

**House of Assembly Management Commission  
Agenda**

**Date:** November 6, 2019  
**Time:** 5:15 pm  
**Location:** HOA Committee Room

**In-Camera Meeting**

Budgetary Issue

**Televised Meeting**

Approval of Minutes – September 25 2019

Clerk's Report – Authorizations for Furniture & Equipment

Budget Transfer Request

Policy Respecting Reimbursement of Legal Fees for Members



**House of Assembly  
Newfoundland and Labrador**

**Minutes of the House of Assembly  
Management Commission**

**Date:** September 25, 2019

**Location:** HOA Committee Room

**Time:** 9:30 am

**Members Present:**

Mr. Scott Reid, Deputy Speaker (Chair)

Hon. Andrew Parsons, Government House Leader (via teleconference)

Mr. David Brazil, Opposition House Leader

Hon. Siobhan Coady, MHA (Lib), St. John's West

Ms. Alison Coffin, MHA (NDP), St. John's East-Quidi Vidi

Mr. Elvis Loveless, MHA (Lib), Fortune Bay-Cape La Hune

Mr. Barry Petten, MHA (PC), Conception Bay South

Ms. Sandra Barnes, Clerk of the House of Assembly

**Other**

Ms. Bobbi Russell, Policy & Communications Officer

As required by the *House of Assembly Accountability, Integrity and Administration Act*, a decision made at an *in camera* meeting held on July 23, 2019 was reported into the public record as follows:

The Commission approved recommending to the Lieutenant Governor in Council that the new Information and Privacy Commissioner be compensated at EP-10, Step 18, with regular step increases to apply.

The following decision from an *in camera* meeting held prior to regular meeting on September 25, 2019 was also reported into the public record:

**CM 2019-019** The Commission, at an *in camera* meeting, approved the renewal of the lease for premises occupied by the Office of the Information and Privacy Commissioner for a further term of 5 years under the same terms and conditions contained in the present lease dated October 31, 2014. The lease is to be between the Lessor (Newfoundland and Labrador Housing Corporation) and Her Majesty the Queen in Right of the House of Assembly as represented by the Speaker. The Commission also approved a pre-commitment of funds of \$114,839.00 per annum for fiscal years 2020-21, 2021-22, 2022-23 & 2023-24.

**CM 2019-020** The Minutes of the Commission meeting held on July 23, 2019 were approved as read.

A report from the Clerk was presented to the Commission outlining approvals for expenditures on furniture and equipment as delegated under the Standard Office Allocation Package for Members and Constituency Assistants. An expenditure of \$527.84 was reported for Mr. Chris Tibbs, MHA for Grand Falls-Windsor-Buchans.

The financial reports for the Legislature for the periods April 1, 2019 to June, 2019 were provided to the Commission for review. The Members' Accountability and Disclosure Reports were provided for the same period.

**CM 2019-021** Pursuant to subsection 43(2) of the *House of Assembly Accountability, Integrity and Administration Act*, the Commission appointed the Auditor General of Newfoundland and Labrador to audit the accounts of the House of Assembly and the Statutory Offices for the 2019-20 fiscal year.

**CM 2019-022** The Commission approved the audited financial information for April 1, 2018 to March 31, 2019 for the House of Assembly and Statutory Offices, as recommended by the Audit Committee.

**CM 2019-023** Pursuant to subparagraph 20(6)(b)(ii) of the *House of Assembly Accountability, Integrity and Administration Act*, the Commission approved an amendment to the following House of Assembly policies/guidelines to replace references to the previous *Public Tender Act* with *Public Procurement Act*:

- Inventory Management Policy
- Policy for Hiring of External Consultants
- Printing Policy for Members of the House of Assembly
- Purchasing Policy – Under \$200

**CM 2019-024** The Commission deferred a decision with respect to a policy on the reimbursement of legal fees pending further analysis to be brought back to a future meeting for consideration

**CM 2019-025** The Commission deferred a decision with respect to caucus funding pending further analysis to be brought back to a future meeting for consideration.

**CM 2019-026** The Commission directed that the \$200/month vehicle allowance option for intra-constituency travel provided to Members in Capital region districts and the Corner Brook district continue as provided for in Section 38 of the *Members' Resources and Allowances Rules*, with the matter to be referred to the next Members' Compensation Review Committee.

**Adjournment:** 11:30 am

Mr. Scott Reid  
Deputy Speaker (Chair)

Sandra Barnes  
Clerk and Secretary to the Commission



**To:** House of Assembly Management Commission  
**From:** Clerk of the House of Assembly  
**Date:** October 30, 2019  
**Subject:** Report on Authorizations for Furniture and Equipment Expenditures

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The Standard Office Allocation Package for Members and Constituency Assistants delegates authority to the Clerk to pre-approve expenditures for other furniture and equipment to a maximum of \$1000.00 (per item), with the Clerk to report all such approvals at a subsequent meeting of the Management Commission.

The following report details the approvals of the Clerk under the Standard Office Allocation Package up to October 30, 2019.

<b>DISTRICT</b>	<b>MEMBER</b>	<b>COST</b>	<b>DETAILS</b>
St. George's-Humber	Mr. Scott Reid	\$489.00	Vertical file cabinet

**House of Assembly Management Commission  
Briefing Note**

**Title:** Budget Transfer Request

**Issue:** Approval of a Transfer of Funds – Office of the Chief Electoral Officer (OCEO)

**Background:**

- The Transfer of Funds Policy, April 2008 requires the Management Commission approval to transfer funds to or from the Grants and Subsidies Main Object of expenditure.
- A transfer of funds is required to the Office of the Chief Electoral Officer (OCEO) – Grants and Subsidies to provide additional funding for the candidate and auditor subsidies.
- In the 2019-2020 budget submission, candidate and auditor subsidies for the 2019 General Election were expected to total \$600,000. The Commission approved the request of \$100,000 for 2019-2020 fiscal year, and \$600,000 in 2020-2021 fiscal year. This contemplated that the 2019 General Election would be held in either October or November of 2019.
- As the election was held on May 16, 2019, the filing deadline (in accordance with the *Elections Act, 1991*) for the candidate and auditor subsidies was September 16, 2019. This is significantly earlier than if the election had been held in October (filing deadline of February, 2020) or November (filing deadline of March, 2020). With filing deadlines of February or March 2020, the bulk of funding for the subsidies would not have been needed until the 2020-2021 fiscal year.
- Based on the file reviews by the OCEO, an additional \$300,000 is required for the candidate and auditor subsidies at this time. Savings have been identified in the Salaries Main Object for the OCEO.
- Additional funds will be required to be transferred when the file reviews are completed by the OCEO. This is anticipated by the end of November/early December 2019.

**Analysis:**

**Legal Consultation:**

Not applicable

**Internal Consultation(s):**

Not applicable

**External Consultation(s):**

Not applicable

**Comparison to Government Policy:**

Not applicable

**Financial Impact:**

Not applicable

**Legislative Impact:**

These costs have to be incurred as they are statutory payments under the *Elections Act, 1991*.

**Options:**

- Not applicable

**Status:**

- Not applicable

**Action Required:**

- The Commission’s approval of the following transfer of funds is required:

**From:**

Subdivision 3.1.01.01	Office of the Chief Electoral Officer – Salaries	\$ 300,000
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**To:**

Subdivision 3.1.01.10	Office of the Chief Electoral Officer – Grants and Subsidies	\$300,000
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Drafted by: Wanda Strowbridge  
 Date: October 25, 2019

Approved by: Sandra Barnes

**Attachments:**

1. Budget Transfer No. HOABT2020-017

**LEGISLATURE**

**Budget Adjustment No.: HOABT2020-017**

**TRANSFER TO:**

<b>Accounting Distribution</b>					<b>Description</b>	<b>Amount</b>
<b>RC</b>	<b>ACAT</b>	<b>ACEL</b>	<b>LOBJ</b>	<b>DTC</b>		
0211	130	0600	1061	000000	3.1.01.10 Office of the Chief Electoral Officer – Grants and Subsidies	\$300,000

**FUNDS REQUIRED FOR:**

General Election 2019 candidate and subsidy payments.

**TRANSFER FROM:**

<b>Accounting Distribution</b>					<b>Description</b>	<b>Amount</b>
<b>RC</b>	<b>ACAT</b>	<b>ACEL</b>	<b>LOBJ</b>	<b>DTC</b>		
0211	100	0600	0130	000000	3.1.01.01 Office of the Chief Electoral Officer – Salaries	\$300,000

**REASON FUNDS ARE AVAILABLE:**

Funding for General Election 2019 is less than anticipated.

<b>VERIFIED BY:</b>  _____ <b>Chief Financial Officer</b>  <b>Date:</b> _____	<b>APPROVED BY:</b>  _____ <b>House of Assembly Management Commission</b>  <b>Date:</b> _____
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**House of Assembly Management Commission**

**Briefing Note**

**Title:** Reimbursement of Legal Fees

**Issue:** Consideration of proposed policy provisions on the reimbursement of legal fees for Members.

**Background:**

- The Management Commission directed the development of a policy on the reimbursement of legal fees for Members at its November 7, 2018 meeting (**CM 2018-042**). At its September 25, 2019 meeting, a decision was deferred pending further analysis of policy parameters established in other jurisdictions, to be brought back to the Commission for consideration (**CM 2019-024 refers**).
- The practice for dealing with requests for reimbursement of legal fees for Members in Newfoundland and Labrador has been for the Management Commission to consider them on a case-by-case basis. This is consistent with the practice in a number of other jurisdictions across Canada.
- Prior to the requests for reimbursement of legal fees the Management Commission received and considered in 2018 (as a result of Members' participation in reviews under the Code of Conduct), there was only one other request considered by the Commission for reimbursement of legal fees for an MHA since 2007 (**CM 2008-058 refers**).
- Prior to the reviews under the Code of Conduct in 2018, there were three other reviews conducted since the Code was established in 2008. No requests for reimbursement of legal fees were received by the Management Commission for the pre-2018 Code of Conduct reviews.
- Newfoundland & Labrador is unique in comparison to other jurisdictions in terms of the legislative provisions that allow complaints/reviews to be initiated against Members of the House of Assembly (e.g. Code of Conduct and Public Interest Disclosure). These provisions create a greater likelihood of a scenario where one Member is initiating a complaint against another Member, and creates potential for requests for reimbursement of legal fees on the same matter from both the complainant MHA and respondent MHA.
- As the following analysis outlines, policy parameters established in other jurisdictions (particularly # 2 and # 3 in the following table), would have implications in a scenario where the Management Commission were to receive requests for reimbursement of legal fees on the same matter from both the complainant and respondent MHAs (i.e. Code of Conduct or Public Interest Disclosure complaint):

*See table on next page*

#	Policy Parameter	Implications of Application in NL Context (if applicable)
1	Legal expenses arise out of, or are directly related to the Member carrying out duties as a Member (e.g. not electoral or personal in nature).	
2	Member has not initiated proceedings (i.e. only those proceedings where a Member is named as the defendant).	<b>Members who are <u>complainants</u> in Code of Conduct or Whistleblower reviews <u>would not be eligible for reimbursement.</u></b>
3	Allegations against the Member have not been substantiated at the conclusion of the matter (i.e. if found in breach/guilty, no reimbursement provided).	<b>Members who are <u>respondents</u> in Code of Conduct or Whistleblower reviews in which violations are found <u>would not be eligible for reimbursement.</u></b>
4	Request for reimbursement is made at the conclusion of the matter, once all applicable recourse mechanisms have been exhausted (i.e. appeals, court costs awarded, etc.).	
5	The Board of Internal Economy (Management Commission equivalent) determines that the reimbursement is appropriate in the circumstance. The Board may, at its discretion, <u>grant an exception</u> if it determines that reimbursement of legal fees is <u>appropriate</u> and in the <u>public interest</u> .	

- Generally, in the jurisdictions which have established these policy parameters, it is more likely that requests for reimbursement of legal fees would be for matters brought against a Member by someone other than another Member (as these jurisdictions do not have mechanisms such as Code of Conduct and Public Interest Disclosure that allow Members to make complaints against other Members).
- For jurisdictions that have mechanisms in place allowing Members to make complaints against each other (such as Harassment-Free Workplace policies), financial support (including legal fees) for those matters is provided as a pre-established lump sum, allowing for equitable reimbursement to both the complainant and respondent in that circumstance.
- For example, the House of Commons policy provides financial support toward complaints of harassment (which could involve two Members) as a pre-established lump sum (\$5000 to complainants and respondents). Reimbursement of legal fees for other

legal matters (likely to be an action brought against a Member by someone other than another Member) are considered in the context of the policy parameters outlined in the table above.

- **Based on the analysis of the policy parameters implemented in other jurisdictions in the context of our unique legislative provisions, the following is proposed for the Commission’s consideration:**

Circumstance/Matter	Proposed Options for Reimbursement
Review Under Code of Conduct/Public Interest Disclosure	<ul style="list-style-type: none"> <li>• Provide equitable reimbursement to complainant and respondent MHAs based on a <b>pre-established lump sum</b>. Commission to <b>provide direction</b> on the <b>amount</b> for the lump sum it <b>wishes to establish</b>.</li> </ul>
Other legal matters (e.g. legal action brought against a member of the Management Commission for failure to perform duties as outlined in the HOAAIA)	<ol style="list-style-type: none"> <li>1. Consider each request on a <b>case-by-case basis</b>; <b>OR</b></li> <li>2. Consider each request in the context of the <b>policy parameters outlined in the table on page 2</b>: <ul style="list-style-type: none"> <li>• Options for <b>amount of reimbursement</b> include (provided established policy parameters met): <ol style="list-style-type: none"> <li>a) Full reimbursement of legal expenses incurred in the matter (3 jurisdictions use this approach); <b>OR</b></li> <li>b) Maximum hourly rate multiplied by the number of hours incurred on the matter (2 jurisdictions use this approach) <ul style="list-style-type: none"> <li>○ House of Commons establishes a range of hourly rates (from \$50 to \$350/hour) based on number of years at the bar for legal counsel retained; with the Board to have discretion to reimburse at rates greater than those pre-established in exceptional circumstances.</li> </ul> </li> </ol> </li> </ul> </li> </ol>
Complaints of Harassment Against Members under Interim Harassment-Free Workplace Policy (CM 2018-030 refers)	<ul style="list-style-type: none"> <li>• No reimbursement – provisions of <b>interim policy prohibit reimbursement of legal fees</b>.</li> </ul>

## Analysis:

### **Legal Consultation:**

Law Clerk

### **Internal Consultation(s):**

Corporate and Members' Services.

### **External Consultation(s):**

Jurisdictional scan

### **Comparison to Government Policy:**

It is the understanding of House officials that the Executive Branch will defend, negotiate, or settle actions arising out of acts performed by Ministers in good faith in the course of their duties generally in accordance with the Employee Liability Policy.

### **Financial Impact:**

Not known at this time. Depends on the level of reimbursement required in accordance with policy provisions.

### **Legislative Impact:**

Not applicable.

## Options:

1. The Commission to approve policy parameters related to reimbursement of legal fees for Members as proposed in the **table on page 3**, providing direction with respect to:
  - preferred option for dealing with other legal matters; **AND**
  - preferred option for establishing amount of reimbursement.
2. The Commission to provide alternate direction related to reimbursement of legal fees for Members.

## Status:

- The Commission's direction in **CM 2018-042** remains outstanding.
- Requests for reimbursement of legal fees continue to be dealt with in accordance with the **established practice** (considered by the **Management Commission** on a **case-by-case basis**).

## Action Required:

- The direction of the Commission is requested.

Prepared by: Bobbi Russell  
Date: October 22, 2019

Approved by: Sandra Barnes