe for political turmoil!

Directors general are faced with another conundrum when it comes to reporting on council members, as the law grants the council authority over their role in many respects. The situation becomes even more fraught when the mayor is involved, as their powers over the director general include those of superintendence, investigation, and control.⁹

Furthermore, given the high level of trust that comes with the director general's role, there is undoubtedly tension between their duty to report and their duty of loyalty.¹⁰ While in theory, justified whistleblowing should not lead to disciplinary measures and the system should protect the whistleblower against retaliation, in practice this is not often true for directors general. It would be naive to believe otherwise.

It also bears mentioning that directors general may be manipulated by whistleblowers with ill intent. After all, the line between genuine and malicious reporting is often thin. This becomes even more precarious when tensions and cross-complaints arise within the municipal council.

The government is certainly not helping the situation by requiring directors general to report, yet failing to explicitly clarify individual roles and responsibilities¹¹ and provide clear guidelines or a specific framework.

In this light, we can only hope that the reporting system does not end up creating more problems than solutions for the municipal sector.

⁹ MCs. 142 and CTA s. 52.

¹⁰ *Civil Code of Québec* s. 2088.

¹¹ Even the CMQ has already recommended this—see Sandra Bilodeau and Sylvie Piérard, *Rapport de la Commission municipale du Québec sur l'administration de la Ville de L'Assomption, à la suite d'une enquête publique*, Government of Québec, May 2015, p. 215.



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