

## **Municipality of Chatham-Kent**

### **Corporate Services**

### **Municipal Governance**

### **Information Report**

**To:** Mayor and Members of Council  
**From:** Christine Jackson, Manager Provincial Offences Court  
**Date:** September 6, 2023  
**Subject:** Provincial Offences Court Closures

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This report is for the information of Council.

#### **Background**

Across the province there is a critical shortage of Justices of the Peace, who are the judicial officers who preside over the municipally operated Provincial Offences Courts. This shortage is due to a significant number of retirements and leaves of absences. The hiring process in place by the Ministry of the Attorney General (MAG) is not able to keep up with the pace vacancies are occurring.

Due to this critical shortage of judicial resources, we have been advised that effective September 1, 2023 and until further notice, the Chatham-Kent POC will be reduced to one court day per week and subject to further planned closures throughout the year. With a pending caseload in excess of 2500 matters before the court and matters waiting to be set for trial, this reduction will result in a critical backlog.

#### **Comments**

The Chatham-Kent POC forms part of the West Region along with 12 other municipalities. At the beginning of each year, the Regional Senior Justice of the Peace (RSJP) provides the West Region with a calendar showing planned court closures due to judicial conferences and high vacation periods.

Since assuming operation of the POC in 2000, Chatham-Kent has always operated court sittings two times per week on Tuesdays and Wednesdays, for a potential of 104 court sittings per year. In 2022, due to the planned court closures, Chatham-Kent had 82 available court days. On August 1, 2022, as per an order from RSJP, Chatham-Kent lost the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of each month which was a loss of 7 more court days until year end, leaving 23 available court days for the remainder of the year.

In 2023, Chatham-Kent was given 73 available court days. From this, the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays continued to be cancelled for a total loss of 18 days leaving 55 days for the entire year. In early 2023, RSJP announced that due to a further retirement, Chatham-Kent would not have a Justice of the Peace assigned to the area and as a result effective September 1, 2023, the remaining Wednesday court sittings were cancelled. This will be a loss of 6 more days to year end. The RSJP has advised that the reduced court days will continue into June 2024. While this is Chatham-Kent's specific experience, the impact of this shortage across the West Region has seen a 25-30% reduction in the number of available court days due to judicial shortages.

In addition to the semi-permanent closure of court sittings in some areas, all Provincial Offences Courts in the West Region have experienced cancellation of scheduled court sittings on short notice. Chatham-Kent was advised the morning of Wednesday, July 18, that there was not a Justice of the Peace available to preside and accordingly all 80 matters were to be adjourned by the court clerk to already full court days. This will continue to be a possibility until changes are made by the Ministry of the Attorney General in conjunction with the Chief Justice of the Ontario Court of Justice.

These court closures have and will further impact a defendant's right to timely access to justice. The Charter guarantees the right to be tried within a reasonable time and failure to do so can result in the court dismissing the matter for delay. From a defendant's perspective delays create ongoing stress of having a matter outstanding and having to continually check with the court to ascertain the status. Delays also impact the timing of convictions registered on a driving record and potential impacts on insurance and finances. Cancellation of scheduled court sittings the morning of, will require defendants who took time off work to reattend and lose yet another day of pay or be required to use a vacation day. This will be especially difficult for lower income defendants and those with unstable wages, hours or job security.

The court closures will also have a negative impact on revenue. With the conclusion of matters being significantly delayed, revenue will be deferred and possibly lost if matters are dismissed due to delay. Now that Chatham-Kent is a formal Early Resolution court, we can continue to schedule meetings with the prosecutor on non-court days. Matters that are resolved must still go before a Justice of the Peace on a scheduled court day to enter a plea to the agreed upon amended charge. With the reduction in court sittings, this will prove to be a challenge.

Administration will be contacting the local Member of Provincial Parliament to make suggestions and seek support.

### **Areas of Strategic Focus**

This report supports the following areas of strategic focus:

			
<b>Economic Prosperity</b>	<b>Healthy &amp; Safe Community</b>	<b>People &amp; Culture</b>	<b>Environmental Sustainability</b>
	2.3		

**Consultation**

The Director of Legal Services was consulted and agrees with this report.

**Communication**

Communication is proposed to be through the inclusion of this report on the Council agenda and related communications.

**Diversity, Equity, Inclusion and Justice (DEIJ)**

As indicated above, any person who has a matter before the Chatham-Kent Provincial Offences Court will potentially be denied timely access to justice as guaranteed by the Charter of Rights and Freedom. As well, cancellation of scheduled court appearances on the day of court could negatively impact defendants of lower income and with unstable wages, hours or job security.

**Financial Implications**

There are no financial implications resulting from this report but there are potential financial implications resulting from actions of the Ministry of the Attorney General and the Judiciary. At this time those implications are unable to be quantified.

Prepared by: Christine Jackson, Manager Provincial Offences Court

Reviewed by:

Cathy Hoffman, General Manager, Corporate Services/Chief Human Resource Officer

Dave Taylor, Director Legal Services

Judy Smith, Director Municipal Governance/Clerk

Consulted and confirmed the content of the consultation section of the report by:

Provincial Offences Court Closures

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Dave Taylor, Director Legal Services

Attachment(s):

none