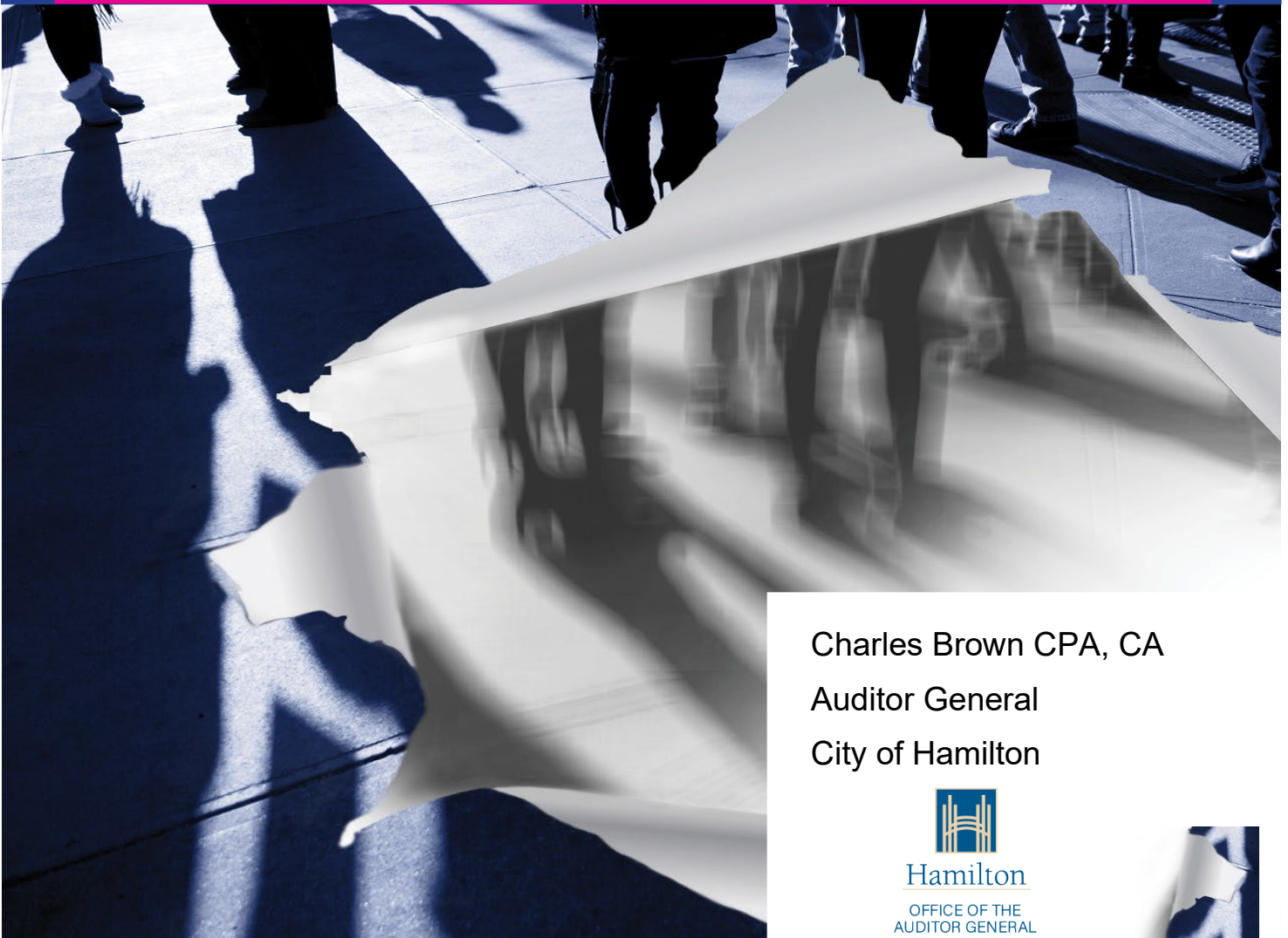


City of Hamilton  
Office of the Auditor General

# FRAUD AND WASTE ANNUAL REPORT

July 1, 2022 to June 30, 2023



Charles Brown CPA, CA  
Auditor General  
City of Hamilton



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## Summary and Commentary

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This year’s Fraud and Waste Annual Report reflects the fourth year of activity of the hotline since it was launched in July 2019. It provides a summary of the complaints received, the investigations launched, and the results and actions that took place related to allegations of fraud and government waste.

During the first year, July 2019 to June 2020, the volume of reports received by the Office of the City Auditor exceeded initial expectations, with 85 reports being received. For the second year, July 2020 to June 2021, the volume of activity continued to exceed expectations with 80 reports received. For the third year, the volume increased significantly with 107 reports received.

In this fourth year, volume rose to even higher levels, with 159 reports being received, a 49% year over year increase in reports. During the first three months of the fifth year of implementation there were 22 complaints reported. Clearly, the hotline continues to be well used.

With 159 complaints received in the most recent reporting year we have noted that 48% come from self-identified employees and 52% from the public. While most of the complaints we receive are dealt with through referral and report back, a significant number (13), involved investigation by our Office. Overall the substantiation rate of complaints received was 31%. We also continued to follow the approach of the previous year by making it a practice to initiate spontaneous system or process audits in response to issues that could have systemic repercussions. In that regard we launched audits and/or reviews of Stormwater Asset Management – Investigation of Recent Sewage Leaks (AUD23010), and we are in the final stages of fieldwork of a significant audit of Real Estate Leases and Licensing that is expected to be reported to the Audit, Finance, and Administration Committee in Q1 2023. Due the high volume employee benefits fraud reports received by the OAG, an audit of employee extended health and dental benefits administration has also been launched, with audit planning work underway.

The purpose of the hotline and ensuing investigation of complaints is to ensure honesty, integrity and accountability in the operations of the City. One of the significant benefits is that it affords an opportunity to identify systemic problems, themes or emerging issues that can be considered by City management in their operations and Council in their governance.

An item to note is that for losses substantiated, there were more losses due to fraud rather than waste for the first time since the launch for the Fraud and Waste Hotline. This is due, primarily, to a new, and significant issue that came to prominence in this reporting period – employee benefits fraud. There was a total of 10 reports made involving current or former City employees, and their dependents. Some of the matters were investigated by HR, but one complex,

multi-respondent investigation was completed by the OAG for six of these employees, with the expert support of an external forensic firm. There were several instances where benefits fraud was substantiated, with confirmed losses of over \$43,400. Due to the serious nature of the investigation's findings, the OAG considers this to be a high-risk area for the organization, and the OAG has serious concerns about the organization's current profile of fraud risk pertaining to benefits claims.

One issue that OAG is bringing forward for the third year in a row is the apparent difficulty that management experiences in properly dealing with conflict of interest (COI) situations that arise with employees of the City. Since the hotline was implemented, the OAG has investigated no fewer than 19 instances (more if reports where conflict of interest is one of several topics being looked into are considered) where either the disclosure process or the related mitigation of the conflict of interest has been an issue. Conflicts of interests continue to be one of the most persistent, serious, and time-consuming types of complaints received and investigated by the OAG. The OAG does note that a new version of the Code of Conduct for Employees was approved by Council in 2023, and the reporting process for COI's was revamped, but it is too soon for the OAG to comment on the effectiveness of these process changes. Accordingly, we recommend that senior leadership continue its review of its current process to rationalize and improve the effectiveness with which conflicts of interest are both disclosed and mitigated, and most importantly to elevate the importance of proper disclosure of potential conflicts.

In addition to the recurring theme of conflict of interest policies and processes, we also site emerging issues with the veracity of the City's contract management processes. In a previous audit of the Grightmire Arena project we noted needed improvements, and some of those same issues in the lack of vigorous contract oversight have been evident in some of the cases, both in contracted services and also in transfer payments made to third parties. Further, we have continuing concerns over the risks to the City in protecting against cyberfraud as evidenced by the investigation this year in which the City directed over \$52,000 in payments to an imposter vendor.

Finally, in March of this year Council gave its approval for making the Fraud and Waste Hotline permanent. In doing so it gave authorization for the OAG to enter into negotiations with the existing provider of hotline services toward the establishment of a new contract due to expiry of the old one. The hotline annual service cost during the previous contract was fixed at \$12,500 per year and ran for four years. Under a newly negotiated arrangement OAG has agreed to pay the vendor \$14,750 for an initial three year term, with the option of extending for two more years at modest increases. In its approval Council directed that funds previously approved for the pilot be exhausted first so there will be no effect on the tax operating budget until 2025.

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## About the Fraud and Waste Hotline

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The Fraud and Waste Hotline provides City of Hamilton employees, contractors, vendors, and members of the public a convenient, confidential, and anonymous way to report suspicion or proof of wrongdoing. Wrongdoing is defined as any activity that could be illegal, dishonest, wasteful, or violates a City of Hamilton policy.



**Fraud** encompasses any array of irregularities and illegal acts characterized by intentional deception.



**Waste** involves taxpayers not receiving reasonable value for money in connection with any government funded activities, due to mismanagement or an inappropriate or careless act or omission by those with control over or access to government resources.



**Whistleblower** By-law No. 19-181 is intended to help uncover serious wrongdoing at the City, by bringing it to the attention of management and the Auditor General or their designate, and to ensure it is addressed appropriately, including by means of an investigation where required. The City of Hamilton has had a Whistleblower By-law in force since 2010 (previously By-law No. 09-227).

The Fraud and Waste Hotline enables the City of Hamilton to operate with a high level of honesty and integrity. The Fraud and Waste Hotline is managed by the Office of the Auditor General (OAG), an independent and objective office accountable to Council.

The Office of the Auditor General reviews and assesses every Hotline report to ensure it was made in good faith and if necessary, launch an investigation. The Office of the Auditor General conducts an objective and impartial assessment of each report, regardless of the alleged wrongdoer's position, title, length of service, or relationship with the City.

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## Alignment to the 2016-2025 Strategic Plan

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The Fraud and Waste Report supports the following City strategic objectives:

### **Community Engagement and Participation**

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

### **Our People and Performance**

Hamiltonians have a high level of trust and confidence in their City government.

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## Alignment to 2023-2026 Council Priorities

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The Fraud and Waste Report supports the following Council priorities:

### **Responsiveness & Transparency**

Government plays an important role in people’s lives through the provision of vital services, programs and support systems. To fulfill those responsibilities, City Hall must continue to develop its approach to public engagement, respond effectively and efficiently to public need and feedback, and communicate its approach in an accessible and transparent manner.

### **Outcome 3: Build a high performing public service**

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## Introduction

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This is the Fraud and Waste Annual Report on fraud, waste and whistleblower matters at the City of Hamilton and includes information about the activities of the Fraud and Waste Hotline.

It highlights the reports that have been communicated to the Office of the Auditor General from July 2022 to June 2023. It does not represent an overall picture of fraud, waste, or other wrongdoing across the City of Hamilton.



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## Fraud and Waste Hotline Program

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### Pilot launched July 2019, made permanent in March 2023

The Fraud and Waste Hotline was established to help protect City of Hamilton assets and reduce losses. Since its launch in July 2019, the cumulative total of actual and potential losses investigated is approximately \$1,287,000, with about \$35,900 recovered via repayments/restitution/asset recovery. Effective March 2023, City Council made the Fraud and Waste Hotline a permanent program. Additionally, the Fraud and Waste Hotline provides the following benefits that cannot be quantified:

- Deterring fraud, waste, and wrongdoing,
- Strengthening internal controls and mitigation of risks,
- Improving policies and standard operating procedures,
- Building a culture of accountability,
- Better value in service delivery through increasing operational efficiencies,
- Using hotline report data to identify trends, manage risks, make results-oriented recommendations to management, and inform future audits for the Office of the Auditor General work plan, along with spontaneous audits for high-risk areas.

### No dedicated Fraud and Waste team

The Office of the Auditor General operates the Fraud and Waste program in addition to their other audit assignments. The Office of the Auditor General are a team of professionals who collectively possess the expertise to assess a broad range of reports and conduct investigative work into allegations ranging from simple to complex. When required, the Office of the Auditor General engages outside experts to assist on complex investigations or specialty work due to the small size of the team. Investigation costs are recovered from the home department, per the Fraud Policy and Protocol.

### Independent oversight

The Office of the Auditor General also provides independent oversight of management-led investigations by reviewing the adequacy of work performed and evaluating mitigation plans to protect City of Hamilton assets, reduce the risk of future losses, and prevent and deter future fraud, waste, or wrongdoing.

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## Anonymity of the Fraud and Waste Hotline

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Fraud and Waste Hotline intake is independently operated by a third party, Whistleblower Security Inc. Whistleblower Security Inc. provides IntegrityCounts, a Certified Ethics Reporting System, which is a confidential way to report important information and ethical misconduct. Providing any personal information, such as your name, is optional. For any person willing to identify themselves, their information will remain confidential and will not be disclosed unless the Auditor General is compelled to do so by law.

The Office of the Auditor General may have questions or require additional information about a reported incident and will communicate using the Fraud and Waste Hotline anonymous messaging system.

All participants in a fraud and waste investigation are required to keep the investigation details and results confidential.

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## Role of the Auditor General

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The City of Hamilton has appointed the Auditor General as an Auditor General under the Municipal Act (via By-law No. 19-180, and previously No. 12-073) since 2012. This position has the responsibility to assist City Council in holding itself and its administrators accountable for stewardship over public funds and value for money in City operations. This responsibility is fulfilled by completing audits, operating the Fraud and Waste Hotline and conducting investigations as required.

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## Report Sources

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Reports in good faith are made in one of the following ways:

-  **Online** at [hamilton.ca/fraud](https://hamilton.ca/fraud)
-  **Email** to [cityofhamilton@integritycounts.ca](mailto:cityofhamilton@integritycounts.ca)
-  **Phone** 1-888-390-0393
-  **Mail** to PO Box 91880, West Vancouver, BC, V7V 4S4
-  **Fax** to 1-844-785-0699



## Overview

53 Reports  
Directly Received by the  
Office of the Auditor  
General (Proxy)

31 Proxy Reports Sent by  
City Staff, Management,  
HR, Finance, Council  
Members

48% of Reporters  
Self-Identified as an  
Employee

52% of Reporters were  
non-Employees

Total Investigations  
Launched (Current Year)  
13

\$132,000 Loss or  
Waste/Mismanagement  
Substantiated  
(\$1.287M since  
Hotline launch)

## Number of Reports

159

Number of Reports  
Since Hotline Launch

431

## Number of Reports by Source

58



Online

62



Email

37



Phone/  
In Person

2



Mail

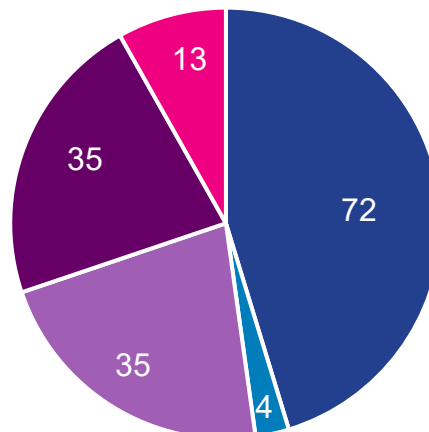
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Fax

## Report Types

July 1, 2022 to June 30, 2023



Referral – Response Required – 72

Referral – No Action Required – 35

No Response Required/ Out of Jurisdiction/ Not Enough Information – 35

Investigations Launched (Current Year) - 13

Pending/In Progress - 4

## Investigation Type

2



Fraud

3



Waste

5



Combined Fraud and  
Waste/Mismanagement

3

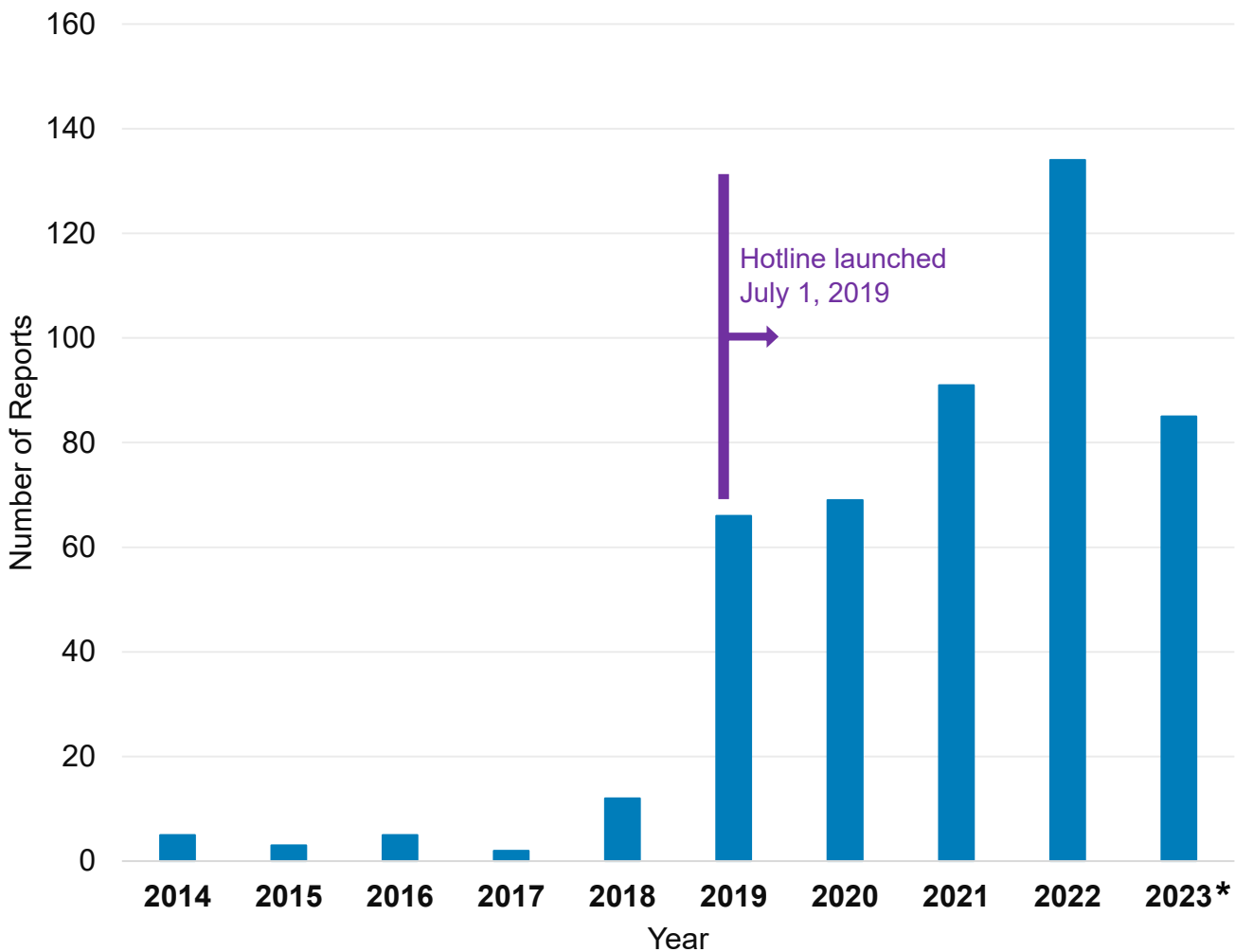


Whistleblower

## Historical Volume

This chart depicts the number of fraud, waste, and whistleblower reports from 2014 to June 2023. Between 2018 to 2022, the Office of the Auditor General saw a large increase in reports since the Fraud and Waste Hotline was announced in late 2018 and launched in July 2019. This trend continued into the first half of 2023.

### City of Hamilton Fraud, Waste, and Whistleblower Report Volume January 1, 2014 to June 30, 2023



\*as at  
June 30, 2023

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## Work Volume

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A total of 159 reports were assessed by the Office of the Auditor General in the twelve-month period between July 1, 2022 to June 30, 2023.

There are no staff dedicated solely to the Fraud and Waste Hotline Pilot Program. Existing staff are used to complete assessments and investigations, with some limited usage of external specialty expertise for investigations that require additional support.

In total, about 3,744 hours were spent on Fraud and Waste Hotline administration, assessment, investigations and reporting during this 12-month period. This is approximately equivalent to 2.0 frontline audit FTEs annually (excluding management's time spent on hotline matters). Another way of looking at the resource requirements, the effort is similar to having completed 4 to 5 audits of significant scope and complexity. There are a total of 5 frontline employees in the OAG, when the OAG is fully staffed, there have been significant vacancy and recruiting challenges experienced during this reporting period. It is estimated that management spends between 30-50% of their time on Fraud and Waste matters, depending on the active number of files at any given point in time. Compared to the prior year, a slightly decreased amount of time was spent on Fraud and Waste Hotline matters (prior reporting period was 2.3 FTEs), however this nevertheless had a serious impact as the OAG had 2 of 5 frontline audit FTE positions vacant during this reporting period. The amount of time spent on Hotline matters has been significant in each 12-month reporting period since Hotline's launch.

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## Reports

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From July 2022 to June 2023, a total of 159 reports were received and assessed.

Of the 159 reports received, 106 (67%) reports were received via the third-party hotline operation. Another 53 (33%) reports were received directly by the Office of the Auditor General and were entered as a proxy into the case management system that is provided as part of the IntegrityCounts service contract. Of the 53 proxy reports received directly by the OAG, 29 were made by City staff and management, 22 items were received directly from residents, and two were received directly from City Council members.

For reports received regarding Ontario Works (OW) and Housing Services social services matters, these were referred to OW and Housing Services for assessment and investigation. The investigations were handled by OW/Housing Services, not the OAG. The substantiation status is reported to the OAG for the tracking of aggregate statistics. The OAG reserves the right to investigate any

matter which is not found to be satisfactorily investigated. In this reporting period, there was an uptick in the volume of hotlines cases received by the OAG team relating to OW that were substantiated and actioned by the OW team.

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## Employee Reports

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Seventy-seven (77) of these 159 reports were reported by City of Hamilton employees (48% vs 64% in the prior year). Thirty-four (34) of the 77 employee reports were made anonymously (44% vs 51% prior year). The remaining 43 reports were employees that identified themselves. Many of these 43 reports where the employee identified themselves were employees working in HR, Finance, and Management where they had an awareness of the Fraud Policy and Protocol and of their responsibility to report matters to the Office of the Auditor General as part of their job duties.

The Office of the Auditor General continues to encourage employees and management to submit reports and thanks all those that submitted reports for this reporting period, and for their cooperation during report assessments and investigations.

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## Reports from the Public

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All reports received from the public were assessed and investigated as appropriate. The Office of the Auditor General continues to encourage members of the public to submit reports and thanks all those that submitted reports for this reporting period and for providing additional information as requested.

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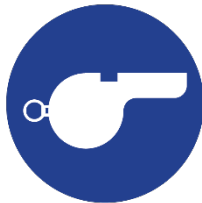
## Anonymous Reports

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When a report is made anonymously, it automatically does not qualify as a whistleblower disclosure per the Whistleblower By-law, although it may meet the definition of serious wrongdoing. The vast majority of the reports the Office of the Auditor General received do not qualify as a whistleblower matter due to the fact that they come from citizens or else employees that wish to remain anonymous. In fact, a sizeable proportion of employee reports (34 of 77) do not qualify as a whistleblower disclosure because of anonymity. Overall, 93 of the 159 (59%) reports received for the current 12-month reporting period were anonymous.

It should be noted that anonymous reports are able to be effectively assessed and investigated if the Reporter provides a sufficient level of information. The OAG is able to communicate with an anonymous reporter in the case management system, as long as the Reporter chooses to enable this feature and periodically returns to the online system for exchange of messages. City of Hamilton employees continue to prefer making anonymous reports to the Hotline. While anonymity is not necessarily a constraint to the Office of the Auditor General investigations, the ability to dialogue with a Reporter through the IntegrityCounts online messaging system has proven effective in assisting with investigations.

## Reports Involving Whistleblower



3

1

July to December 2022  
(Previously Reported)

January to June 2023

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### Whistleblower Disclosure

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By-law 19-181 (Whistleblower By-law), Section 19 - Responsibility of the Auditor General requires reporting to Council semi-annually, in the aggregate, on the number, nature and outcome of disclosures of serious wrongdoing made under this By-law. Activity for July to December 2022 was reported to Council in July 2023.

There were four qualifying Whistleblower disclosures from July 2022 to June 2023.

Three items were reported in the Fraud, Waste, and Whistleblower Semi-Annual Update (AUD23009) covering the period July 2022 to December 2022.

For the first item, the report category is Multiple Categories Applicable (Vendor/Contractor Wrongdoing, Theft/Misuse of Assets and Other-Safety Concerns). The outcome is that the report was partially substantiated.

For the second item, the report category is Conflict of Interest. The outcome is that the report was substantiated, and the (former) employee resigned. For the third item, the report category is Conflict of Interest. The outcome is that the report was unsubstantiated.

There was one report received from January to June 2023. The report’s category was Multiple Categories Applicable (Employee Misconduct/Code of Conduct, Fraud) and the outcome is substantiated, and the (former) employee was permitted to resign through a confidential settlement.

## Report Categories

A wide variety of reports were received by the Office of the Auditor General for the 12-months covered in this reporting period. The most common report categories were the following:

### Top Report Categories (Current Year) Period Summary: July 1, 2022 to June 30, 2023

Multiple Categories Applicable	32
Social Services – Fraud/Wrongdoing	32
Service Complaint/Concern	28
Out of Jurisdiction	19
Time Theft and/or Misconduct	7
Employee Benefits Fraud	6
Conflict of Interest	5
Phishing/Identity Theft	5
Improper Financial Reporting/Budgeting	4
Waste/Mismanagement	4
Theft/Misappropriation	2
Contractor/Vendor Wrongdoing	1
Fraud	1
Public Safety	1
Other Various Categories	12
<b>Total Reports</b>	<b>159</b>

Having the top report category be “Multiple Categories Applicable” is indicative of the growth in complexity of the reports we receive, many of which contain multiple allegations that need to be assessed and investigated (if applicable).

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## Prior Year Reports

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Seventeen open reports were reported at the time the 2021-2022 Fraud and Waste Annual Report was issued. The assessments and investigations were completed by the Office of the Auditor General with the following outcomes: 6 were substantiated, 1 was partially substantiated, 2 were unsubstantiated, 1 had a status "Not Applicable", and 7 are in progress or have an outcome pending.

The most common reason for the seven reports being in progress or having an outcome pending are that an audit is in progress, with results expected to be reported in 2024, employees being on leave so the outcome remains as pending, or the OAG is waiting on management to provide information. Outcomes are included in the section above for reports that were closed during the current reporting period.

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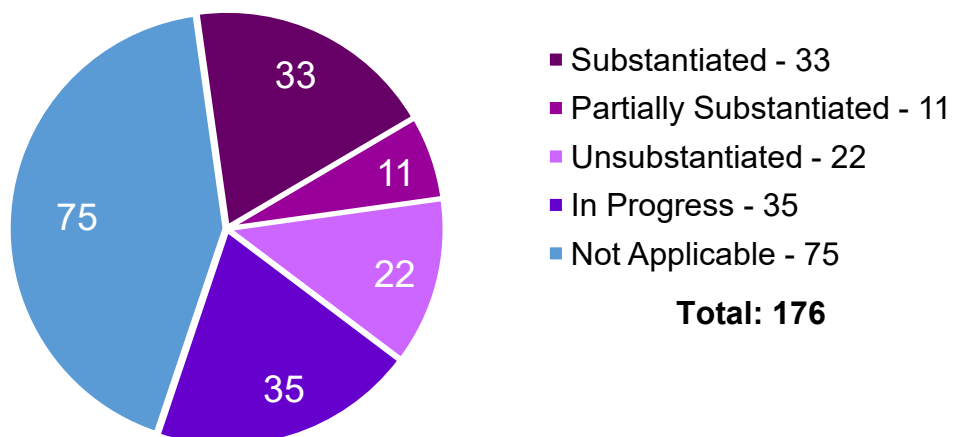
## Substantiation

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One way of summarizing outcomes is to report on the volume of reports that were substantiated, that is the number of reports where the allegation(s) were found to have merit and were able to be proven by reviewing evidence or with findings from interviews.

Of the reports received from July 2022 to June 2023 (plus any carryforward reports from prior years) the following is a summary of substantiated status. A substantiation result is not applicable (N/A) if a report was out of jurisdiction, the assessment result was that no action was to be taken, or if the report was to be referred elsewhere with no response required.

### Volume of Reports Substantiated







Typically, a result is “pending” if the report is still in process of being assessed and/or investigated. Overall the current substantiation rate including carryforward reports from the previous reporting period (both substantiated and partially substantiated) is 31%.

The City of Hamilton’s substantiation rate for the prior reporting period was 32%. For comparative purposes, in the City of Toronto Auditor General’s 2022 Annual Report on the Fraud and Waste Hotline, 10% of complaints from 2022 that were investigated were substantiated in whole or in part. In the City of Ottawa’s 2022 Report on the Fraud and Waste Hotline, 27% of reports closed in 2022 were substantiated. The substantiation rate will vary annually, depending on the mix of reports received by the OAG and the number of reports in progress at the end of reporting period, which have their substantiation rate counted in the reporting period that the work is completed and the report is closed.

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**Loss or Waste/  
Mismanagement  
Substantiated**

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It is difficult to measure or substantiate a precise cost of fraud and waste. Incidents sometimes remain undetected for long periods of time. It is also challenging at times to determine the entire time period that a fraud or waste was occurring, which makes it hard to quantify losses.

**\$1.287M  
Loss or Waste/  
Mismanagement  
Substantiated  
Since Hotline  
Launch**

As at October 31, 2023, the amount of confirmed loss or waste substantiated by the Office of the Auditor General since the last Annual Report was issued was \$132,000. Of this this amount, \$110,000 was fraud and \$22,000 was waste. Since the launch of the Hotline cumulatively \$1,287,000 of loss or waste has been substantiated. Of this amount \$220,600 was fraud, \$1,009,400 was waste, and for \$57,000 a category could not be determined.



**\$132K**

\$110K - Fraud

\$22K – Waste/Mismanagement

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## Disciplinary Action

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The Office of the Auditor General is not responsible for disciplinary actions (including terminations). Investigation results are shared with Management and Human Resources. The Office of the Auditor General is informed of terminations and disciplinary actions, and this information is tracked and compiled for reporting purposes. The number of disciplinary and other actions will vary from year to year. This number is not controlled by the OAG and is reported for information purposes only.

As at the date of report publication, the following disciplinary actions related to investigations had been confirmed by the Office of the Auditor General:

- 9 Terminations,
- 9 Other Actions Taken (includes 5 employee resignations, 1 retirement and no re-hire condition, 2 non-disciplinary letters issued and 1 discipline issued).

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## Recoveries and Impact

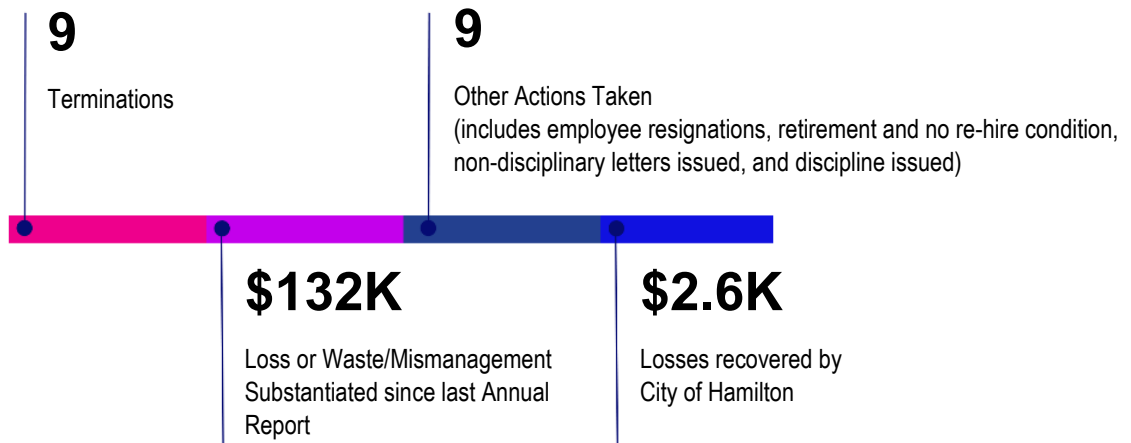
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As at October 31, 2023, the City of Hamilton recovered about \$2,600 of losses since the last Annual Report was issued.

The impact of fraud and waste to an organization goes well beyond financial impact. There are also non-financial impacts such as impact to reputation, impact to other staff working in an affected area. The level of effort to investigate allegations of fraud and waste are quite high.

Sometimes there is a time lag for the completion of an investigation and calculating the losses. As there are 35 open reports at report issuance, there may be additional losses and recoveries that will be reported in the next Fraud and Waste Annual Report.

## Report Outcomes



## Hotline Service Provider Contract Secured

Council provided direction to the OAG in March 2023 to negotiate, enter into and execute a contract with the OAG's existing hotline and case management service provider, Whistleblower Security Inc. The OAG successfully completed these negotiations and secured advantageous pricing. The hotline's annual services cost during the previous four years was fixed at \$12,500. Under a newly negotiated arrangement OAG has agreed to pay the vendor \$14,750 per year for an initial three year term, with the option of acquiring two additional one-year year terms at modest increases. The new contract came into effect on August 1, 2023.

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## Report Examples

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### Introduction

To provide more information about the type of reports that the Office of the Auditor General receives and assesses, several report examples are provided in pages 19 - 29 of this annual report.

The reports included here provide examples of:

- fraud,
- waste/mismanagement; and,
- combined fraud and waste/mismanagement reports.

All items qualifying as a “Serious Matter” per the “Auditor General Reporting of Serious Matters to Council Policy” for the reporting period have been previously reported to Council. There were four items that qualified under this Policy in the 2022-2023 Fraud and Waste Report time period and they were all presented to Council.

1. AUD22009 Auditor General Reporting of Serious Matters to Council (Case #58061 Taxi Scrips)
2. AUD23004 Auditor General Reporting of Serious Matters to Council (Case #60492 Employee Corruption Allegation)
3. AUD23006 Auditor General Reporting of Serious Matters to Council (Case #63146)
4. AUD23007 Auditor General Reporting of Serious Matters to Council (Case #65357)

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## Report Examples

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### Multiple Conflicts of Interest due to Social Relationships with a Contractor to the City

It was alleged that a City employee had an undisclosed significant social relationship with a long-time City contractor. Multiple allegations of specific incidents of favourable treatment were reported to the OAG. The initial allegations were regarding one employee, however, during OAG’s preliminary

assessment, two additional City employees were identified as possibly having a similar undisclosed significant social relationship with the same contractor, which may also have resulted in favourable treatment.

The OAG investigated and found that the allegations of an undisclosed conflict of interest (via significant social relationships) were ultimately substantiated for the three employees. The significant social relationships included the receipt of hospitality from the contractor in the form of homemade food (provided at work meetings and for the staff members personally), as well as birthday parties at the contractor's home for the staff members and for the spouse of a staff member. No disclosures of the hospitality were made.

All three employees accepted invitations to the contractor's home that were not in the context of a business meeting or interactions, did not serve a legitimate business purpose, and was not appropriate to the business responsibilities of their positions. Disclosures for any of these events were not made.

It was also investigated and found that the allegation of the contractor being afforded favourable treatment in the assignment of work, pricing, awarding of contracts, and invoice processing was substantiated. As a result of the investigation, it was determined that there was an estimated \$9,000 of waste over a 15-month period as a result of favorable pricing and the contractor submitted duplicate invoices that were processed by one of the employees in question totaling \$800. There were additional compliance issues as the contractor was issued work orders by two employees totaling \$2,000 for work that they were not contractually permitted to be issued.

Additionally, after the contractor was unsuccessful in a competitive RFP procurement process for City of Hamilton work, one of the employees helped facilitate an interview for a job at the City of Hamilton for the owner/operator of this contractor. The proper application/hiring process was not adhered to.

During the investigation, OAG found a mitigating factor to the undisclosed significant social relationships with the contractor was that socializing with this contractor in a non-business setting was prevalent amongst other City staff and appears to have been condoned by management. There were also other factors and/or opportunities within the internal control environment that allowed for these issues to occur unchecked.

OAG made five recommendations which would enable progress to be made towards establishing a tone-at-the top that clearly communicates that undisclosed conflicts of interests are not acceptable and in conjunction with new internal controls, will help establish a culture of accountability. As at the date of report publication, HR had not yet informed the OAG of any disciplinary outcomes for these three employees.

## **Conflict of Interest Due to Another Job in the Private Sector**

In the course of investigating a conflict of interest that was reported in the 2021-2022 Fraud and Waste Annual Report, the OAG received additional information about a second COI in the same service area. This service area is responsible for strategic, sensitive, and often high dollar value acquisitions and dispositions of City assets. It was alleged that while working at the City, the individual was also holding a similar position in the same field in the private sector, the duties of which could conflict with their City role, and which is not permissible due to the competing nature of the job duties and confidential nature of the work. The allegation was found to be substantiated and the employee has resigned from the City.

## **Conflict of Interest at a Taxpayer Funded Service Provider**

OAG received a report alleging that a social services provider receiving substantial transfer payments in the form of capital funding had an internal conflict of interest (COI) with respect to the procurement of one of their major service providers. The Reporter raised value for money concerns, and in addition to the COI, made allegations of persistent single sourcing and a lack of competitive procurement for much of their taxpayer-funded work that was being contracted out.

The OAG requested that management perform a fact finding. They reported back to the OAG and found that the conflict of interest exists but had been disclosed to the organization's governing body, and the organization communicated to City management that they have internal mechanisms in place to handle the COI situation.

Even though there was no evidence of wrongdoing or breach of agreements found in this initial review, the OAG still has concerns regarding the potential impact to value for money in situations of non-competitive procurement by third parties funded by the City and other levels of government. Therefore, an audit is being launched for this class of organizations that receive capital funding. The full scope of the audit will be informed by an audit of transfer payments that is currently underway and will be included in the Term of Council Audit Workplan.

## **Employee Breach of Trust Allegations**

In late November 2022, the OAG received information about a City employee who is a Plans Examiner that had been charged with two counts of breach of trust. The charges followed a Police investigation.

While a review of the circumstances has been initiated in order to understand the details of these incidents, and opportunities for improvement, if any, a full investigation is still pending the outcome of the trial which is currently underway.

OAG has conducted some initial fact finding and reviewed court document details via the Legal Services and Risk Management Division, and various documents from the Building Division. Some City assets have also since been recovered by the OAG, and the OAG has engaged an external forensic firm to conduct an investigation.

Per our review of court documents, two charges were laid against a City employee. Both charges were: "being an official with the City of Hamilton, a Plans Examiner did commit Fraud in connection with the duties of his office by entering false information on City of Hamilton documentation and depriving the City of Hamilton fees owed to it contrary to Section 122 of the Criminal Code".

The charges have not yet been proven in court. The trial began in October 2023 and is expected to resume in March 2024.

Ultimately the OAG is looking to understand the full extent of what happened, how it happened, and what lessons, if any, can be learned. OAG work will resume once the criminal trial has concluded.

### **Employee Receiving Cash for Use of City Facility**

Human Resources notified the OAG of allegations that a City employee was receiving cash on a regular basis from customers renting a City sports facility, who wanted the benefit of "extra time" at the facility.

The OAG conducted an investigation, and the allegation was found to be substantiated. The OAG estimates that about \$1,000 to \$1,900 in cash was received by this employee from the customer user group over multiple years. The OAG made three recommendations to management to improve operations and HR informed the OAG that the employee was terminated but was able to submit their resignation through a confidential settlement.

### **False Benefit Claims**

Human Resources (HR) brought forward allegations that five employees and one former employee were suspected of having filed false benefits claims for orthotics and compression stockings in a scheme involving an outside party that defrauded the City. Manulife, the City's benefits administrator, had identified several false/misrepresented claims submitted by the employees. After a review of the information Manulife and HR provided regarding the allegations, the OAG decided to conduct an independent investigation and engaged a forensic expert.

Ultimately the allegations of false benefits claims were found to be substantiated for all 6 employees. The total amount of the false claims that were confirmed across the six people was close to \$31,000. All of the false claims were from the same medical provider for orthotics and compression stockings. The scheme



involved claims being submitted with the involvement and assistance of the medical provider, including falsified medical documents (e.g. gait analysis, orthotic fabrication specifications, etc.) and payment receipts for goods/services rendered, made directly to Manulife on behalf of the employees.

It was substantiated that when Manulife paid the claim/reimbursed the claim to the benefits plan member, the plan member gave a portion of the amount received to the medical provider. Additionally, it was found that the employees did not always receive orthotics or compression stockings from the medical provider as noted on the submitted claims.

The investigation found that all of the benefits plan members personally benefited from these false or misrepresented claims. Based on the evidence reviewed, it was determined that the plan members either knew or should have known that the claims were false.

The OAG provided the investigation findings to HR. Four employees were terminated and for the other two individuals, the OAG has not yet received information regarding any disciplinary actions.

In addition to the above, HR separately investigated four other employees for false benefit claims and informed the OAG of the result as follows:

An employee was found to have presented false claim submissions. The total of the false claims was about \$2,700. The employee has since retired and is not eligible for re-hire.

An employee was found to have filed false claim submissions (35 in all) totalling over \$2,600. The false claims were repaid and the employee (and their dependents) are no longer permitted to submit online claims. HR informed the OAG that the employee was issued discipline.

An employee was found to have filed false claim submissions (50 in all) totalling close to \$4,600. HR informed the OAG that the employee was terminated.

An employee was found to have filed false claim submissions (38 in all) totalling about \$2,800. HR informed the OAG that the employee was terminated.

As a result of these issues OAG is bringing forward in its Audit Workplan, a proposed audit of the processes used to administer benefits claims and protect against fraud.

### **City Targeted by Imposter Vendor Scam**

OAG received notification from City Finance staff of a situation whereby someone posed as an existing vendor to the City – a vendor that was owed substantial monies. The imposter vendor contacted the City to change the

banking details of the legitimate vendor. As a result of a misstep in applying the City's existing procedures for such requests, the banking information was changed, and over \$52,000 was paid into a new bank account as directed by the imposter. The legitimate vendor subsequently contacted the City wondering where their payment was, which led to further enquiries that revealed the diverted payment.

The OAG engaged a forensic investigative firm to assist in looking into the matter, and to report the exact circumstances of the diverting of funds. The OAG also reported the incident to the police and will be making recommendations for process improvement in its final report to management.

Around the same time as the above incident, multiple similar phishing attempts were made regarding vendor payments. None of these additional attempts were successful, and all of them were reported to the OAG. Further, these attempts were provided to the forensic investigative firm engaged by the OAG.

### **Employee Working Full-Time at Two Different Cities**

Through the Fraud and Waste Hotline OAG received an anonymous complaint of a full-time City employee that was allegedly working full-time at a similar job at another municipality. The overlap occurred during the period that COVID-19 working from home policies were in effect. At the time OAG investigators met with the respondent to follow-up on the complaint, the employee had already resigned from the City after management had attempted to meet with them to discuss repeated absences.

The (former) employee admitted to the fact that they occupied two full-time jobs at the same time for two different municipalities, but claimed the duties were executed at different times during the day with no overlap. OAG requested information from the respondent to substantiate this claim, however as of this date it has not been provided, even after many months. OAG has substantiated the allegation that the employee was also working for another municipality without the knowledge of management, and is continuing to investigate the matter.

### **Hiring Former Employees Via Sole Source Procurement**

It was alleged that proper procurement processes were not followed when a sole source contract was awarded to a consulting company, that is owned by a recently retired employee. Based on OAG's review of pertinent documentation it was found that current City policies are silent on hiring previous employees as vendors. The OAG is currently working with HR to recommend process improvements.

## **Abuse of Short-Term Disability Benefits (2)**

Human Resources reported to the Office of the Auditor General (OAG) that they conducted an investigation into suspected Short-Term Disability (sometimes referred to as "sick time") benefits by a City employee. The allegations were substantiated, and Human Resources informed the OAG that the (former) employee was allowed to resign via a confidential settlement. There were no indications of any systemic issues within this work Division.

In another case the OAG received reports alleging that an employee was misusing their short-term disability benefits by working at their own business. The OAG requested that HR investigate. HR investigated, and communicated workplace expectations to the employee numerous times, and there was ongoing, active management of the file for an extended period of time. The matter was concluded when HR informed the OAG that the (former) employee had resigned.

## **Employee Theft and Other Misconduct**

The OAG received a report that an employee allegedly was committing theft of City property and of the general public, along with allegedly operating a Zamboni while under the influence of drugs and alcohol.

Additionally, a separate incident was reported to the Hamilton Police Service, wherein the same employee was apprehended for pilfering a payment card belonging to a member of the public while they were attending a City facility. This incident involved a fraudulent purchase that was substantiated by security footage.

The OAG requested that HR investigate this matter. HR conducted an investigation, which substantiated the report of the pilfered payment card. HR informed the OAG that they negotiated a resignation in exchange for a confidential settlement.

## **Employee Misuse of City Corporate Account**

Human Resources reported to the Office of the Auditor General allegations of misuse of a corporate account at a building supply store, the OAG requested that HR investigate the matter. HR informed the OAG that the allegations were substantiated with six fraudulent purchases made for approximately \$1,400 and that the employee was terminated.

## Personal Use of City Assets

The OAG received a report from Management alleging that an employee in a position of trust was utilizing a City asset for significant personal use, and that another employee had knowledge of the personal usage but failed to report it to management. After a preliminary assessment, OAG decided to investigate and several additional issues were identified.

It was ultimately substantiated that one employee was living in and/or making personal use of a vacant City-owned housing unit for an extended period of time without the knowledge or authorization of management. Further, they made unauthorized repairs and other modifications to the unit for their personal use and benefit.

It was further substantiated that another employee accountable for oversight of the unit in question, was aware of the personal usage by the other employee and they did not report it to management.

Other items that were substantiated in this investigation included improper cash handling and mishandling of confidential client files.

Overall waste of about \$9,900 was substantiated. To enable management to establish a robust internal control environment for the impacted processes, the OAG made 15 recommendations such as regular, unannounced checks on City assets, better tracking and inventory management, adequate segregation of duties, review of relevant job duties for the impacted role, to review relevant security technology, and to improve cash handling processes.

HR ultimately informed the OAG that both employees were terminated.

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## Other Report Examples

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Although the Office of the Auditor General may find some reports not to be substantiated, there are reports that show significant control weaknesses. Some unsubstantiated examples are also provided for insight into the varying outcomes that can occur when cases are assessed and investigated.

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### Vehicle Safety Concerns

The OAG received a complaint regarding the safety and cost-effectiveness of the fleet of vehicles used by a specific City of Hamilton service area. The allegations included: vehicles being modified seasonally, inappropriate vehicle specifications, non-compliance with Ministry of Transportation (MTO) requirements, and operational inefficiencies.

The OAG retained a fleet management expert to perform a preliminary assessment of the allegations and conduct a site visit. The assessment included consideration of MTO requirements for relevant vehicles, existing operational practices, and any other relevant risk exposures to the City of Hamilton.

Overall, the allegations were found to be unsubstantiated, and no non-compliance with MTO requirements were found. However, the OAG did make four recommendations to management to more assuredly provide for continuing compliance and for process improvement.

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### Fraudulent Apartment Vacancy Ads

The Office of the Auditor General received a report of potential fraudulent apartment vacancy advertisements posted on Facebook Market and Kijiji. Although this type of report is out of jurisdiction for the OAG to review, the Reporter was provided with the information regarding how to file a report through Hamilton Police Service and the Canadian Anti-Fraud Centre.

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### Allegations of Unfair Procurement with Respect to Roster

A business contacted the OAG after being dissatisfied with the response they received from management regarding an issue of their inclusion on the roster for their category of service. Specifically, the business expressed their concerns regarding a particular service that has two categories: residential and commercial. The business told the OAG that they had residential experience, and felt it was unfair that they City decided in mid-2022 to institute a change to only qualify vendors that had commercial experience. The Reporter expressed

concerns that smaller businesses would be excluded from bidding for work that they were experienced in and capable of performing.

The OAG was concerned that waste or inefficiency could arise in this situation, because larger firms tend to have higher overhead costs and more sophisticated machinery that is not necessarily required for the residential category, and this could potentially increase the cost of this service for this City.

The OAG requested that management review this matter and provide a response back to the OAG. The outcome of the management review was that the process was revised, the RFT closing date was extended and the requirement to allow only pre-qualified bidders with commercial experience was removed.



**Allegations of  
Unfair  
Procurement  
Regarding  
Single Sourcing**

A business submitted a report to the OAG regarding the fairness of City's procurement processes for the project they submitted a bid for but were not awarded the work. Ultimately for this competitive procurement process, no one was awarded this work.

The OAG reviewed the allegation and determined the complaint was not regarding the Procurement By-law where the bidder was unsuccessful, rather, the business was concerned about not being able to re-bid because the City decided to utilize a single sourced procurement after no bidders met the required benchmark in the original procurement.

The OAG's review of this matter found the By-law (specifically Policy 5.4 Request for Proposal) was not violated and the single sourced procurement approach for this project was properly approved and documented. The OAG provided contact details of the Ontario Ombudsman's office to the business.

OAG did make one observation regarding the composition of Request for Proposal Evaluation Committee members. Specifically, there were two external evaluators from the community on the evaluation committee. Even though this does not technically violate Policy #5.4, there is a need for Section 4.5.4 (3) to be clearly defined, as this approach to include external evaluators was an exception to regular practice and could invite criticism of the City and engender risk of inconsistent administration of procurement practices.

The OAG is concerned that without policy guidance, external evaluators could be seen to have biases, real or perceived, in the evaluation of a proposal, or that practices would vary from the norm. Therefore we made a recommendation to management to clearly define the eligibility and qualifications of evaluation committee members for City of Hamilton procurements.

**Unsubstantiated  
Conflict of  
Interest**

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A concern was reported to the OAG that a City-owned property was being arranged for sale to a City employee without going through the standard disposition process. The OAG investigated the matter and found the report to be unsubstantiated and that, in fact, a competitive process was being used to dispose of the property. In the course of investigating the matter OAG did note some areas for possible improvement and therefore decided to include an audit of real estate acquisitions and disposals on its Audit Workplan.

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**Phishing  
Attempt**

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An individual impersonating a member of City Council sent an email to Payroll staff requesting a change to their payroll direct deposit banking information. The phishing attempt was ultimately unsuccessful and Human Resources reported the incident to the Hamilton Police Service.

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**Concerns About  
Heritage Tree**

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Concerns about heritage trees were reported to the Office of the Auditor General. While the complaint did not raise fraud or waste concerns, the OAG referred the concerns to management. Management completed a review and the OAG found that appropriate action had been taken.

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**Conclusion**

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The Fraud and Waste Hotline was launched in July 2019 as a pilot program and was made permanent by Council in March 2023. Overall, the first four years of the Fraud and Waste Hotline operation have seen a high volume reports assessed and investigations launched as appropriate. Over 430 reports have been assessed and investigated.

Without a Fraud and Waste Hotline in place, it is likely that many of these reports would not have been received by the Office of the Auditor General and wrongdoing involving City resource may have continued and the scale of fraud and waste would have remained undisclosed and not publicly reported. Generally speaking, it indicates Hamiltonians and employees alike share the commitment in protecting the City of Hamilton's revenue, property, information and other assets and resources from fraud, waste and other wrongdoing.



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