

1. SOCIAL ASSISTANCE REFORM ACT 1997: REGIONAL POSITION ON REGULATIONS

COMMITTEE RECOMMENDATIONS AS AMENDED

That Regional Council adopt recommendations 1 through 7 as its position on regulations to be made under the Social Assistance Reform Act (Bill 142) and authorize the Regional Clerk to forward this report to the Minister of Community and Social Services;

1. **In order to permit Regional Government to determine a reasonable level of discretionary expenditure, that Ontario Works Act (OWA) regulations provide for the continuation of all mandatory and supplementary benefits available under General Welfare Act (GWA) including the relevant funding approval procedures and cost-sharing formula, without the imposition of a Provincial financial limit;**
2. **That if OWA personal asset levels are set lower than those under Ontario Disability Support Program Act (ODSPA), OWA applicants claiming disability as reason for assistance be temporarily exempt from the asset level criterion of eligibility pending consideration of their case under / transfer to ODSPA.**
3. **That any requirement that property related to personal use and/or employment be subject to the lien provisions of OWA, be conditional upon the expiration of a grace period of between 2 and 3 years during which the recipient must have received social assistance on a continuous basis.**
4. **That the specific lien grace period applicable to each recipient's individual situation be left to the discretion of the Welfare Administrator.**
5. **That the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance is received.**

- 6. That OWA regulations ensure that third party payments are used only as a last resort when recipients risk the loss of shelter or utilities; and only when the third party payment does not jeopardize the ability of recipients to feed, clothe and shelter themselves.**
- 7. That the rate of recovery of overpayments be maintained within the existing GWA limits of between 5% and 10% of income assistance, as determined by the Administrator; unless the recipient requests that a greater amount be deducted.**

DOCUMENTATION

1. Social Services Commissioner's report dated 23 December 1997 is immediately attached.
2. Extract of Draft Minute, Community Services Committee, 22 January 1998 immediately follows the report and includes a record of all votes.
3. Correspondence from Social Services Commissioner dated 30 January 1998 immediately follows the Extract of Draft Minute.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf. 27-02-97-0014-15
Your File/V/Réf.

DATE 23 December 1997

TO/DEST. Co-ordinator, Community Services Committee

FROM/EXP. Commissioner, Social Services Department

SUBJECT/OBJET **SOCIAL ASSISTANCE REFORM ACT 1997:
REGIONAL POSITION ON REGULATIONS**

DEPARTMENTAL RECOMMENDATIONS

That Community Services Committee recommend that Regional Council adopt recommendations 1 through 7 as its position on regulations to be made under the Social Assistance Reform Act (Bill 142) and authorize the Regional Clerk to forward this report to the Minister of Community and Social Services;

- 1. That Ontario Works Act (OWA) regulations provide for the continuation of all mandatory and supplementary benefits available under General Welfare Act (GWA) including the relevant funding approval procedures and cost-sharing formula;**
- 2. That if OWA personal asset levels are set lower than those under Ontario Disability Support Program Act (ODSPA), OWA applicants claiming disability as reason for assistance be temporarily exempt from the asset level criterion of eligibility pending consideration of their case under / transfer to ODSPA;**
- 3. That any requirement that property related to personal use and/or employment be subject to the lien provisions of OWA, be conditional upon the expiration of a grace period of between 2 and 3 years during which the recipient must have received social assistance on a continuous basis;**

4. **That the specific lien grace period applicable to each recipient's individual situation be left to the discretion of the Welfare Administrator;**
5. **That the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance is received;**
6. **That OWA regulations ensure that third party payments are used only as a last resort when recipients risk the loss of shelter or utilities; and only when the third party payment does not jeopardize the ability of recipients to feed, clothe and shelter themselves;**
7. **That the rate of recovery of overpayments be maintained within the existing GWA limits of between 5% and 10% of income assistance, as determined by the Administrator; unless the recipient agrees to a greater amount being deducted.**

BACKGROUND

On October 16, 1997; a report entitled "Social Assistance Reform Act (SARA) 1997 Update" was tabled before the Community Services Committee. In considering the report, the Committee adopted a motion requesting Regional staff to prepare this follow-up report on regulations to be proclaimed under SARA so the Region can have an input before final decisions are taken. In response to the request of the Committee, a focus group was struck within the Social Services Department (SSD) to identify issues of concern to the Region; and to develop recommendations as to how such issues could be addressed in the regulations to be proclaimed under SARA.

The focus group identified the following issues which are related primarily to the OWA component of SARA:

1. the definition of "Benefits",
2. personal assets levels,
3. lien against personal property,
4. agreement to reimburse for assistance provided,
5. third party payments, and
6. recovery of overpayments.

With the passing of SARA into law on November 28, 1997; many of the issues discussed in the October staff report are not addressed in this report either because they are not subject to further clarification or resolution in regulations.

DISCUSSION

Benefits

Certain benefits currently provided under GWA are mandatory in nature; meaning they must be provided to those who are in need and eligible. These include: Special Necessities such as surgical supplies, diabetic supplies and necessary medical transportation; Community Start-Up Benefits (CSUB); Back to School Allowance; Winter Clothing Allowance and Employment Start-Up Allowance (ESUA).

Other items of service called Special Assistance or Supplementary Aid are provided on a discretionary basis by municipalities subject to municipal and provincial program approval. These include such things as vision and dental care; some essential furniture and appliances; assistance for certain medical needs, vocational training fees and other goods and services which are not provided through the GWA basic allowance. The overall effect of the GWA benefits is that they introduce the flexibility required by the Administrator to address certain client specific needs. Expenditures for mandatory and discretionary benefits attract Provincial subsidy, with no cap or ceiling, within the budget approved by Regional Council.

OWA defines “Benefits” as prescribed items, services or payments. This means that regulations under the Act will determine what benefits will be available to OWA recipients; and whether they will be mandatory or discretionary. There is concern that if OWA regulations eliminate a substantial portion of the benefits provided under GWA, Welfare Administrators will become limited in their ability to effectively address the benefit needs of recipients. Benefits such as CSUB, ESUA, vision and dental care are very often linked to clients’ basic needs and efforts toward self-sufficiency.

Further, the regulations could alter existing benefits funding approval procedures and cost-sharing formula in a manner that may place municipalities in the position of having to either cut certain benefits or pay for them at 100% municipal cost. The SSD therefore recommends that OWA regulations maintain the full range of GWA benefits including the relevant funding approval procedures and cost-sharing formula.

Personal Assets Levels

Under GWA, the Welfare Administrator must determine the maximum level of liquid assets an applicant may have in order to be eligible for assistance. Based on this requirement, the Region adopted the policy that its maximum GWA asset level not exceed the corresponding maximum level set under FBA. This allowed the Administrator to set asset levels for disabled GWA recipients at FBA levels so that this group of clients can keep their asset levels intact while waiting for an FBA disability grant.

ODSPA will raise the liquid asset limit from its FBA level of \$3,000 to \$5,000 for a single person; and from \$5,000 to \$7,500 for a couple. Five hundred dollars in assets will be allowed for each additional dependent person in a benefit unit. Personal injury award limits will also be increased from their current level of \$25,000 to \$100,000. Additionally, the cash surrender values of life insurance policies will no longer be considered liquid assets up to \$100,000. However, the Ministry has indicated in its June 5th Backgrounder that ODSPA recipients may take a loan against the value of their life insurance policies to cover costs related to the advanced stages of such illnesses as cancer or AIDS.

Other provisions of ODSPA relating to asset levels include the requirement that families can now help with certain disability-related costs to be prescribed in regulations. Families can also provide up to \$4,000 per year for non-disability related expenses without affecting ODSPA allowances; although again the specific eligible expenditures will be defined in the regulations. Additionally, allowable testamentary trusts (inheritances in the form of a trust fund) will also increase within ODSPA from \$65,000 to \$100,000.

While these changes appear very positive for ODSPA recipients; there is concern that OWA asset levels, which are yet to be prescribed in regulations, may be set lower than those under ODSPA; thus forcing disabled OWA recipients to dispose of assets they would have been allowed to keep under ODSPA. The SSD therefore recommends that disabled OWA recipients be temporarily exempt from the personal asset level criterion of eligibility pending their transfer to ODSPA if OWA asset levels are set below those of ODSPA.

Lien Against Personal Property

GWA has no requirements for the registration of liens against personal property. However, in determining the eligible liquid asset level, the Welfare Administrator must take the applicant's interest in real property unless such property constitute:

- a) the applicant's principal residence, and
- b) tools of the trade or instruments of manual operation that are used in an occupation or trade and which are essential to carry on employment.

The effect of these GWA provisions is that assets related to the recipient's personal use and previous employment are maintained intact in order to facilitate the recipient's early return to employment as a means of exiting social assistance. For example, a farmer who is otherwise eligible for assistance under GWA would not be expected to sell his/her farm machinery if assistance is likely to be short term (i.e., 1 to 6 months). The farmer may however be asked to liquidate property not needed for his/her own personal use if the Administrator expects that assistance will be needed for an indefinite period of time. In this case the farmer will be given a grace period of six months in which to liquidate the assets related to his/her previous employment.

Section 12 of OWA, requires that an Administrator shall in prescribed circumstances, as a condition of eligibility for basic financial assistance, require an applicant, recipient, spouse or dependent adult who owns or has an interest in property to consent to having a lien against the property in accordance with regulations. It is not yet known what the prescribed circumstances will be. However, the SSD is concerned that if properties related to personal use, such principal residence; and self-employment, such as tools of the trade; are subject to the lien provisions of OWA immediately upon application for assistance; opportunities for certain recipients to exit social assistance by mortgaging their personal properties for self-employment loan may be jeopardised. Furthermore, recipients may find it harder to get off welfare as their debt will follow them. In certain cases they may lose their houses because mortgages may not be easily refinanced with a lien. The SSD therefore recommends that if properties related to personal use and/or employment are to be subject to liens; a grace period of 2 to 3 years of continuous assistance be allowed prior to the implementation of such a requirement. The specific grace period will be determined by the Administrator in consideration of recipient's circumstances.

Agreement To Reimburse

Currently, when a GWA recipient or beneficiary is entitled to receive a payment which is likely to cover the same period for which assistance is being paid, the recipient must sign a written agreement to reimburse the Administrator for the assistance being provided. In addition, the recipient must complete an assignment form where the payment may be coming from, among others, a pension plan, employment insurance, law suits, trust funds and accident claims.

OWA beneficiaries shall in certain circumstances be required to agree to reimburse for the basic financial assistance to be provided. According to the Act, certain prescribed assets or incomes including incomes paid with respect to a period after assistance will be exempt from the

reimbursement provisions. The SSD is of the opinion that certain windfall incomes such as inheritances may provide the only opportunity for certain recipients to exit social assistance. The SSD therefore recommends that the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance has been paid; and which thereby constitute a duplication of assistance.

Third Party Payments

GWA regulation 12(1) authorises the Administrator to make direct payments to landlords etc. on behalf of recipients by stating that an allowance shall be paid to or *on behalf of* a person. OWA, on the other hand, provides that a portion of basic financial assistance may be paid directly to a third party (e.g. a landlord or utility company) on behalf of a recipient; if the recipient or his / her dependent owes money to the third party for costs related to basic needs or shelter. OWA regulations will clarify whether this provision covers overdue as well as recurrent debt. The SSD is concerned that the third party payment provisions of OWA may promote dependency if they favour the payment of overdue debts over the day-to-day survival expenditures of recipients.

In addition, there are fears that most creditors particularly landlords and utility companies may seek to use this provision as a first resort to guarantee payment for their goods and services on a continuous basis. This in turn may result in increased administration costs as additional staff time is allocated to process third party payment requests and to adjust recipient entitlements accordingly. In this regard, the SSD recommends that third party payments be used as a last resort when the recipient risks the loss of shelter or utilities; and only when the third party payment does not jeopardise the ability of the recipients to feed, clothe and shelter themselves.

Recovery of Overpayments

Under GWA, overpayments made as a result of recipient errors such as failure to report income and misrepresentation of facts must be recovered. The rate of recovery is generally set between 5% and 10% of the combined GWA basic and shelter allowances. Within these limits, the Administrator is required take the recipient's circumstances into consideration before assessing the applicable rate of recovery.

OWA provides that any amount paid to a recipient in excess of the recipient's entitlement under the Act will be considered as overpayment; irrespective whether the overpayment was due to client misrepresentation or administrative error. In addition, if the recipient or his/her dependent fails to honour an assignment or an agreement to reimburse for assistance provided, the amount agreed to will be considered an overpayment. The specific amount to be deducted to recover

overpayments will be set by OWA regulations. In order to ensure that the recovery of overpayments does not result in undue hardship for recipients, the SSD recommends that the current GWA recovery rate of between 5% and 10% of basic and shelter assistance be maintained in OWA regulations. The Administrator will determine the applicable rate within the 5 - 10% limits; and recipients may agree to a greater amount being deducted.

CONCLUSION

The SSD supports the province's overall purpose statement for OWA; in particular its initiative to promote self-reliance through employment. However, most of OWA provisions are left to be detailed in regulations which may be proclaimed with very little or no consultation with municipalities. The SSD therefore believes the above noted recommendations will convey to the Province, the Region's concerns regarding OWA regulations which are scheduled to be proclaimed in April of 1998.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

COMMUNITY PARTICIPATION

The draft report was circulated to the Social Planning Council of Ottawa-Carleton for review and comment. They indicated that the recommendations reflect their position on Bill 142, as contained in a brief presented to the Standing Committee on Social Development on October 21, 1997.

Approved by:
Dick Stewart
Social Services Commissioner

FK

Extract of Draft Minute
Community Services Committee
22 January 1998

SOCIAL ASSISTANCE REFORM ACT 1997: REGIONAL POSITION ON REGULATIONS

- Commissioner, Social Services Committee report dated 23 Dec 97

Commissioner D. Stewart stated this report follows a previous report to Committee (16 Oct 97). There were two directions from the Committee at that time. The first, to write to the Ministry requesting that municipalities have input into the regulation writing process in a formal way. To date, Commissioner D. Stewart is not aware of any response to the letter. The second direction was to prepare recommendations for Committee and Council regarding areas of concern with respect to the regulations.

Commissioner D. Stewart briefly outlined six areas of concern:

Benefits

It is anticipated that the new regulations will redefine mandatory and discretionary benefits. Current information available suggests that many of the mandatory benefits such as Winter Clothing Allowance, Back to School Allowance, Community Start-Up Benefits, and Employment Start-Up Benefits will likely continue. The first part of Recommendation 1 calls on the Ministry, in their regulation writing process, to ensure that those mandatory benefits identified and others, continue because they are fundamentally important for clients to actually succeed in leaving Social Assistance.

The second part Recommendation 1 addresses discretionary benefits. To date, Commissioner D. Stewart states he has no firm knowledge of what this direction will be within the regulations. The Provincial Government does intend to create a cap, probably expressed in an amount per client per year. Within that cap, municipalities will be able to make some discretionary expenditures on selected items and get cost sharing on an 80/20 basis. Beyond that cap, there will be no cost sharing; it will be a 100 percent municipal expense.

The remaining part of Recommendation 1 calls on Council to support the position that the determination of what should be considered discretionary expenditure be left to the municipal delivery agent; where clients' needs can best be determined. The essence, therefore, of Recommendation 1 is to request that the Province *not* impose a cap.

Extract of Draft Minute
Community Services Committee
22 January 1998

Personal Assets Levels

Commissioner D. Stewart highlighted a recent concern not addressed in the report. That is, current policy with respect to the General Welfare Act (GWA) allows some discretion within municipalities to set an asset limit. In Ottawa-Carleton, as in most municipalities, the asset limit for GWA is equivalent to one month's assistance. Commissioner D. Stewart noted that the Department has made an exception for sole support parents and used the higher permissible asset limits (\$3500.) that are within the Family Benefit Act (FBA). He expressed concern that sole support parents, under the new Ontario Works Act (OWA), will have the lower asset levels imposed.

The other issue identified by Commissioner D. Stewart is the uncertainty about new regulations affecting applicants for disability benefits. Recommendation 2 states that when accepting applications for a case which is likely to be referred to the Ontario Disability Support Program (ODSP), it be permissible to use the asset levels which will be part of the regulations for the ODSP Act, and which will likely be higher asset levels than for OWA. Commissioner D. Stewart noted this has been the Department's policy to date with respect to flow-through cases from GWA to FBA.

Lien Against Personal Property

Commissioner D. Stewart pointed out that the Act does provide for liens against personal property. The third recommendation is that this provision *not* be acted on immediately upon application to Social Assistance. The Department is recommending a two to three year grace period before considering a lien. The rationale, he explained, is that a lien on property will, in some circumstances, make it more difficult for clients to actually leave Social Assistance by increasing their level of dependency.

Agreement to Reimburse

Social Assistance recipients in this Region, similarly across Ontario, may have other sources of income that are not operative at the time they apply for Social Assistance, for example, retroactive payments through other income support schemes. Commissioner D. Stewart identified an established practice of having clients sign Reimbursement Agreements. He emphasized the Department has been quite deliberate about acting on these Agreements to ensure reimbursement is requested for only the time period where

Extract of Draft Minute
Community Services Committee
22 January 1998

there is a duplication. Commissioner D. Stewart stated it wasn't clear under the new regulation, that this would continue to be case. The new regulation may be stretched to include periods where recipients have not received Social Assistance. He emphasized that some specific language in the regulation is needed to limit recovery to the periods of duplication.

Third Party Payments

The new legislation permits the Welfare Administrator, without regard to a client's wishes, to make third party payments on behalf of that client. Commissioner D. Stewart opined that this is not good social policy, as it will promote dependency and may result in an increased demand from creditors to make direct payments on behalf of clients. He further opined that it is both a client's right and obligation to administer their funds and, generally, it is done very well.

Currently, the Department does administer third party payments, as permitted under the GWA, but it is exercised very cautiously and only when a client is either incapable or not willing to do so on his/her own behalf. Commissioner D. Stewart emphasized that a client's approval is sought in the process. The Department would like some of those conditions to continue to be placed on Welfare Administrators across Ontario. He stated frankly that the Department needs protection from the demand from the landlord community and other creditors to start third party payments *en masse*, which carries with it incumbent administrative costs.

Recovery of Overpayments

Commissioner D. Stewart noted that overpayments are a reality, despite attempts to minimize. The current regulation for GWA permits recovery of overpayments due to client misrepresentation. Overpayments due to administrative errors are not recovered. He expressed concern that the OWA does not make a distinction between the two types of overpayments, stating both should be recovered. As the Act cannot be changed, there could be some insistence that within the regulations to establish a minimum or maximum limit to what is recoverable on a monthly basis. The Department is suggesting between 5-10 percent of income assistance. Less than 5 percent would mean a very long recovery period and greater than 10 percent would interfere with clients' abilities to pay for necessities.

Extract of Draft Minute
Community Services Committee
22 January 1998

Councillor D. Holmes requested that Recommendation 1 be more specific in its wording; in requesting the Province not to cap so that local municipalities can have more discretion and determine their own needs.

Commissioner D. Stewart, responding to question from Councillor A. Loney, stated that the amount of the cap is currently being debated in the Ministry and there may be an announcement mid-to-late February. The current uncapped menu of discretionary items and the ability to attract cost sharing on an 80/20 basis under the new rules, will stay in force until April 1, 1998. Within that time frame, the Ministry will bring forth a cap. When the next part of the OWA is proclaimed, the associated regulations will be introduced.

Commissioner D. Stewart confirmed for Councillor A. Loney that the Department, for purposes of the draft 1998 Budget, was forecasting the same budget as 1997. He added that there will need to be flexibility in the budget presentation and approval process, and possibly following it, if there are delays at the provincial level.

Chair A. Munter noted that Council had already voluntarily cut, over the past number of years, a number of items from Special Assistance and Supplementary Aid. He suggested that it might be useful, especially for the new members of Council, for a list to be circulated of what is currently covered (and what was previously covered) by the program.

Commissioner D. Stewart stated that in the past 3-4 years, the Department has reduced its annual expenditure on discretionary items from approximately \$24 million to a current \$13 million. Chair A. Munter observed that \$13 million is higher than what most Regions deliver and while we might be proud, the Province might not view it as positively.

Speaker: Linda Lalonde, The Anti-Poverty Project

Ms. L. Lalonde began with a brief description of the Anti-Poverty Project; a coalition of community groups including labour, community service agencies, and others, funded by

Extract of Draft Minute
Community Services Committee
22 January 1998

United Way and the Region, to provide public education and advocacy on low-income issues.

Ms. L. Lalonde identified areas of concern in the report:

Agreement To Reimburse

The coalition would like Recommendation 5 to specify that this is income received while a person is on Social Assistance. Ms. L. Lalonde referred to a situation where someone might become entitled to a sum of money while on Social Assistance but does not actually receive it until after he/she has left Social Assistance. She opined that in this situation, the money should not have to be reimbursed.

Referring to Recommendation 6, Ms. L. Lalonde stressed that the coalition would like some requirement that creditors access appropriate legal remedies before they come to the Department for money owed to them. She used the example of a landlord and outstanding rent, stating there are legal remedies that are available although it is easier for the landlord to go to the welfare office to demand third party payment when a particular tenant is receiving Social Assistance, rather than having to go through the court system, as would be the case where a tenant is employed. She opined that this is unfair to the Social Assistance recipient. The landlord is required to provide certain proofs (of money owing) when he goes through the legal process, which is obviously not the mandate of the Department.

Regarding Recommendation 7, Ms. L. Lalonde requested that the wording of the last phrase be changed from “*agrees*” to “*requests*”. She explained that recipients feel a certain pressure to agree with the Welfare Administrator and if the recipient wants the Department to recover more than 5-10 percent, it should be at his/her request not at the suggestion of the Welfare Administrator.

Ms. L. Lalonde also suggested that in the Report, under section *Lien Against Personal Property*, (page 5), the second sentence should read, “...the Welfare Administrator must take *into account* the applicant’s interest...”.

Extract of Draft Minute
Community Services Committee
22 January 1998

In clarifying her example of a third party payment for Councillor D. Holmes, Ms. L. Lalonde stated that in a situation where a Social Assistance recipient did not pay his/her rent, the landlord could go to the Social Services Department and request a cheque to cover the rent, without having to prove in a court of law that there was an outstanding debt. The onus is on the Department to make an assessment of whether the claim is valid or not, and why the rent has not been paid. The landlord (or other creditor) has a very quick and easy method of recovering the rent (debt), that is not available to him if a tenant is employed or has other sources of income. This places people on Social Assistance in a different economic relationship with a creditor than for other people in the community. Therefore, within the Recommendation there should be a requirement that a creditor use all other available legal remedies before turning to the Department.

Commissioner D. Stewart clarified for Councillor D. Holmes that the Act does broadly stipulate that the Welfare Administrator can make third party payments. He predicted that the majority of requests will be made, not because there is a debt outstanding, but as a condition of tenancy. Commissioner D. Stewart iterated that the Department does not consider this progressive social policy

Councillor M. McGoldrick-Larsen inquired as to the degree to which problems exist for landlords to recover rents. Ms. L. Lalonde responded that this was irrelevant as landlords do not have this option to recover rents from other tenants, therefore, should not have special privileges for tenants on Social Assistance. She went on to explain that this is an historic issue and from the landlord's perspective it is a much easier process than having to go through small claims court.

In response to another question by Councillor McGoldrick-Larsen, Ms. L. Lalonde stated a legal aid certificate is no longer available for Social Assistance recipients taken to court by their landlords.

Commissioner D. Stewart noted that under GWA, the Department has had the ability to make third party payments and has acted judiciously to respect clients' rights and obligations to control their financial issue. The FBA has not permitted third party payment other than to the Ontario Housing Corporation as a landlord. The changes are so third party payments are possible within the entire system. He opined that there isn't

Extract of Draft Minute
Community Services Committee
22 January 1998

anything wrong with third party payments when people understand why, and there is permission, and it is done in a controlled manner. The Department would like the regulations to reflect a policy similar to what is currently in place in the Region.

Councillor D. Holmes proposed that Recommendation 6 be amended to add; third party payments should only be permitted once legal remedies are not/no longer available.

Councillor A. Loney stated he would not support the proposed amendment because there are times when it should not be a process that goes through the courts. He cited an example of an individual experiencing difficulty obtaining an apartment because of a long history of evictions. In this, and other exceptional circumstances, Councillor A. Loney believes there needs to be an arrangement, agreeable to the individual, that is guaranteed through the Department. He agrees that under normal circumstances, the legal process should be followed.

Commissioner D. Stewart clarified that if landlord is seeking money from the Department for overdue rent, a third party payment would not proceed if rent had already been paid to the client. Even under the new Act, there is no authority to do that. The Department takes the position that it is not party to the tenancy agreement between their client and his/her landlord and the only recourse to that landlord would be through the court system. Commissioner D. Stewart explained the process in place for payment of last months' rent: if a client does not duly inform or fulfill his/her obligation to the Landlord and Tenant Act, and that can be demonstrated by the landlord, upon presentation of a Letter of Guarantee, the Department will pay the last month's rent. The process includes documentation on the client's file, and follow-up with the client. Also, the Department would not be able to make a payment retroactively because it would be greater than the amount that the person is eligible for within that particular month, and that would be contrary to another regulation.

Commissioner D. Stewart stated he did not think an amendment was required because the Act, as it is written, would not require third party payments to would be used in lieu of court proceedings. He opined that there may be some circumstances where shortcuts may be taken, therefore consultations with the Province should aim for reasonableness within

Extract of Draft Minute
Community Services Committee
22 January 1998

all administrations across Ontario. He assured the Committee that it wouldn't happen within the policies of this Region.

Councillor A. Loney stated he interpreted the proposed amendment as denying the Department the right to pay last month's rent, and thinks it could be a problem not to have that kind of discretion.

Commissioner D. Stewart iterated that the Department does not make a last month's rent payment based solely on the presentation of the Letter of Guarantee by a landlord, but that the information is verified with the client if possible.

Councillor A. Loney reiterated that care should be taken in terms of what the Region is specifically asking the Province to put in regulations. He stressed that maneuverability is important. Legal counsel present agreed with this opinion.

Councillor D. Holmes withdrew the amendment.

Moved by D. Holmes

That Recommendation 1 be amended by adding to the beginning, "In order to permit Regional Government to determine a reasonable level of discretionary expenditure", and added to the end, "without the imposition of a Provincial financial limit."

CARRIED

Moved by D. Holmes

That in Recommendation 7 *agrees* be amended to *requests* in the last line.

CARRIED

Moved by D. Holmes

Extract of Draft Minute
Community Services Committee
22 January 1998

That Community Services Committee recommend that Regional Council adopt recommendations 1 through 7 as its position on regulations to be made under the Social Assistance Reform Act (Bill 142) and authorize the Regional Clerk to forward this report to the Minister of Community and Social Services;

- 1. In order to permit Regional Government to determine a reasonable level of discretionary expenditure, that Ontario Works Act (OWA) regulations provide for the continuation of all mandatory and supplementary benefits available under General Welfare Act (GWA) including the relevant funding approval procedures and cost-sharing formula, without the imposition of a Provincial financial limit;**
- 2. That if OWA personal asset levels are set lower than those under Ontario Disability Support Program Act (ODSPA), OWA applicants claiming disability as reason for assistance be temporarily exempt from the asset level criterion of eligibility pending consideration of their case under / transfer to ODSPA.**
- 3. That any requirement that property related to personal use and/or employment be subject to the lien provisions of OWA, be conditional upon the expiration of a grace period of between 2 and 3 years during which the recipient must have received social assistance on a continuous basis.**
- 4. That the specific lien grace period applicable to each recipient's individual situation be left to the discretion of the Welfare Administrator.**
- 5. That the reimbursement provisions of OWA apply only to periodic incomes such as pension and employment insurance incomes that are payable with respect to the period before and during which assistance is received.**
- 6. That OWA regulations ensure that third party payments are used only as a last resort when recipients risk the loss of shelter or utilities; and only when the third party payment does not jeopardize the ability of recipients to feed, clothe and shelter themselves.**

Extract of Draft Minute
Community Services Committee
22 January 1998

- 7. That the rate of recovery of overpayments be maintained within the existing GWA limits of between 5% and 10% of income assistance, as determined by the Administrator; unless the recipient requests that a greater amount be deducted.**

CARRIED, as amended

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

MEMORANDUM
NOTE DE SERVICE

Our File/N/Réf.
Your File/V/Réf.

DATE 30 January 1998

TO/DEST. Chair, Social Services Committee

FROM/EXP. Social Services Commissioner

SUBJECT/OBJET **ONTARIO WORKS REGULATIONS**

Although the report received, amended and approved by Community Services Committee on the Ontario Works regulations remains accurate and valuable, there is an important aspect concerning the regulations development that is not in the report.

As you know the regulation writing process is very secretive and I do not possess any concrete knowledge of the actual contents of the regulations.

In spite of this, I am increasingly concerned about what we are hearing through the informal channels. It seems that there is a significant risk that new regulations will significantly enhance the amount of administrative effort associated with verification, documentation and processing of applications for social assistance and the maintenance of eligibility. The pre-amble to the legislation speaks to the focus on self-reliance for our clients which is code for work rather than welfare.

There is a transition, from a system focused primarily on benefits, to one that is focused primarily on assisting clients to obtain employment and where the allowance is seen as temporary. I support this, providing certain fundamental things are in place. Of course, we need the job opportunities but for the purposes of this memo, we also need one other fundamental change, and that is, a legislative/regulatory framework that recognizes that the administrative resources in this system should be primarily focused on trying to help clients to achieve the outcome of

employment, rather than, an exhaustive documentation, verification and processing for 100% of all the applicants and recipients. In short, we cannot do both with the administrative resources we have today and I fear, a lower level of administrative resources that we will have in the future.

It is interesting to note that across the United States where the federal government has, in essence, deregulated welfare and provided the States with block grants and requirements to achieve employment outcomes, the State governments are now systematically making this shift. They are reducing their efforts associated with verification and documentation, etc. and focusing their resources on labour force development.

I think it is important to include this expectation on the Government of Ontario within our report. You may consider an amendment to the Report to Council which would call on the Government to ensure that the regulatory framework respects the objective of the legislation vis-à-vis employment and strikes the right balance between ensuring integrity in our system when we provide benefits and having sufficient administrative and other supports so that clients have a fighting chance of being successful in leaving the benefit program.

I would be pleased to discuss this with you prior to the meeting.

*Approved by
Dick Stewart*

copy to:

Jocelyne St Jean - Director, Strategic & Operational Support

