

MEETING IN THE MIDDLE: HOW TO INCREASE COOPERATION AND GET PROVINCIAL-MUNICIPAL RELATIONS RIGHT

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Issue

Municipal governance has been a source of long-standing debate in Ontario. Discussions have generally focused on a set of familiar questions: How should responsibilities be divided between the Province and municipalities? How much autonomy should municipalities have in delivering on their responsibilities? Do municipalities have sufficient revenue sources? And, are municipalities structured to plan and deliver public services most effectively?

Past attempts at addressing these questions have focused, in part, on limiting shared responsibilities between the Province and municipalities. [Such an approach, however, is neither feasible nor advisable today.](#) The major policy challenges facing Ontario do not require a watertight division of responsibilities. They require intergovernmental cooperation. An incoming provincial government should focus on how to tailor municipal governance and provincial-municipal relations for that reality.

The Context: Solid Foundation, Shaky Structures

The historical foundations of municipal governance in Ontario go back to before Confederation. The [Baldwin Act](#) of 1849 included many features we associate with municipalities today, including traditional areas of responsibility, such as local roads, water, and sewers, as well as the main revenue source to pay for these services: the property tax.

In many ways, these are solid foundations. Municipalities continue to deliver traditionally local services effectively, and the property tax is a good tax with which to pay for them. But municipal governance in Ontario has also been subject to significant reform, and this has created challenges.

In 1998, the provincial government implemented three significant changes.¹ First, [a series of amalgamations](#) cut the number of municipalities in Ontario nearly in half. Second, a [local services realignment](#) “uploaded” funding responsibility for education to the Province while partially or entirely “downloading” costs for services such as social assistance, public health, transit, and social housing to municipalities. Third, [a property tax reform](#) introduced, among other things, current-value assessment and new property tax classes.

Later, the Province reversed some of the changes from the local services realignment, including by increasing the provincial share of funding for public health and re-assuming control of GO transit. In the 2000s, following a negotiation with the Association of Municipalities of Ontario (AMO) and the City of Toronto, the Province also assumed the full cost of social assistance. In that same decade, the Province passed the [City of Toronto Act](#), which gave Toronto new powers not afforded to other Ontario municipalities. Many of these powers were later given to other municipalities, although Toronto continues to have sole access to some additional revenue sources, such as a land transfer tax.

The result of these shifts is a system that can seem patched together, with cost-sharing arrangements that lack clear policy principles or criteria. For that reason, a [2018 Ontario 360 briefing note](#) called for a fresh look at provincial-municipal responsibilities, or “who does what.” [Our 2020 paper](#), co-written with Gabriel Eidelman and published by Ontario 360, IMFG and the Urban Policy Lab, set out a principles-based approach for such a review.

Recently, there have been some promising moves to address the issues raised in those reports, but overall the Province’s approach to the relationship with municipalities and municipal governance has been inconsistent.

On the one hand, there has been a resurgence in provincial unilateralism. In 2017, [the provincial government vetoed](#) the City of Toronto’s plan to toll the Gardiner Expressway and Don Valley Parkway. A more significant incursion into municipal jurisdiction took place in 2018, when the Province [changed Toronto’s ward structure](#) in the middle of a municipal election, while also cancelling regional chair elections in York, Peel, Niagara, and Muskoka.

¹ There were, of course, significant changes to municipal governance prior to 1998, such as curtailing and regulating municipal borrowing in the 1930s and creating the regional government system in the 1970s that is still in place in the Greater Toronto Area (GTA). This paper focuses on the last 25 years, however.

In 2019, the Province declared it would “upload” the Toronto subway as part of [its plan to build several subway lines, some of which](#) upended years of work by the City and the Toronto Transit Commission (TTC). It also [cancelled – then recommitted to](#) – a longstanding Hamilton LRT project. It later passed [legislation](#) preventing municipalities from interfering with provincially-significant transit projects.

In housing, the Province has significantly expanded the use of Ministerial Zoning Orders, which allow development projects to proceed without going through standard municipal planning orders. While ostensibly only issued at the request of a municipal council, there has been [controversy over their use](#).

A recent report from the [Housing Affordability Task Force](#), meanwhile, recommends that the Province allow, as of right, buildings up to 4 storeys high on residential land, and that it repeal and prohibit other municipal zoning policies. If pursued, these changes would represent a significant shift in responsibility for land-use planning in the province.

Counter to this unilateralism, there have also been examples in recent years of what might be called provincially-led intergovernmental cooperation.

Following the subway upload proposal, the Province and City of Toronto signed an [agreement](#) that gave the Province full control over its proposed transit expansion plan and allowed the City to redirect municipal funding for these projects to investments in the state of good repair of the existing subway.

In 2021, meanwhile, the Province released its plan for [social assistance transformation](#), including a commitment to review “who does what” in cooperation with municipalities. This is a welcome development since, [as our 2020 paper noted](#), social and health services remain areas that would benefit most from such a review.

Finally, the Province hosted a housing summit earlier this year with the mayors of Ontario’s largest cities, signalling a more cooperative approach to tackling the issue of housing affordability. Recently introduced legislation that responds to criticisms over ministerial zoning orders, coupled with comments from the Minister of Municipal Affairs and Housing about the need to work with municipalities on more aggressive reforms to housing policy, reinforces the move toward collaboration.

It’s not surprising to see such incongruous approaches in the same policy areas. Some might find a top-down approach appealing because they feel that local processes lead to stalled transit plans and limited housing construction. However, greater provincial control is not necessarily a panacea. Recent, more cooperative moves by the Province seem to recognize the benefits of partnership on housing, transit, social assistance, and other policies. The social assistance transformation envisions freeing up local delivery partners from administrative burdens in order to allow them to focus on

connecting social assistance recipients to services in their area. The transit deal between the Province and City moved the two governments from a battle over planning to coordination on the use of limited public funds.

A note on municipally led reforms

This paper is focused on actions that can be taken by a newly elected provincial government in Ontario. Municipalities, however, also have the power to implement some governance reform without provincial involvement. Previous IMFG publications have explored some of the possibilities, including [term limits for councillors](#), an [expanded role for community councils](#), a [new framework for community engagement](#), and municipally-led [regional cooperation](#). The fact that not all of these are discussed in this paper does not reflect on their importance.

The Need for Reform: Four Challenges to Address

The trends described above signal a potential move toward increased and improved intergovernmental cooperation that should be encouraged to continue. However, recent events also illustrate [four challenges](#) to municipal governance that an incoming government will need to address in order to enhance provincial-municipal cooperation effectively.

1. Paternalism

Municipalities often contend with ministerial orders or provincially-controlled boards and tribunals that can override their decisions. Most radically, the case of Toronto's municipal ward boundaries reflected how municipal decisions are always subject to potential provincial legislation.

Provincial incursions into municipal governance have bad consequences for accountability and public trust, regardless of whether they are legally legitimate. If provinces regularly reach into municipal affairs to override municipalities, residents are more likely to turn to the Province if they disagree with local decisions. Accountability for municipal decision-making should rest with the municipal government, not with another order of government.

2. Constrained finances

This issue has been highly visible during the COVID-19 crisis, with municipalities – particularly those with transit systems – facing significant budget shortfalls. However, the challenge predates the pandemic. Increased municipal responsibilities over the last few decades – for instance in social housing and [paramedic services](#) – have resulted in unfunded mandates, meaning they have not come with sufficient funding or new revenue sources to pay for them. In other cases, municipalities face implicit downloading, which occurs when federally or provincially driven policies create new costs for municipalities. For instance, hospital wait times [put pressure](#) on municipal ambulance services, while provincial cuts in areas such as [public health](#) put pressure on municipal budgets.

When combined with limited existing municipal funding sources, unfunded mandates and implicit downloading result in underfunding, particularly in the cases of capital-intensive services like transit and social housing. Small, rural, and northern municipalities can face particular challenges due to declining population growth and a more limited tax base. Over time, inadequate finance arrangements lead to messy governance, including provincial incursions to resolve a crisis. Long-term solutions to realign expenditures and funding sources would be preferable instead.

3. Poor coordination

Ontario does not have intergovernmental structures in place to achieve consistent cooperation between the province and municipalities, or to help avoid tensions that arise from unexpected announcements or actions. The transit memorandum and housing summit described earlier are unique arrangements. They were ad hoc creations to fill a need. Meanwhile, disputes over responsibility exist elsewhere – as exemplified in debates during the COVID-19 crisis over [who had the power to implement public health measures](#).

Going forward, a more permanent solution is needed if overlapping responsibilities continue to be the norm, not only in housing and transit but also in social and health services, where municipalities are partners in social assistance, social housing, ambulance services, long-term care, and public health, and where connections to the broader health care system and social supports are pivotal.

4. Fragmentation

Ontario lacks effective inter-municipal cooperation, particularly within economic regions. Although there are regional governments in Ontario, there are still places – in the Greater Toronto Hamilton Area (GTHA) and elsewhere – where changes to improve efficiency, accountability, and coordination could be made. The current provincial government commissioned [a regional government review](#) to address some of the existing issues, but ultimately did not act on it.

The most pressing issue is ensuring that appropriate structures exist for municipal cooperation across an economic region. A [recent study](#) highlights the potential of regional governance to address issues in Northern Ontario. A challenge also exists in the GTHA, where, in the absence of appropriate regional governance structures, the Province has taken the lead on regional planning. Metrolinx, for instance, is a transit agency for the GTHA, but has no municipal representation as part of its governance structure; instead, it is an arm's-length provincial agency. The Ministry of Municipal Affairs and Housing, meanwhile, is in charge of growth planning for the region.

Ontario is [behind the rest of the country](#) in this respect. Vancouver has regional governments responsible for transit and economic development, for instance. The Edmonton Metropolitan Regional Board is responsible for growth planning, and a group of municipalities in the region have moved to [form a regional transit service](#). In New Brunswick, upcoming [municipal governance reforms](#) will further empower regional commissions with new responsibilities, such as economic development.

It's not a coincidence that many of the issues that lead to provincial-municipal tension in the GTHA – transit, housing, and land-use planning – are handled at the regional level in other jurisdictions. These issues tend to affect residents across municipal boundaries, while still feeling local enough to require community input. In other words, they are too big for a municipality, but too small for the province.

The limitations in Ontario are leading to innovations, such as the weekly meetings by a group of GTHA mayors and the housing summit that featured a small group of big-city mayors. Bottom-up action is welcome and advisable here. New municipal coalitions and ways of working together could form the foundation for a new era of regionalism.

Proposed Changes

Near-Term

1. Recognize and encourage bottom-up regional governance efforts undertaken by municipalities and, as requested, delegate authority to them for functions best handled at the regional level, such as [transit](#), economic development, and long-term growth planning.
2. Undertake a review of municipal finance, [as is being done in British Columbia, to ensure municipalities have resources to meet their responsibilities.](#)
3. Build on recent moves toward intergovernmental cooperation, including by turning the recent housing summit into a council that meets annually, receives staff support, and is co-chaired by the Province and municipalities. The Province should also consider similar summits in other shared policy areas potentially undergoing significant review or reform, such as child care and public health.

Long-Term

1. Implement a ban on unfunded mandates by passing legislation or signing an agreement that requires consultation on the fiscal impacts of draft provincial legislation or regulations on municipalities.
2. Implement procedures to prevent major unilateral incursion into municipal affairs. This could include [provisions](#) that require super-majorities in the legislature to make changes to certain aspects of the Municipal Act and City of Toronto Act.
3. Establish permanent, well-resourced intergovernmental committees focused on specific policy areas where the two orders of government regularly cooperate, such as transit, health services, child care, and public health. These committees should follow [best practice](#) for intergovernmental councils, which include frequent meetings, the establishment of a secretariat, the support of committees and working groups, and shared leadership between orders of government.

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