

# Chapter 1

## Introductory Comments

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# Introductory Comments

## Decision making in government

### *Municipal versus provincial requirements*

1.1 Before I became Auditor General, I was the Commissioner of Finance of the City of Saint John. There I became familiar with the need to discuss issues and to make decisions at public meetings. This was required by the *Municipalities Act*, a piece of legislation passed by the Legislative Assembly of New Brunswick. A result of this requirement was that reports from professional staff, in support of an agenda item, also became public. This created transparency. The public could see what was being recommended, they could follow the debate and see the eventual decision. The City Solicitor from time to time had to inform the Council that a closed session meeting on a particular issue was not proper and they should move the item to a public agenda.

1.2 In 2003 the Legislative Assembly made amendments to the *Municipalities Act* to make it clear what items may be discussed without the public present. The list includes items involving personal information, information that could jeopardize negotiations, land issues and litigation. Any ensuing decisions however must be made at a public meeting.

1.3 During the past eight years my Office performed a number of audits in an attempt to understand the decision-making process in the provincial government. For instance in 1999 we examined the decision to abolish the Extra-Mural Hospital Corporation and transfer the delivery of services to the regional hospital corporations. Also in 1999 we reported on an audit undertaken to determine if the Province employed an adequate decision-making process in planning the existing structure for the Fredericton-Moncton Highway project.

1.4 In 2001 we looked at government's decision to have an early retirement program. The total cost of the program was estimated to be between \$64.6 and \$69.9 million. Our objective was to examine the decision-making process and determine if proper steps were taken in making the decision to introduce the early retirement program.

1.5 Our findings from these audits indicate that the rigour the Province requires of its municipalities is not necessarily carried over into the provincial realm.

***Provincial government has a decision-making process***

1.6 When we performed our decision-making process audits we were aware of government's Procedures Manual for Executive Council Documents. The introduction to the manual includes this paragraph: "These procedures will help ensure that decisions of the Executive Council, the Policy and Priorities Committee and the Board of Management are made with the most complete knowledge of the circumstances that necessitate a decision and of the effect of the chosen action."

1.7 The manual also has this to say. "The Memorandum to the Executive Council is an organized statement of facts and recommendations upon which Government makes a decision. ... It is a succinct but complete review of the issue, the action proposed, the effect of such action, alternatives, the financial considerations that will result from such action, the internal and the external consultation that has occurred and the legal authority for the government to take the recommended action."

1.8 This really is the discipline we were looking for. So as we did each audit we were looking for compliance with the procedures manual. When we did the work on the Extra Mural Hospital decision we were told that no document was presented to the Board of Management in accordance with the prescribed guidelines. When we did our work on the early retirement program the Department of Finance informed us that the process set out in the manual was followed in making the final decision, however we could not be given a copy. I highlighted this issue in my 2001 annual Report.

***Cabinet secrecy***

1.9 The refusal to give my Office a copy of the document is based on the concept of cabinet secrecy found in the Westminster model of government. The procedures manual, when referring to the Memorandum to the Executive Council, has this to say, "It is **confidential** and its circulation is to be strictly controlled. It should always be drafted internally by department/agency staff, and copies should **never** be released to any party outside the Government" (words bolded as in procedures manual).

1.10 But why should this be? Why should there be such strict limitations around the public's business? Why should a citizen not be able to obtain the rationale behind a decision to spend over \$60 million for an early retirement program? Whose money is it? Who is government working for?

1.11 The procedures manual recognizes that "the Memorandum becomes the historical record of the information that was before the Government when a particular decision was made. ... In the long term, the Memorandum is source material for historians reviewing the decisions of governments at a particular point in time." Such memoranda are protected under the *Archives Act* for twenty years.

1.12 This means that in another fifteen years the public will be able to see what information cabinet ministers received in support of spending in excess of \$60 million for an early retirement program. It may be acceptable to restrict information for twenty years on issues related to personnel, legal advice and labour negotiations (i.e. similar to the exclusions granted municipalities), but what could be the rationale behind withholding basic financial analysis from the public, when it is their money that is being spent?

1.13 I am calling for more transparency around decision making in government. Transparency that will enable the Legislative Assembly and the public to see the diligence and care that is being taken when decisions are being made with their money. Transparency that reflects the spirit of the legislation that is in place for local governments in our Province.

1.14 As long as secrecy prevails there will always be uncertainty as to the process followed in making decisions. Eric Kierans, a former federal Cabinet Minister, had this to say about decision making at the federal level, in his biography. "Moreover, the decision-making process was not a controlled, efficient progression, but ad hoc, scrambling, and nearly always attuned to 'How will this look in June 1972?' which was the putative date for the next election."

***Key steps in decision making***

1.15 In our work on decision making we developed key steps that should be followed when governments make decisions. We believe there is a great need for process and due diligence when taxpayers' money is being used.

1.16 We highlighted the importance of there being a clear understanding of the problem to be solved. Care must be taken not to suggest a solution before the problem is carefully identified, analyzed and agreed to by all key players. Without a clearly identified problem, the resulting decision can be misdirected.

1.17 Once the problem has been identified, there should be an examination of all possible solutions. The necessary time should be allocated, and the key people involved, ensuring there is a good search for alternative solutions. Failing to identify alternatives limits the success of the process and can mean missed opportunities.

1.18 The next step in the decision-making process is selecting a proposed solution to the problem. Judgment, experience and intuition are to be used as tools in conducting the analysis and in evaluating the alternatives. This is the opportunity to be certain that all relevant facts are made available to decision-makers in ensuring the best decision is made. It is at this stage that one alternative will be identified as the preferred course of action, and this will be supported by quantitative and qualitative analysis.

1.19 To what extent government follows a process such as this is not known because of the convention of cabinet secrecy. I encourage government to follow a rigorous process in a transparent manner.

### ***Role of the Legislative Assembly***

1.20 The Legislative Assembly has the responsibility to hold the government to account. When new programs are announced, new legislation proposed or new policies contemplated, the Members of the Legislative Assembly should ask questions such as:

- What is the problem?
- What evidence is available to support the position that the particular problem exists?
- What alternative solutions were considered?
- And why is the proposed solution better than the alternatives?

1.21 I firmly believe that citizens will be better served if there is a discipline and an openness around decision making, and challenging questions are asked by Members of the Legislative Assembly in holding the government to account.

### **Stewardship and accountability**

1.22 I have other observations to make as I look back over eight years and they can be found in chapter 2. These observations are

based on the findings of a number of audits where the same shortcomings appeared over and over again. I am calling on government to act on these shortcomings by making improvements in four key areas:

- setting objectives and reporting on results;
- complying with legislation;
- evaluating programs; and
- providing appropriate Crown agency oversight.

1.23 The Legislative Assembly, through its Public Accounts and Crown Corporations Committees, is responsible to keep government accountable for its actions. In chapter 2 I also make some suggestions as to how this could be done for each of the four areas noted above. I also offer some suggestions to strengthen these committees and to make them more effective in fulfilling their oversight roles.

## **Property assessment for taxation purposes**

1.24 During the past year my Office has been working on a number of audits. One is now complete and I am pleased to include it in my final Report. The objective of this audit was to determine if Service New Brunswick complies with the *Assessment Act* by assessing real property at “real and true value.” In deciding to perform an audit of the assessment service, we considered the significance of this function to the Legislative Assembly and the public at large. At \$327 million (2004-2005 Main Estimates), property tax revenue is the third largest provincial source of revenue and at \$439 million (2005 Assessment Annual Levy Report), it is the largest source of funding for local governments.

1.25 As a result of our work we concluded that the interpretation of “real and true value” used by Service New Brunswick is consistent with generally accepted practices. We also found that while policies and procedures are well developed to guide the assessment process, certain practices give rise to some assessments being below real and true value. For instance, superior homes, waterfront properties, apartment buildings, and commercial and industrial properties in specific regions of the Province, are consistently under-assessed. The results of our work in this area can be found in chapter 3.

## **Audits in progress**

1.26 My Office is currently working on five other audits. I expect that the results of these audits will be included in a Report to be released later this year.

1.27 We are conducting an audit at the New Brunswick Power Corporation (NB Power) where the objective is to ensure that current governance structures and processes established for NB Power set a framework for effective governance. We will be looking at the process for appointing members to the Board of Directors and the extent to which mandates, missions and objectives have been clearly documented and agreed to by the Province and the NB Power Board. Other areas of interest include the conditions under which NB Power should consult with the government for direction and the existence of a comprehensive group of high-level, risk based policies maintained by the NB Power Board. We are doing this work because of the great deal of public interest in NB Power and its governance and decision-making practices. It will also give us an opportunity to assess the government's progress in implementing the following recommendation from the 1999 Grant Thornton report where they said:

*We recommend high priority be given to reassessment of the governance structure between the Government, the Board and management of NB Power. Recommended changes arising from the reassessment should be implemented promptly.*

1.28 An audit in the Department of Family and Community Services has the objective of determining if the Department has appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences. There are 465 special care homes and 60 community residences in our Province providing personal care services to adults who have functional limitations. These facilities have approximately 4,100 beds and the annual subsidies to residents total \$66 million.

1.29 In the Department of Education we are interested in reviewing the systems and practices in place to ensure that school facilities are appropriately maintained. There are 338 schools in our Province housing 126,000 students and educators. The replacement cost of these buildings is estimated to be \$2.3 billion.

1.30 The Department of Health and Wellness is responsible for administering the Prescription Drug Program. This program, which was budgeted for \$132 million in 2004-2005, makes drugs available to selected target groups such as nursing home residents and residents aged 65 and over who receive Old Age Security or the Guaranteed

Income Supplement. We are performing an audit on this program to assess whether procedures are in place to manage its performance and to ensure resources are being managed with due regard for cost-effectiveness.

1.31 And we are performing an audit in the Department of the Environment and Local Government to see if the Department is in compliance with legislation as it relates to property tax levies charged to local service districts.

### **Changes needed to the Auditor General Act**

1.32 In New Brunswick, the *Auditor General Act* gives the government the authority to appoint the Auditor General. The government also sets the budget for the Office of the Auditor General. This means that the body being audited can make the key decisions on who they would like to have as their auditor and how much funding should be given to carry out this work. This is wrong. The Auditor General, as an Officer of the Legislative Assembly, reports to the Legislature on the public accounts and any matter that he considers to be of significance. In order to do this in an independent manner the Legislative Assembly itself should be directly involved in matters concerning the position of Auditor General or the Office. Changes must be made to the *Auditor General Act* to ensure the Legislative Assembly and the public can have full confidence in the Office and the important role it has to play. I highlighted this situation in my 2003 and 2004 annual Reports, and I make the observation once again as I complete my term of office.

### **Acknowledgements**

1.33 The mission for the Office of the Auditor General is “We promote accountability by providing objective information to the people of New Brunswick through the Legislative Assembly.” Through the work we do and the reports we write we provide objective information, but the essence of this effort is because “we promote accountability.” We want governments to be accountable and we want the Legislative Assembly to hold governments to account.

1.34 My staff has done a lot of valuable work in support of this mission and to them I am extremely grateful. My hope is the work we have done together has been and will continue to be of value to the



government, the Legislative Assembly and the people of New Brunswick.

A handwritten signature in black ink, appearing to read 'D. Wilson', written in a cursive style.

Daryl C. Wilson, FCA  
Auditor General