



Office of the Auditor General / Bureau du vérificateur général

**FOLLOW-UP TO THE 2007 AUDIT OF
LABOUR RELATIONS**

2009

**SUIVI DE LA VÉRIFICATION DES
RELATIONS DE TRAVAIL DE 2007**

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EXECUTIVE SUMMARY

Introduction

The Follow-up to the 2007 Audit of Labour Relations was included in the Auditor General's 2009 Audit Plan.

The key findings of the original 2007 audit included:

- A legal opinion obtained by the City stated that the existing severance practices are excessive. The audit recommended involuntary severance packages for senior managers be brought more in line with common law practices.
- There are weaknesses in the area of disciplining non-unionized employees, such as when a performance issue arises with a senior manager, there is little willingness to address it.
- For the vast majority of unionized City employees, the grievance procedure is lengthy, taking an average of nearly two years to complete.
- The City has not been very successful in handling grievances, especially at the arbitration stage.

Summary of Level of Completion

The table below outlines our assessment of the level of completion of each recommendation as of Fall 2009.

CATEGORY	% COMPLETE	RECOMMENDATIONS	NUMBER OF RECOMMENDATIONS	PERCENTAGE OF TOTAL RECOMMENDATIONS
LITTLE OR NO ACTION	0 – 24	7	1	4%
ACTION INITIATED	25 – 49	-	-	-
PARTIALLY COMPLETE	50 – 74	8, 10, 12	3	14%
SUBSTANTIALLY COMPLETE	75 – 99	3, 20, 21, 22	4	18%
COMPLETE	100	1, 2, 4, 5, 6, 9, 11, 13, 14, 15, 16, 17, 18, 19	14	64%
TOTAL			22	100%

Conclusion

The results of the follow-up audit clearly indicate that the Labour Relations Division, now reporting to the City Clerk and Solicitor, have accomplished great work in implementing most, if not all, recommendations at the time of this report.

The chart above summarizes the level of completion reached against the original 22 recommendations arising from the Audit of Labour Relations conducted in 2007. Fourteen of the recommendations are deemed to be fully implemented, four are 75% or more completed, three are progressing well, and one has not been acted

upon as a result of changes in personnel and the re-organization which have delayed its implementation.

One of the significant reasons behind the favorable improvements is the integration of Labour Relations (LR) and Legal Services (LS) reporting to the City Clerk and Solicitor. This decision has facilitated the timely access and exchange of information and has largely eliminated the disconnect that existed in the past between these divisions which was at the root cause of many recommendations arising from the 2007 Audit. The new changes will ensure better alignment, integration and cohesiveness in labour relations matters, and allow for appropriate escalation and determination of matters at senior management levels, when needed. However, there is still a need to explain the service delivery model and to emphasize the roles and responsibilities of all key stakeholders in labour relations matters.

Of greater significance overall is that the recent organizational changes have brought new faces and a refreshing perspective on collective bargaining which is both insightful and strategic as opposed to that of the past. The quality of the documentation reviewed, the nature and substance of discussions held with the responsible LR/LS senior managers as well as developments during the recent round of collective bargaining all serve to validate that the City is moving towards a more meaningful approach to collective bargaining with the full consultation and commitment of Council.

The research and analysis of proposed mandates for upcoming rounds of collective bargaining are now extremely well presented and beginning to be in tune with the City's longer term strategic objective. Very good steps have been taken in a very short time, but more needs to be done to continue to build a more rigorous and structured planning process to mesh the collective bargaining goals and strategies with the City's Talent Management Plan and in turn with Council's strategic vision and priorities.

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.

RÉSUMÉ

Introduction

Le Suivi de la vérification des relations de travail de 2007 était prévu dans le Plan de vérification du Bureau du vérificateur général de 2009.

Les constatations principales de la vérification initiale de 2007 sont les suivantes :

- Selon un avis juridique obtenu par la Ville, les pratiques actuelles en matière de versement d'indemnités de départ sont excessives. La vérification a recommandé d'ajuster les primes de départ involontaire offertes aux cadres supérieurs pour les rendre davantage conformes aux décisions juridiques.
- Il existe des lacunes en ce qui a trait aux mesures disciplinaires à l'égard des employés non syndiqués. Lorsqu'un gestionnaire présente un mauvais rendement, les cadres supérieurs sont réticents à intervenir.
- Pour la grande majorité des employés municipaux syndiqués, la procédure de règlement des griefs est très longue, s'échelonnant en moyenne sur près de deux ans.
- La Ville présente un dossier peu reluisant en matière de traitement des griefs, particulièrement à l'étape de l'arbitrage.

Sommaire du degré d'achèvement

Le tableau ci-dessous présente notre évaluation du degré d'achèvement de chaque recommandation à l'automne 2009 :

CATÉGORIE	POURCENTAGE COMPLÉTÉ	RECOMMANDATIONS	NOMBRE DE RECOMMANDATIONS	POURCENTAGE DU TOTAL DES RECOMMANDATIONS
PEU OU PAS DE MESURES PRISES	0 – 24	7	1	4 %
ACTION AMORCÉE	25 – 49	-	-	-
COMPLÉTÉE EN PARTIE	50 – 74	8, 10, 12	3	14 %
PRATIQUEMENT COMPLÉTÉE	75 – 99	3, 20, 21, 22	4	18 %
COMPLÉTÉE	100	1, 2, 4, 5, 6, 9, 11, 13, 14, 15, 16, 17, 18, 19	14	64 %
TOTAL			22	100 %

Conclusion

Les résultats du suivi de la vérification indiquent clairement que la Division des relations de travail, qui relève maintenant du greffier municipal et chef du contentieux, a accompli un excellent travail de mise en place de la plupart des recommandations, sinon toutes, au moment de la rédaction du présent rapport.

Le tableau ci-dessus résume le degré d'achèvement atteint par rapport aux 22 recommandations originales découlant de la vérification des relations de travail

effectuée en 2007. Quatorze des recommandations sont considérées comme entièrement mises en place, quatre le sont à 75 % ou plus, trois progressent de façon satisfaisante et une seule n'a pas été mise en œuvre en raison de changements de personnel et de la réorganisation qui en ont retardé la mise à exécution.

Un facteur d'importance des améliorations favorables est l'intégration des relations de travail et des Services juridiques qui relèvent tous deux du greffier et chef du contentieux. Cette décision a facilité l'accès et l'échange d'information en temps utile et a en grande partie éliminé la coupure qui existait entre ces divisions, à l'origine de nombreuses recommandations émanant de la vérification de 2007. Les nouvelles modifications amélioreront l'alignement, l'intégration et la cohésion dans les questions de relations de travail, et permettent la remontée adéquate et la détermination des enjeux à l'échelon de la haute gestion, au besoin. Il demeure toutefois nécessaire d'expliquer le modèle de prestation des services et de souligner les rôles et les responsabilités de tous les principaux intervenants en matière de relations de travail.

Plus important encore, globalement, est le fait que les récents changements organisationnels ont apporté de nouveaux visages et une perspective nouvelle sur la négociation collective, plus éclairée et plus stratégique que la précédente. La qualité de la documentation passée en revue, la nature et le contenu des discussions avec les cadres supérieurs responsables des relations de travail et des Services juridiques, ainsi que des développements au cours du récent cycle de la négociation collective, contribuent tous à confirmer que la Ville est en train d'adopter une approche plus significative à la négociation collective, en concertation avec le Conseil municipal.

La recherche et l'analyse des mandats proposés pour les prochains cycles de négociation collective sont maintenant très bien présentés et commencent à refléter l'objectif stratégique à plus long terme de la Ville. On a fait d'excellents pas dans la bonne direction dans un délai très court, mais il faut faire davantage pour poursuivre la mise en place d'un processus de planification plus rigoureux et mieux structuré visant à harmoniser les buts et les stratégies de négociation collective et le plan de gestion des talents de la Ville et, ultimement, la vision stratégique et les priorités du Conseil municipal.

Remerciements

Nous tenons à remercier la direction pour la coopération et l'assistance qu'elle a apportées à l'équipe de vérification.

1 INTRODUCTION

The Follow-up to the 2007 Audit of Labour Relations was included in the Auditor General's 2009 Audit Plan.

The key findings of the original 2007 audit included:

- A legal opinion obtained by the City stated that the existing severance practices are excessive. The audit recommended involuntary severance packages for senior managers be brought more in line with common law practices.
- There are weaknesses included the area of disciplining non-unionized employees, such as when a performance issue arises with a senior manager, there is little willingness to address it.
- For the vast majority of unionized City employees, the grievance procedure is lengthy, taking an average of nearly two years to complete.
- The City has not been very successful in handling grievances, especially at the arbitration stage.

2 KEY FINDINGS OF THE ORIGINAL 2007 AUDIT OF LABOUR RELATIONS

1. Prior to the fall of 2006, the City did not effectively protect itself when contracting with new Management Professional Exempt (MPE) employees for senior management positions in that there was no clear safety valve in the absence of a probationary period to deal with unsuitable new hires. The issue was also one of consistency and substantial cost in the case of an unsuitable new hire under the City's current severance structure.
2. New hires were not sufficiently informed of the terms and conditions of their employment and obligations (e.g., Terms and Conditions of Employment, Code of Conduct). The practice was not consistent for both internal and external candidates. Reference was made in the letter of employment for internal candidates to visit the intranet site to obtain the information. This information should have always been attached to the letter.
3. The severance pay provisions of the MPE Terms and Conditions of Employment and the guaranteed minimum amount of 18 months severance for a deputy city manager and 12 months for a director are considered to be excessive in the case of short-term employees. Further, the MPE Terms and Conditions of Employment need to be updated to align with common law and minimum employment standards.
4. Management interviews and case review suggest that when internal issues arise such as unacceptable behaviour within the management ranks, there is

unwillingness by some senior levels of management to do anything about it until the only option is termination.

5. There is no robust decision-making and accountability process to deal effectively with terminations for cause and involuntary separations to ensure substantiation of decisions to minimize the liabilities that the City might otherwise face. A policy exists for non-unionized employees, but we did not find it being applied to the more senior categories of excluded employees.
6. The administration of grievances through the grievance procedure is consistently untimely and not in keeping with the provisions of the collective agreement and good labour relations practices to the detriment of both parties and aggrieved employees.
7. The City's track record is not very successful in upholding the employer's position through the grievance procedure and especially at arbitration.
8. The collective bargaining mandates are not driven and developed from long-term strategic plan objectives but are more bottom-up, short-term and operational mandates, which do not anticipate and pave the way for true business transformation.
9. Labour Relations advice is perceived by management to be good, but not timely.
10. Better relationships need to be established between Labour Relations and Legal Services.

3 STATUS OF IMPLEMENTATION OF 2007 AUDIT RECOMMENDATIONS

2007 Recommendation 1

That the City continue to clearly state the existence and application of probationary periods and explicitly communicate it. This clause could be waived by the City Manager in particular circumstances and in such cases the waiver must be appropriately documented.

2007 Management Response

Management agrees with this recommendation.

All letters of offer include reference to the existence and application of a probationary period, unless agreement to waive the probationary period has been received by the City Manager at the time of hire. Documentation of the decision resides on both the employee file and the competition file.

Management Representation of the Status of Implementation of Recommendation 1 at December 31, 2008

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 1

A review of a sample of nine letters of offer taken chronologically confirms that all letters of offer had a reference to the applicable probationary period and or waiver and such references were appropriately documented and signed off.

OAG: % complete

100%

2007 Recommendation 2

That the City continue to inform new hires of their terms and conditions of employment as well as their obligations and that new employees be asked to acknowledge their understanding by signing a statement to that effect.

2007 Management Response

Management agrees with this recommendation.

New hires are provided with all of the terms and conditions that make up the offer of employment including: their respective collective agreement / terms and conditions of employment, City Employee Code of Conduct, confidentiality clause and benefits information. Candidates must sign the letter of offer acknowledging that they have read and accept all of the terms and conditions of employment.

Management Representation of the Status of Implementation of Recommendation 2 at December 31, 2008

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 2

A review of a sample of nine letters of offer taken chronologically confirms that all letters of offer made reference to terms and conditions of employment as set out in the Management and Professional Exempt (MPE) Terms and Conditions of Employment. Furthermore all attachments (e.g., job description, MPE T & Cs, Code of Conduct Handbook) were referenced in the letters of offer and new hires were required to sign the letter of offer acknowledging agreement to the terms and conditions of employment.

OAG: % complete

100%

2007 Recommendation 3

That the involuntary separation entitlements chart contained in the MPE Terms and Conditions of Employment document be updated to reflect common law standards including the minimum statutory provisions in the case of termination for cause.

2007 Management Response

Management agrees with this recommendation.

Employee Services will report back to Council with a written report with recommended revisions to the involuntary separation entitlements for MPE staff by the end of Q3 2008.

Management Representation of the Status of Implementation of Recommendation 3 at December 31, 2008

Implementation of this recommendation is 85% complete. This item was deferred in the fall and will proceed to CSEDC in Q1 2009.

Management: % complete 85%

OAG's Follow-up Audit Findings regarding Recommendation 3

The analysis and report to update the involuntary separation entitlements contained in the MPE Terms and Conditions of Employment to align them with common standards have been completed. However, for reasons not to prejudice the City's position with regards to longer service employees the implications of implementing the new changes and the appropriate time to do so are currently still under review and therefore the proposed changes have not been submitted to CSEDC as previously anticipated.

OAG: % complete 85%

Management Representation of Status of Implementation of Recommendation 3 as of Winter 2010

Management agrees with the Auditor General's follow-up audit findings. Following the completion of the original audit, the Ontario Court of Appeal released a significant decision impacting an employer's ability to make unilateral changes to the severance provisions of an employment contract. Given that decision, as well as the organizational restructuring that took place in 2008-2009, staff are reviewing the original audit recommendation and it is expected that a revised approach will be submitted to Committee and Council in Q1 2010.

Management: % complete 85%

2007 Recommendation 4

That a more robust discipline policy be developed that deals specifically with progressive discipline for non-unionized and managerial employees that stresses the importance of timely and prompt correction of unacceptable behaviour by management at all levels. Possible inclusions include a process similar to the current "last chance agreements" used with union employees who have had specific behaviour identified and subsequently submit to corrective measures at the risk of termination.

2007 Management Response

Management agrees with this recommendation.

Management believes the current discipline policy is sufficient to meet the needs highlighted in the audit. Labour Relations will supplement it with a disciplinary procedure document, outlining specifics steps to be followed when discipline is necessary for non-unionized City staff, by the end of Q3 2008.

Management Representation of the Status of Implementation of Recommendation 4 at December 31, 2008

Management: % complete *100%*

OAG Follow-up Audit Findings regarding Recommendation 4

A guide to “Discipline and Discharge of Management Employees” and another on “Discipline and Discharge of Professional Exempt and SAS Employees” were developed to assist managers in managing performance and disciplining employees. The guides are comprehensive and deal with the proper course of actions to be taken from positive problem solving, to defining and documenting expectations and imposing progressive discipline up to and including discharge.

OAG: % complete *100%*

2007 Recommendation 5

That training for “managing managers” be developed and offered to senior decision makers at the City.

2007 Management Response

Management agrees with this recommendation.

Labour Relations will develop a training program for senior decision-makers on the “management of managers” by the end of Q3 2008. Training will be offered commencing in Q4 2008.

Management Representation of the Status of Implementation of Recommendation 5 at December 31, 2008

Management: % complete *100%*

OAG’s Follow-up Audit Findings regarding Recommendation 5

Training guides were developed and the training of managers took place on October 23rd (23 attendees) for the Discipline and Termination of Management Employees and on October 21st (34 attendees) on the Discipline and Termination of Professional Exempt and SAS Employees

OAG: % complete *100%*

2007 Recommendation 6

That the City develop a procedure for dealing with terminations for cause and involuntary separations that provides for a more robust decision making and accountability process to ensure that decisions of this nature are made with the

involvement of all key stakeholders and subject matter experts (Labour Relations and Legal Services) to minimize liabilities in such cases. Elements of the procedure should deal with investigation, option analysis and implementation aspects of termination decisions to ensure the veracity of evidence and substantiation of decisions and, that the proper communication strategies are in place to mitigate unnecessary public exposure and to avoid undermining managers' overall confidence to take action. This procedure should also provide a mechanism in the event of disagreement between the key stakeholders to escalate resolution up to the City Manager if necessary, to ensure that views are duly considered and factored into the final decision.

2007 Management Response

Management agrees with this recommendation.

Although a formal procedure does not currently exist, such investigations, consultations, option analysis and substantiation of decisions occur now for terminations for cause and involuntary separations. Labour Relations, in consultation with Legal Services, will develop a formal procedure to be followed when terminating non-union personnel that includes: investigation, option analysis, implementation aspects of termination decisions, and an escalation mechanism in the event of disagreement between key stakeholders. This procedure will be completed by the end of Q3 2008.

Management Representation of the Status of Implementation of Recommendation 6 at December 31, 2008

Implementation of this recommendation is 100% complete. In October 2008, the Labour Relations Branch produced two documents outlining the disciplinary process for managers. The first is entitled "A Guide to Discipline and Discharge of Management Employees" and the second is entitled "A Guide to Discipline and Discharge of Professional Exempt and SAS Employees", both of which will be posted on Ozone shortly under the Management tab (Labour Relations). In addition, effective November 12, 2008, the City Manager announced that the Labour Relations Division would now report directly to the City Clerk and Solicitor. This merger is currently being finalized within the confines of Realignment Phase 3, and will enable ongoing communications and consultation regarding the discipline of non-union staff.

Management: % complete **100%**

OAG's Follow-up Audit Findings regarding Recommendation 6

This recommendation has been fully addressed. The guides outlining the disciplinary process for managers have been developed. Of greater significance is the re-organization and changes in reporting relationships. The decision to have Labour Relations report to Legal Services will eliminate most of the difficulties of the past and will ensure better alignment, integration and cohesiveness in labour

relations matters and, allow for appropriate escalation and determination of matters at senior management level.

OAG: % complete

100%

2007 Recommendation 7

That the City undertake a review of the allocation of labour relations resources and service delivery model to provide the flexibility to respond to changing needs within the operation and provide consistent and responsive service levels across the whole operation. Clients must be made aware of who their Labour Relations Consultants are, and their alternates in a crisis.

2007 Management Response

Management agrees with this recommendation.

The allocation of labour relations resources is ongoing given the limited number of resources available and high service demands. Pending Council approval of the 2008 budget, two additional senior labour relations resources will be allocated to the branch.

Labour Relations conducted a formal review of the allocation of resources and the service delivery model in February 2008, with the goal of providing more flexibility in responding to changing needs and in providing a consistent and responsive service to all clients.

A process will be in place by the end of Q2 2008 for communicating to clients who their assigned Labour Relations Consultant and alternate(s) are.

Management Representation of the Status of Implementation of Recommendation 7 at December 31, 2008

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 7

Based on the discussions with key stakeholders there was no evidence provided to support the fact that a formal review of the allocation of resources was conducted in February of 2008 nor was there any evidence advanced regarding a new service delivery model and communication of same to clients. There was discussion regarding aligning Labour Relations resources to major portfolios but none of this was documented at the time of the review. Changes related to the re-organization and delayed approvals for new resources impacted on the completion of this recommendation.

OAG: % complete

0%

Management Representation of Status of Implementation of Recommendation 7 as of Winter 2010

Management disagrees with the Auditor General's follow-up audit findings that there has been little or no action to implement this recommendation. Management believes that implementation is partially complete. With the completion of staffing initiatives in late 2009, as well as the recent approval by City Council in the 2010 budget of an additional Senior Labour Relations Consultant position, the Labour Relations branch is currently being reorganized to align the assignment of staff with the organizational structure put in place last year. Management is scheduled to present the revised organizational model to the Senior Management Committee in Q1 2010 and to outline the allocation of decision-making responsibilities in the grievance/arbitration process and staff assignments (primary and secondary contacts, etc.). Following that, branch representatives will be meeting with departmental management teams, as well as the respective unions.

Management: % complete *60%*

2007 Recommendation 8

That Labour Relations, Legal Services and their clients enter into "service level agreements" that specifically detail who is responsible for making decisions, preparing documentation, responses, attendance at meetings and arbitration, regular reporting on status and resolution of grievances with performance indicators.

2007 Management Response

Management agrees with this recommendation.

This recommendation has already been largely clarified through revisions made to the Delegation of Authority By-law (in April 2007).

Labour Relations and Legal Services will issue a joint memorandum to all of their clients outlining their roles and responsibilities regarding decision-making authority, by Q3 2008.

Management Representation of the Status of Implementation of Recommendation 8 at December 31, 2008

Implementation of this recommendation is 50% complete. On November 12, 2008, the City Manager announced that the Labour Relations division would now report directly to the City Clerk and Solicitor. This merger is currently being finalized within the confines of Realignment Phase 3, after which these roles and responsibilities will be clarified. This is expected to be complete by the end of Q2 2009.

Management: % complete *50%*

OAG's Follow-up Audit Findings regarding Recommendation 8

As a result of the re-organization and the fact that Labour Relations now reports to Legal Services and the related revisions made to the delegation of authority much of the confusion and overlap arising in the grievance arbitration process between these two functional groups has been removed. However, the need to lay out the roles and expectations between Legal Services and its client remains to be completed.

OAG: % complete *50%*

Management Representation of Status of Implementation of Recommendation 8 as of Winter 2010

Management agrees with the Auditor General's follow-up audit. As noted in the management response for Recommendation 7, with the completion of staffing initiatives in late 2009, as well as the recent approval by City Council in the 2010 budget of an additional Senior Labour Relations Consultant position, the Labour Relations branch is currently being reorganized to align the assignment of staff with the organizational structure put in place last year. Management is scheduled to present the revised organizational model to the Senior Management Committee in Q1 2010 and to outline the allocation of decision-making responsibilities in the grievance/arbitration process and staff assignments (primary and secondary contacts, etc.). Following that, branch representatives will be meeting with departmental management teams, as well as the respective unions.

Management: % complete *50%*

2007 Recommendation 9

That in instances where Labour Relations or Legal Services are involved, to settle a matter or overrule a decision made by a director/manager, steps be taken to involve the line manager in the decision making process prior to final determination; and that in instances of disagreement there be a means to escalate the matter to the appropriate level for impartial determination in the best interests of the City to avoid unfounded matters proceeding indefinitely.

2007 Management Response

Management agrees with this recommendation, in principle.

While management agrees in principle with the recommendation, it should be noted that the line manager is involved throughout the decision-making process and may consult with the department head and City Manager at any time. It should be noted that the delegation of authority, as specified in By-Law 2005-503, ultimately determines the final authority to make a decision on labour relations matters.

Management Representation of the Status of Implementation of Recommendation 9 at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 9

As stated in previous recommendations the clarifications made to the delegation of authority and the changes made in reporting relationships allow for better communication and consultation during the decision making process as well as for more appropriate escalation and determination of matters at senior management levels, if required. Furthermore, there is ample evidence based on the sample of grievance files reviewed that line management is consulted and involved in the decision making process.

OAG: % complete *100%*

2007 Recommendation 10

That whenever a discipline incident leads to a grievance, Employee Services prepares a brief synopsis of the issue to consult with Legal Services at this very early stage. Legal Services may be able to provide insight into the strategy to avoid what may be needless wrangling or to identify the ingredients to success.

2007 Management Response

Management disagrees with this recommendation.

Labour Relations staff settle the majority of grievances on discipline issues prior to arbitration. Therefore, management believes it would be an ineffective use of resources to prepare a synopsis and consult with Legal Services routinely on grieved disciplinary matters.

To maximize the value of Legal Services' contribution, Legal Services will be consulted on all significant disciplinary matters (i.e., dismissal) prior to the discipline being meted.

Management Representation of the Status of Implementation of Recommendation 10 at December 31, 2008

Implementation of this recommendation is 50% complete. This item was discussed at the November 21, 2008 meeting of CAWG and will go to Council for approval in the next quarterly report. The Auditor General and CAWG agreed that Employee Services would share all discipline grievance files electronically with Legal Services through a shared drive. Sharing of files is to be in place by the end of Q1 2009. As of November 12, 2008, the City Clerk and Solicitor assumed responsibility for the Labour Relations Division. It is suggested that this realignment will assist in bringing the units closer. The details of this new merger are currently being formalized.

Management: % complete *50%*

OAG's Follow-up Audit Findings regarding Recommendation 10

The integration of Labour Relations and Legal Services has facilitated the timely access and exchange of information and has largely eliminated the disconnect that might have existed previously. As the full implementation of the changes takes hold the units will work more cooperatively together and share the requisite level of information.

OAG: % complete *50%*

Management Representation of Status of Implementation of Recommendation 10 as of Winter 2010

Management disagrees with the Auditor General's follow-up audit findings with regard to the percentage of implementation completed. Management believes that implementation of this recommendation is substantially complete. The Labour Relations unit has now been fully integrated with the Litigation unit as part of a consolidated Litigation and Labour Relations branch. The sharing of information on both general and specific matters takes place on a regular basis through informal consultations and formal meetings, requests for opinions, etc. Management is currently working with IT Services to facilitate the sharing of file information and to overcome some restrictions imposed by the City's network architecture.

Management: % complete *85%*

2007 Recommendation 11

That whenever arbitration is scheduled, the affected manager, the Labour Relations Consultant and a representative of Legal Services be required as a matter of internal discipline policy, to convene a meeting immediately to review the issues which are the subject of the arbitration. As a result of this meeting, all three parties will agree on a course of action for the arbitration, and the client (manager) will be versed in settlement options and benefits in advance of the hearing - with all three parties committing to a course of action and helping to foster cohesive management resolve.

2007 Management Response

Management agrees with the first part of this recommendation that preparation for arbitration be undertaken with the involvement of line management, Labour Relations and Legal Services in order to review the issues and all possible options for resolution.

However, management disagrees with the second part of this recommendation. Matters arising from the arbitration process properly reside in Legal Services under the Delegation of Authority By-law and should continue to be within their mandate as part of their role as a Centre of Expertise and the City's representative for all litigation matters.

Management Representation of the Status of Implementation of Recommendation 11 at December 31, 2008

Implementation of this recommendation is 50% complete. This item was discussed at the November 21, 2008 meeting of CAWG and will go to Council for approval in the next quarterly report. The Auditor General and CAWG agreed that the sharing of electronic grievance files between Legal Services and Employee Services would help to foster cohesive management resolve to arbitration hearings. Sharing of files is to be in place by the end of Q1 2009.

Management: % complete **50%**

OAG's Follow-up Audit Findings regarding Recommendation 11

It is understood that matters arising from the arbitration process properly reside in Legal Services under the Delegation of Authority By-law and should continue to be within their mandate as part of their role as a Centre of Expertise and the City's representative for all litigation matters. Furthermore, the changes in reporting relationship between Labour Relations and Legal Services will facilitate on-going dialogue and cohesiveness between all interested parties. Lastly, a review of a sample of grievance files supports the contention that line management is consulted with respect to the handling and disposition of arbitration files.

It could be argued that this recommendation is fully implemented at 100%.

OAG: % complete **100%**

2007 Recommendation 12

That Employee Services provide a memorandum to all of their clients that clearly outlines the responsibilities of Legal Services, Employee Services and the client with regard to seeking advice, grievances and arbitrations.

2007 Management Response

Management agrees with this recommendation.

As noted under recommendation 8, Labour Relations and Legal Services will issue a joint memorandum to all of their clients outlining their roles and responsibilities regarding decision-making authority, by Q3 2008.

Management Representation of the Status of Implementation of Recommendation 12 at December 31, 2008

Implementation of this recommendation is 50% complete. Further to the response set out in Recommendation 8, with respect to the realignment, an in-depth review of the Labour Relations function, including the strategic capabilities of collective bargaining, is currently being finalized within the confines of Realignment Phase 3. This is expected to be complete by the end of Q2 2009.

Management: % complete **50%**

OAG's Follow-up Audit Findings regarding Recommendation 12

While the change in reporting relationship is well known there is a need to issue a memorandum to explain the service delivery model and to emphasize the roles and responsibilities of all key stakeholders in labour relations matters.

OAG: % complete

50%

Management Representation of Status of Implementation of Recommendation 12 as of Winter 2010

Management agrees with the Auditor General's follow-up audit findings. As noted in the management response for Recommendation 7, with the completion of staffing initiatives in late 2009, as well as the recent approval by City Council in the 2010 budget of an additional Senior Labour Relations Consultant position, the Labour Relations Branch is currently being reorganized to align the assignment of staff with the organizational structure put in place last year. Management is scheduled to present the revised organizational model to the Senior Management Committee in Q1 2010 and to outline the allocation of decision-making responsibilities in the grievance/arbitration process and staff assignments (primary and secondary contacts, etc.). Following that, branch representatives will be meeting with departmental management teams, as well as the respective unions.

Management: % complete

50%

2007 Recommendation 13

That the necessary steps be undertaken to communicate to all involved, including the union, the importance of respecting the time limits in the collective agreement and that the necessary steps be implemented to track and improve upon the time lines to processing grievances from start to finish.

2007 Management Response

Management agrees with this recommendation.

Management has instituted a tracking mechanism with prompts, which reminds labour relations consultants of grievance timelines while grievances are in process. In addition, at the recently concluded negotiations with CUPE 503 Inside/Outside, an agreement was reached to extend the timelines for handling grievances. Previous timelines were unrealistic and there was a lack of resources available for handling grievances on the part of both the City and the union.

Management Representation of the Status of Implementation of Recommendation 13 at December 31, 2008

Management: % complete

100%

OAG's Follow-up Audit Findings regarding Recommendation 13

Management has implemented a mechanism that tracks grievances through each step of the grievance procedure and emphasizes the need to respect the time limits

stipulated in the collective agreements. A LR Grievance Progress Summary is also maintained on each file to further focus attention on timeliness within the grievance procedure. Furthermore changes were made during the last round of collective bargaining with CUPE 503 to make the timelines more realistic.

OAG: % complete *100%*

2007 Recommendation 14

That standards be developed to ensure that all necessary documentation is gathered and placed in grievance files from the outset including incident notes and all related information; and that a grievance summary be included in all files and updated as a file progresses through the grievance procedure and that proper training be provided to support consistent and complete documentation practices.

2007 Management Response

Management agrees with this recommendation.

A process has been instituted and documented. As well, training has been provided on file maintenance. Grievance summaries will be provided on all grievances that are referred to Step II of the grievance process. However, if a grievance was settled at Step I of the grievance process, a summary would not be necessary.

Management Representation of the Status of Implementation of Recommendation 14 at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 14

Based on a review of 16 grievance files the quality of documentation as improved quite considerably. In fact, all grievance files examined (16) were complete and contained a Labour Relations Grievance Summary outlining the issue, the union and management position, a summary of facts and finally a recommendation with rationale.

OAG: % complete *100%*

2007 Recommendation 15

That changes be incorporated in the statistics that are maintained to include a measure of overall performance in terms of grievances completed/closed/settled successfully or unsuccessfully to provide a means of assessing overall effectiveness.

2007 Management Response

Management agrees with this recommendation.

Management agrees that statistics should be maintained to provide a measure of overall performance. Statistics are kept regarding completed, closed and settled grievances. Additional statistics regarding successful or unsuccessful conclusion will be developed by Q3 2008.

However, management cautions that statistics about successful or unsuccessful settlement of grievances is subjective and is, subsequently, hard to define and may not provide a meaningful performance measure to assess overall effectiveness of grievance handling.

Management Representation of the Status of Implementation of Recommendation 15 as at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 15

Statistics are maintained with regards to the outcome of grievances and provide some measure of performance. However, the decision to treat all settled grievances as successful outcomes under the auspices that any settlement is in the interests of harmonious relationships may not reflect a true picture of performance and may mask underlying flaws or issues in the grievance administration system. Nevertheless, statistics are now produced at a performance level and therefore, the recommendation is deemed to be fully implemented.

OAG: % complete *100%*

2007 Recommendation 16

That a needs analysis or survey of all managers and directors be conducted to ensure that future training seminars are in line with client needs for additional new training, refreshers, on such matters as discipline, workforce adjustment, Code of Conduct, etc.

2007 Management Response

Management agrees with this recommendation.

In order to ascertain training needs and design additional training for management staff, Employee Services will conduct a survey of all managers and directors, by the end of Q4 2008.

Management Representation of the Status of Implementation of Recommendation 16 as at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 16

A Labour Relations and Human Rights Training Survey were conducted in October 2008 to determine the training modules that managers had participated in and or were interested in participating. The results of this survey were tabulated and

provided participants an opportunity to advance their comments and opinion about training needs.

OAG: % complete *100%*

2007 Recommendation 17

That a summary of internal discipline jurisprudence briefly outlining the facts, conclusion and quantum of discipline imposed be maintained and circulated semi-annually to inform managers and assist them in their decision making.

2007 Management Response

Management agrees with this recommendation.

A summary of internal disciplinary jurisprudence will be added to the next Labour Relations, Human Rights & Employment Equity Bulletin, which is published twice a year, in order to provide guidance to line managers when imposing discipline. The next bulletin will be published in Spring 2008.

Management Representation of the Status of Implementation of Recommendation 17 as at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 17

The Labour Relations & Human Rights Bulletin reviewed was dated December 2008 and provides a variety of topical and pertinent information pertaining to Arbitration Awards, Case Law, Status of Collective Bargaining, Upcoming Training, etc., which undoubtedly serves as an invaluable source of information to assist managers in their decision making

OAG: % complete *100%*

2007 Recommendation 18

That the ultimate decision to proceed with matters be a joint decision between the parties concerned (Line Manager, Labour Relations, Legal Services) and that there be a mechanism (i.e., City Manager or delegate) to resolve differences between these parties in the event of disagreement for the interests of the whole and that such decisions be thoroughly documented to avoid having cases proceed to arbitration unnecessarily.

2007 Management Response

Management disagrees with this recommendation.

Management agrees that the line manager should be involved throughout the decision-making process and should have the option of consulting with the department head and the City Manager at any time. This is the process that

currently exists. However, management does not agree that a mechanism is necessary for the resolution of disputes.

In April 2007, the City Manager sub-delegated legal matters under the Delegation of Authority By-Law to the City Solicitor, including arbitrations. In addition, he sub-delegated various labour relations matters to the Director of Employee Services, including grievances.

In light of the fact that the grievance and arbitration processes are governed largely by the Ontario Labour Relations Act, it would be impractical to meet the requirements of recommendation 18, whereby: “the ultimate decision to proceed with matters be a joint decision between the parties concerned (Line Manager, LS, LR)”. The decisions made at the grievance level are within the jurisdiction of the Director of Employee Services in consensus with operating departments. Conversely, when a matter has been referred to arbitration, Legal Services is the clear lead and, in the traditional legal model, undertakes such arbitrations with the clear direction of the operating department. This is true even where arbitrations arise from a policy grievance, at which time Legal Services would look to Labour Relations for direction/instruction.

Management Representation of the Status of Implementation of Recommendation 18 as at December 31, 2008

Implementation of this recommendation is considered 100% complete. This item was discussed at the November 21, 2008 meeting of CAWG and will go to Council for approval in the next quarterly report. The CAWG discussion resulted in the following agreement: Management agrees that the line manager should be involved throughout the decision-making process and should have the option of consulting with the department head and the City Manager at any time, as this is the process that currently exists. In April 2007, the City Manager sub-delegated legal matters under the Delegation of Authority By-Law to the City Solicitor, including arbitrations. He also sub-delegated various labour relations matters to the Director of Employee Services, including grievances. In addition, the City Clerk and Solicitor (the position’s new title) will be a member of the City’s Executive Management Committee, an appropriate forum to resolve any disputes arising from the arbitration process. The recent realignment of the Labour Relations division under the City Solicitor/Clerk will foster the cohesive management resolve to arbitration hearings as recommended by the Auditor General.

Management: % complete

100%

OAG’s Follow-up Audit Findings regarding Recommendation 18

For all the sound reasons outlined in the current status of implementation of this recommendation, it is clear that this matter has been thoroughly reviewed and discussed at the appropriate levels of the organization and that the decision to

delegate final authority to the City Solicitor is justified and in keeping with the City's discretion.

OAG: % complete **100%**

2007 Recommendation 19

That statistics on arbitration cases, wins, losses, draws and costs be implemented to facilitate overall performance measurement.

2007 Management Response

Management agrees with this recommendation.

Consistent with recommendation 15, management cautions that categorizing arbitration awards, as a "win, loss or draw" may not provide meaningful performance measures to assess overall effectiveness of grievance and arbitration handling.

Legal Services will develop statistics related to arbitrations for their branch's performance measurements by Q3 2008.

Management Representation of the Status of Implementation of Recommendation 19 as at December 31, 2008

Management: % complete **100%**

OAG's Follow-up Audit Findings regarding Recommendation 19

Similarly, grievance statistics that are now maintained with regards to the outcome of arbitration provide some measure of performance. However, the decision to treat all arbitrations that are settled prior to a third party decision as successful outcomes under the auspices that any settlement contributes to harmonious relationships may not reflect a true picture of performance and may mask underlying flaws or issues in the arbitration process. Nevertheless, statistics are now produced on a level of performance and therefore, the recommendation is deemed to be fully implemented.

OAG: % complete **100%**

2007 Recommendation 20

That the City adopt a more strategic approach and longer term outlook to collective bargaining in keeping with its vision and long term objectives as confirmed and approved by Council and that there be a process in place to secure and maintain the commitment of Council to the stated mandate.

2007 Management Response

Management agrees with this recommendation.

Council has been, and will continue to be consulted, prior to negotiations taking place to determine the most appropriate strategic approach for negotiations at the

time. The consultation will include the strategic direction for both the current and upcoming rounds of negotiations.

Management Representation of the Status of Implementation of Recommendation 20 as at December 31, 2008

Management: % complete *100%*

OAG's Follow-up Audit Findings regarding Recommendation 20

The recent organizational changes have brought new faces and a refreshing perspective on collective bargaining which is both insightful and strategic as opposed to that of the past. As evidenced in a Report to the Corporate Services and Economic Development Committee on April 11, 2009 there is now a concerted effort to define a more strategic approach to labour relations and collective bargaining that will require the City to identify "horizon" issues that can be expected to have significant implications for the workplace and management of the City's compensation costs. As clearly outlined in this report any actions or strategies for collective bargaining must be in tune with the longer term vision of the City. Council's strategic vision and priorities form the foundation of the City's Talent Management Plan which in turn drives the recruitment and retention strategies as well as succession planning and directs the City's future collective bargaining goals and strategies well in advance.

This document serves as an encouraging step towards a meaningful collective bargaining approach with the full consultation and commitment of Council. The recommendations contained therein, the analysis and proposed mandates for upcoming rounds of collective bargaining are extremely well presented. Furthermore, the recent round of negotiations with the Amalgamated Transit Union while admittedly difficult served as a good example of cohesiveness and commitment by all parties in the face of adversity. However, more analysis and planning on this issue needs to be done and earn the understanding and support of Council.

OAG: % complete *75%*

Management Representation of Status of Implementation of Recommendation 20 as of Winter 2010

Management agrees with the Auditor General's follow-up audit findings. Management will continue to build on the work done in 2009 to establish a more strategic approach to collective bargaining, working closely with the Corporate Services and Economic Development Committee beginning in 2010 to identify significant issues and establish mandates and strategies for the next rounds of collective bargaining, which are due to take place in 2011-2012.

Management: % complete *75%*

2007 Recommendation 21

That the current collective agreements be reviewed to identify impediments to achieving the City’s vision and mid-term objectives, and that related bargaining strategies be developed to address shortcomings to change and flexibility.

2007 Management Response

Management agrees with this recommendation.

With each round of collective bargaining, proposals are formulated in support of the City’s vision and objectives, in order to negotiate the removal of impediments to achieving those objectives. The removal of these impediments is contingent upon successful negotiations.

Management Representation of the Status of Implementation of Recommendation 21 as at December 31, 2008

Management: % complete *100%*

OAG’s Follow-up Audit Findings regarding Recommendation 21

Building on the progress and positive change discussed under recommendation number 20 and the need to focus on the longer term to facilitate the achievement of the City’s vision and strategies there is a need now to articulate in concrete terms what these impediments are and to develop strategies to deal with these. While there is a semblance of these in the proposed mandates for upcoming rounds of collective bargaining and a summary of what has been achieved in previous rounds, a more concerted action plan needs to be developed to ensure that it is in line with the Talent Management Plan and the City’s longer term vision and strategies. Progress on this front is happening as evidenced by the recent accomplishment involving the Amalgamated Transit Union and the work scheduling issue. However, more analysis and planning on this issue needs to be done.

OAG: % complete *75%*

Management Representation of Status of Implementation of Recommendation 21 as of Winter 2010

Management agrees with the Auditor General's follow-up audit findings. As noted in the response relating to Recommendation 20, while the framework for a more strategic approach was adopted by City Council in 2009, the work of identifying appropriate bargaining strategies to overcome collective agreement impediments is ongoing. Given the need for continuous improvement in this regard, Management is of the view that this recommendation can never be 100% completed.

Management: % complete *75%*

2007 Recommendation 22

That the strategy for the upcoming round(s) of collective bargaining in 2008 and potential implications be well understood by Council and well supported with the right strategies, action plans and resources to manage the process and its inherent challenges.

2007 Management Response

Management agrees with this recommendation.

Presentation of the 2008 bargaining strategy was made to Council in November 2007.

Temporary resources have been provided to assist in achieving the objectives outlined in this strategy. As the duration of the upcoming agreements are finalized, a review of staffing needs will be undertaken. If increased permanent staffing is required, a report will be submitted to Council requesting additional resources in 2009.

Management Representation of Status of Implementation of Recommendation 22 as at December 31, 2008

Implementation of this recommendation is 90% complete. As noted in Recommendation 8, on November 12, 2008, the City Manager announced that the Labour Relations division would now report directly to the City Clerk and Solicitor. The request for two additional FTE's to deal with the strategic capabilities of collective bargaining was approved through the Council budget process in December 2008. The positions are currently in the process of being formally established.

Management: % complete **90%**

OAG's Follow-up Audit Findings regarding Recommendation 22

As stated earlier the changes in organization and personnel have brought a refreshing perspective on adopting a strategic approach to collective bargaining. The report to the Corporate Services and Economic Development Committee is extremely well researched and presented. Based on discussions it was understood that additional funds for the recruitment of two additional FTEs were not approved by Council.

OAG: % complete **90%**

Management Representation of Status of Implementation of Recommendation 22 as of Winter 2010

Management agrees with the Auditor General's follow-up audit findings. Though funding for the recruitment of two additional FTEs was not approved by Council as part of the 2009 budget, the consolidation of the Litigation and Labour Relations units under a single manager allowed for the establishment of one additional Senior

Labour Relations Consultant position. The second position has since been approved as part of the 2010 budget and management will be moving as soon as possible to complete the staffing process.

Management: % complete **90%**

4 SUMMARY OF THE LEVEL OF COMPLETION

The following table outlines our assessment of the level of completion of each recommendation as Fall 2009.

CATEGORY	% COMPLETE	RECOMMENDATIONS	NUMBER OF RECOMMENDATIONS	PERCENTAGE OF TOTAL RECOMMENDATIONS
LITTLE OR NO ACTION	0 – 24	7	1	4%
ACTION INITIATED	25 – 49	-	-	-
PARTIALLY COMPLETE	50 – 74	8, 10, 12	3	14%
SUBSTANTIALLY COMPLETE	75 – 99	3, 20, 21, 22	4	18%
COMPLETE	100	1, 2, 4, 5, 6, 9, 11, 13, 14, 15, 16, 17, 18, 19	14	64%
TOTAL			22	100%

5 CONCLUSION

The results of the follow-up audit clearly indicate that the Labour Relations Division, now reporting to the City Clerk and Solicitor, have accomplished great work in implementing most, if not all, recommendations at the time of this report.

The chart above summarizes the level of completion reached against the original 22 recommendations arising from the Audit of Labour Relations conducted in 2007. Fourteen of the recommendations are deemed to be fully implemented, four are 75% or more completed, three are progressing well, and one has not been acted upon as a result of changes in personnel and the re-organization which have delayed its implementation.

One of the significant reasons behind the favorable improvements is the integration of Labour Relations and Legal Services reporting to the City Clerk and Solicitor. This decision has facilitated the timely access and exchange of information and has largely eliminated the disconnect that existed in the past between these divisions which was at the root cause of many recommendations arising from the 2007 Audit. The new changes will ensure better alignment, integration and cohesiveness in labour relations matters, and allow for appropriate escalation and determination of matters at senior management levels, when needed. However, there is still a need to explain the service delivery model and to emphasize the roles and responsibilities of all key stakeholders in labour relations matters.

Of greater significance overall is that the recent organizational changes have brought new faces and a refreshing perspective on collective bargaining which is

both insightful and strategic as opposed to that of the past. The quality of the documentation reviewed, the nature and substance of discussions held with the responsible LR/LS senior managers as well as developments during the recent round of collective bargaining all serve to validate that the City is moving towards a more meaningful approach to collective bargaining with the full consultation and commitment of Council.

The research and analysis of proposed mandates for upcoming rounds of collective bargaining are now extremely well presented and beginning to be in tune with the City's longer term strategic objective. Very good steps have been taken in a very short time, but more needs to be done to continue to build a more rigorous and structured planning process to mesh the collective bargaining goals and strategies with the City's Talent Management Plan and in turn with Council's strategic vision and priorities.

6 ACKNOWLEDGEMENT

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.