

FAMILY CROWN SERVICES OPERATIONAL MANUAL

CONDUCT OF FAMILY CROWN COUNSEL	New	Office of the Attorney General / Family Crown Services	Policy 12
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CONDUCT OF FAMILY CROWN COUNSEL

1. Introduction

Family Crown Counsel is both an officer of the court and an agent of the Attorney General. Family Crown Counsel must uphold the highest standard of conduct to maintain public confidence, and ensure the proper administration of justice. The honesty and integrity of Family Crown Counsel demands that he or she remain impartial in the conduct of his or her duties and beyond reproach. The conduct of Family Crown Counsel should inspire confidence and trust, and must not bring Family Crown Services into disrepute.

The conduct of Family Crown Counsel shall comply with this policy, which adopts the Government of New Brunswick's *Policy on Conflict of Interest*, AD-2915 and the Law Society of New Brunswick's *Code of Professional Conduct*.

2. Conduct of Family Crown Counsel

The Mission Statement governing Family Crown Services provides as follows:

To seek justice according to law. This high public duty shall be pursued firmly but fairly, with an ingrained sense of dignity, in search for the truth.

Because much of the work of Family Crown Counsel engages section 7 of the *Canadian Charter of Rights and Freedoms*, the judiciary has applied much the same standard as the Supreme Court of Canada identified in, *R. v. Boucher*, [1955] S.C.R. 16 at pp. 23-24 the Supreme Court of Canada to describe the conduct required of Crown Counsel:

Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater

personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of our judicial proceedings.¹

Chapter 2.1 of the New Brunswick *Code of Professional Conduct* sets out the following rule:

2.1-1 The lawyer shall discharge with integrity every duty owed by the lawyer to the administration of justice and its institutions, clients, other lawyers, the legal profession and the public, and shall adhere to the principle of integrity in the non-professional life of the lawyer.

Chapter 5.1 of the New Brunswick *Code of Professional Conduct* sets out the following rule:

5.1-1 When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy and respect.

As such, the role of Family Crown Counsel is to advocate firmly for the client and to advance every argument that could reasonably assist the client's case. Family Crown Counsel must discharge his/her responsibility with industry, skill, and vigor tempered by fairness.

2.1 Conduct at court

Family Crown Counsel shall, at all times while in court, employ proper decorum as expected of an Officer of the Court. In particular, Family Crown Counsel shall not participate in the following practices:

- (a) discussing ongoing case matters unilaterally with the Judge or allowing ongoing case matters that should properly be handled in open court to be handled in Chambers;
- (b) agreeing to deal with a matter to avoid media attention; and
- (c) engaging in inflammatory, hostile, or outrageous behaviours.

2.2 Confidentiality

Family Crown Counsel shall not disclose any confidential information except as necessary in the course of his or her duties and in accordance with the law. Family Crown Counsel shall exercise caution and discretion in handling all personal and confidential information, whether within or outside Family Crown Services. This obligation continues to apply after the employment relationship ceases.

Where Family Crown Counsel is not sure whether information is confidential, he or she shall consult with the Assistant Deputy Attorney General of Family Crown Services before disclosing it.

2.3 Independence and impartiality

2.3.1 Personal Advantage

Family Crown Counsel shall not base professional decisions upon, or be influenced by, personal advantage, such as a promised or anticipated benefit that he or she hopes to gain.

Family Crown Counsel shall not use confidential information to advance any personal or private interest or gain.

2.3.2 Non-discrimination

Family Crown Counsel shall execute his or her duties without discrimination, and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, gender, sexual orientation, age, mental or physical disability, or political association.

2.3.3 Conflict of Interest

Family Crown Counsel shall refrain from providing advice in relation to the investigation or handling of any case where there may be the potential for an actual or perceived conflict of interest.

Where Family Crown Counsel becomes aware of the potential for an actual or perceived conflict of interest, he or she shall notify the Assistant Deputy Attorney General of Family Crown Services, who will handle the matter in accordance with Policy 5 - Conflict of interest.

2.3.4 Intimidation

Family Crown Counsel shall notify the Assistant Deputy Attorney General of Family Crown Services if any threat or promise is made relating to the exercise of his or her responsibilities no matter how indirect, veiled, or jocular.

2.4 Political activity

The participation of Family Crown Counsel in partisan political activity is governed by the *Civil Service Act* and is limited to activity that does not influence or otherwise interfere with his or her professional duties.

Without exception, Family Crown Counsel shall adhere to the Government of New Brunswick's *Policy on Political Activity of Public Servants*, AD-2912.

As with any government employee, Family Crown Counsel is free to comment on public issues but must exercise caution to ensure that his or her comments do not do any of the following:

- (a) compromise his or her ability to do his or her job;
- (b) risk bringing the administration of justice into disrepute or weaken the public's confidence in legal institutions; or
- (c) contravene professional codes of conduct.

Care should be taken in making comments or entering into public debate regarding the policies and decisions of the Attorney General.

Family Crown Counsel, like other public service employee, must not use his or her position to lend weight to the public expression of a personal opinion.

2.5 Professional development and community involvement

Family Crown Counsel is encouraged to participate in the activities of local and provincial law societies as well as activities of the Canadian Bar Association, such as serving on committees or executives, becoming involved in professional lectures, seminars, or forums of a similar professional nature, and otherwise participating in continuing legal educational programs.

In order to avoid any potential conflict of interest and in order to maintain proper operational requirements, Family Crown Counsel shall advise the Assistant Deputy Attorney General of such participation before committing to any such activity.

Family Crown Counsel may also participate in community organizations, such as serving on committees or boards of directors, being involved with school programs, and coaching or officiating sports activities.

2.6 Outside employment

Family Crown Counsel shall devote full-time attention to the performance of duties as a Family Crown Counsel and will not practice, carry on, or conduct any business related to the profession or practice of law involving remuneration or engage in any other business, profession, or occupation without prior written approval of the Assistant Deputy Attorney General.

3. Related documents

Policy 3 - Organization and mandate

Policy 5 - Conflict of interest

Policy 9 - Legal advice to clients

Policy 15 - Requests for information

Policy 16- Media communications

Government of New Brunswick's *Conflict of Interest*, AD-2915

Government of New Brunswick's *Policy on Political Activity of Public Servants*, AD-2912

Law Society of New Brunswick's *Code of Professional Conduct*