

Report CAOR-CS-03-15

To: Chair Pringle and Members of the Corporate Services Committee
From: Sharon Vokes
Meeting Date: April 14, 2015
Subject: **Position Paper on the Implementation of an Online Administrative Penalty System for certain matters currently in the Provincial Offenses Court System**
Status: Recommendation adopted by Committee as presented per Resolution CS49-15; Endorsed by County Council May 5, 2015 per Resolution CC71-15;

Recommendation(s)

WHEREAS the Ministry of the Attorney General has released the paper “Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario”;

NOW THEREFORE BE IT RESOLVED THAT Report CAOR-03-15 be received;

AND THAT the Position Paper included with the Report be submitted to the Ministry of the Attorney General as Grey County’s submission;

AND FURTHER THAT in accordance with Section 24(13) of the County’s Procedural By-law, this submission be made immediately as the date for submissions closes April 14, 2015.

Background

At the March 17, 2015 Committee meeting staff was directed to develop a position paper on the paper released by the Ministry of the Attorney General on March 3, 2015 entitled “Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario”. Responses are to be submitted no later than April 14, 2015.

The objectives of the consultation are to seek public input on the merits and key features of an online Administrative Penalty (AMP) system for infractions of provincial statutes and municipal by-laws, excluding very serious offences (including those that result in imprisonment). The input is to help the ministry make decisions about a potential framework and key features for the system and draft proposals for legislative change.

The Ministry of the Attorney General proposes to move all Part 2 matters, being parking infractions, and most Part 1 matters, being primarily Highway Traffic Act violations, from the court system over to an AMP system. It is assumed, although not specifically mentioned in the Paper, that municipal by-laws would also fall to the AMP system.

The amount of revenue that municipalities realize from Part 2 matters is prescribed by the Province. For example, upon conviction of a \$30 parking ticket, \$9 in costs is added. All of this money goes back to the lower tier. The \$9 is used by the lower tier to cover the cost of obtaining the driver information from the Ministry of Transportation from the plate number. The lower tier covers the cost of providing a Prosecutor at trial. The administration and all other court costs related to the trial are absorbed by the County. It's clear that defaulted parking tickets under Part 2 are costly to administer, so moving these tickets to a more streamlined system certainly makes sense.

There may be benefits of including municipal by-laws in an AMP system but once again, the devil is in the details. If it is administered by each municipality are there costs which might make it prohibitive for smaller municipalities to implement? This question is raised as the ability to implement AMP's for Part 2 offenses and municipal by-laws was put in place in 2007 with amendments to the Municipal Act through passage of Bill 130, the Municipal Statute Law Amendment Act, 2006, yet the uptake of municipalities was quite low. Only a few, larger municipalities such as Oshawa and Vaughn implemented an AMP system. In speaking with staff from Vaughn and Oshawa, the program has been successful. Was the lack of uptake not enough understanding on the part of municipalities, or was it cost prohibitive? Staff understands that Owen Sound did consider implementing AMP's for parking several years ago, but did not adopt the process.

There is concern, however; as noted in the Position Paper attached to this report that there may indeed be unintended consequences of including many matters under Part 1 in an AMP system. What might help efficiency thereby saving money in Toronto, might in fact, significantly hurt the bottom line for smaller municipalities. It must be remembered that revenue from POA was included in the initial revenue neutral calculations by the Province when the local service realignment was put in place in the late 1990's.

In principle, moving to an AMP system for certain infractions makes perfect sense and should certainly be pursued. As noted in the attached Position Paper though, moving forward with a one size fits all solution may have significant unintended consequences which will have negative impacts on municipalities. It is recommended in the Position Paper that before proceeding with implementation of an AMP system that the Ministry of Attorney General work with the appropriate municipal associations to ensure that the solution that is implemented is in the best interest of all concerned.

Financial / Staffing / Legal / Information Technology

Considerations

There are many unanswered questions in the information provided by the Ministry of the Attorney General. There is the distinct possibility that the inclusion of many Part 1 offences will have a negative impact on Grey County's bottom line, as well as other municipalities, including our own lower tier municipalities.

There may be staffing and information technology considerations as well, but it is too early to ascertain what these might be.

No legal implications are anticipated as these will be well thought out as the Ministry of Attorney General works through the process.

Link to Strategic Goals / Priorities

The submission of this Position Paper supports Goal 4.6 of lobbying senior levels of government for financial supports that enhance the sustainability of rural and small urban communities. While this goal is directed towards enhancing funding, the Position Paper does seek to ensure that current levels of funding to municipalities aren't negatively impacted.

Attachments

Position Paper

Respectfully submitted by,

Sharon Vokes,
Acting CAO

The County of Grey

Response to Paper on

**Exploring an online Administrative Penalty System
for Infractions of provincial statutes
and municipal by-laws in Ontario**



Submitted by:

Grey County
April 14, 2015

Review and Submission of Comments on Online Administrative Penalty System

Overview of Proposal by Ministry of Attorney General

The Ministry of the Attorney General released the paper “Exploring an online Administrative Monetary Penalty System for infractions of provincial statutes and municipal by-laws in Ontario” on March 3, 2015. The objectives of the consultation are to seek public input on the merits and key features of an online Administrative Penalty (AMP) system for infractions of provincial statutes and municipal by-laws, excluding very serious offences (including those that result in imprisonment). The input is to help the ministry make decisions about a potential framework and key features for the system and draft proposals for legislative change.

Proposed Changes to the Current System

The Ministry of the Attorney General proposes to move all Part 2 matters, being parking infractions, and most Part 1 matters, being primarily Highway Traffic Act violations, from the court system over to an AMP system. It is assumed, although not specifically mentioned in the Paper that municipal by-laws would also fall to the AMP system.

Our Concerns

Consultation

The County of Grey is deeply concerned of the AMP system as proposed in the Ministry’s Paper. The consultation is clearly directed at the consumer and not municipalities, who have been given the responsibility of administering the Provincial Offences’ system. Certainly, the County of Grey is very supportive of streamlining processes and creating efficiencies, but care must be given to not assume that a one size fits all solution works in all of Ontario. It is critical that municipalities have further opportunities to influence this process.

The Paper speaks of consulting stakeholders, such as municipalities, as part of the Law Commission of Ontario’s 2011 report which is certainly true. That report recommended that all parking offences be resolved in an AMP system and Grey County is in full agreement with that recommendation. Grey County is also in favour of considering an

AMP system for municipal by-laws. However; the report did not recommend the inclusion of Part 1 matters in an AMP system, but rather that minor Part 1 infractions be reviewed to determine whether an AMP system would be the preferable method. To the County's knowledge, this review has not taken place and would recommend that this be done in consultation with all stakeholders before proceeding.

How much is too much?

It is not possible to determine in the Paper what Part 1 matters are to be moved to an AMP system. This knowledge is critical for informed input into the Paper. There is a concern that if the majority of Highway Traffic Act violations are moved to an AMP system that it will trivialize these infractions and have the potential of negatively impacting community safety. The very act of making the process streamlined and, more importantly, anonymous, through an on line program could in fact discourage people from pleading guilty and paying the fine. It takes a lot more effort on the part of an individual to contest a fine by requesting a court date than it does to go online.

Unintended Impacts

Great care needs to be considered before implementing an AMP system. An AMP system as proposed may work very well in Toronto where the volumes are so high that the courts are backlogged. That is not the case in many other court jurisdictions. Grey County is a case in point where there aren't large backlogs to get a court date and most trials are within three months. Grey County has developed a web based solution which has enabled it to ensure that only officers on a day shift are scheduled for court thereby minimizing policing costs locally.

Will the quest for streamlining lead to more fine challenges and reduced revenue? If so, this has the potential of having significant negative financial impacts on municipalities. This needs to be further explored before decisions are made, and if this is indeed the case, the process needs to be vetted through the Memorandum of Understanding process between AMO and the Province. As an example, smaller court jurisdictions which have implemented the first resolution process have seen its administrative costs escalate with revenue losses and less court time. Regrettably, the reduced court times don't always offset the other two thereby leaving the municipality short. For this reason, consideration should be given to giving municipalities the option of using an AMP system.

Unanswered Questions

As the Paper's intended audience is the consumer, there are many areas that are not addressed that municipalities need answers to before supporting the concept. For example:

Who will operate the AMP program; the Province, municipalities administering Provincial Offenses or all municipalities?

Will it operate on one software platform and who will own it?

Will the revenue continue to flow to municipalities?

Will municipalities that deliver POA see corresponding reductions in computer costs currently paid to the Province?

Will Victim Fine Surcharges continue to be applied?

What qualifications will the "unbiased decision makers" have and who appoints and pays for their services?

Will there be an appeal mechanism and how will this work?

What is the timing for implementation understanding that software implementation is often a complex process?

CONCLUSION

Municipalities took up the challenge of administering the Provincial Offenses courts and in so doing have invested significant resources to provide a high level of service to our residents. Many have constructed new court facilities to meet the changing demands. While we acknowledge that accounts receivable for unpaid fines continues to grow, we also note that under the watchful eyes of municipalities, there has been an increased focus on improving collections.

While the County of Grey is very supportive of streamlining processes and providing more efficient service, it urges the Ministry of Attorney General to step into this carefully and ensure that municipalities are included in discussions early to help influence an outcome that is in the best interests of all concerned. To this end, the County of Grey urges the Ministry of the Attorney General to engage the appropriate municipal associations in a forum to create a positive solution.