

***Police Governance & Oversight  
in  
New Brunswick***

***Policy Guidelines***

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## **INTRODUCTION**

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In March 2007, the Strategic Policing Advisory Committee (SPAC) identified police governance as one of its four main priorities. To begin work on this initiative, a working committee was struck in September 2009 to examine police governance in New Brunswick. Following a review of existing provincial police board policy manuals and consideration of policy existing elsewhere in Canada, the governance committee identified and developed policy guidelines which will assist the Police Board (Board) in conducting its business as effectively, efficiently, and transparently as possible.

The objective of these guidelines is to assist board members to better understand their role and responsibilities, and also assist boards by identifying areas in which policy should be developed and providing suggestions for the content and wording of the policy. The guidelines represent the minimum standard of policy development for boards within New Brunswick and should be referred to as best practices.

The guide is divided into five main sections:

- 1) Fundamentals of the board
- 2) Introduction to the role of the board
- 3) Providing direction
- 4) Human resources
- 5) Administration of the board

## **PREAMBLE**

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Four different police governance models are currently available under New Brunswick's *Police Act* (Police Act).

In New Brunswick, governance of a municipal police force can lie with its city council, or if they wish, with a board of police commissioners. Out of the seven individual municipal police forces in existence in the province, only Saint John currently has a board of police commissioners. The other six forces are governed by their municipal councils.

In the case of regional police forces, joint boards of police commissioners are mandatory. There are presently two regional police forces in the province; Rothesay Regional Police Force and the regional police force for Beresford, Nigadoo, Petit-Rocher and Pointe-Verte (B.N.P.P.).

The *Police Act* also makes provisions for regional policing authorities to be established for a region policed by a regional RCMP force. The only regional policing authority in existence at this point is the Codiac Regional Policing Authority serving the municipalities of Dieppe, Moncton, and Riverview.

In the development of these policy guidelines, significant efforts were made to incorporate each model and identify good practices / policies for effective police governance throughout New Brunswick.

## **DEFINITIONS**

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For the purpose of this document, the following definitions apply:

**Police Board:** The term “police board” is synonymous with Regional Policing Authorities (RPA) and Committees of council unless otherwise stated.

**Police Board Member:** “Board members” refers to regular board members, provincial appointees and members of council.

**Chief of Police:** “Chief of Police” is synonymous with Officer in Charge (OIC) unless otherwise stated.

**Real conflict of interest:** occurs when a board member exercises an official power or performs an official duty or function and, at the same time, knows that in the performance of that duty or function or in the exercise of power, there is an opportunity to further a private interest.

**Potential conflict of interest:** occurs when there exists some private interest that could influence the performance of a board member’s duty or function.

**Perceived or apparent conflict of interest:** exists when there is a reasonable apprehension that a reasonably well-informed person could believe, that a real conflict of interest exists on the part of the board member.

### **Legislation**

- *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c.R-10.6.
- *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11.
- *Criminal Code of Canada*, R.S.C. 1985, c.C-46.
- *Employment Standards Act*, S.N.B. 1982, c.E-7.2.
- *Industrial Relations Act*, R.S.N.B. 1973, c.I-4.
- *Municipalities Act*, R.S.N.B. 1973, c.M-22.
- *Police Act*, S.N.B. 1977, c. P-9.2.
- *Public Service Superannuation Act*, RSNB 1973, c.P-26.
- *Royal Canadian Mounted Police Act*, R.S.C. 1985, c.R-10.



## **Fundamentals of the Board**

### **1.1 The Board's philosophy**

The Board endorses a contemporary community policing approach and adopts the following definition:

*“Community policing is an interactive partnership between the public and the police to mutually identify, prioritize, prevent and solve local crime and disorder problems thereby improving the quality of life. In New Brunswick, it is understood that all policing activities are aligned with the principles of community policing. Community policing is a way of doing business, a working philosophy with goals and processes that encompasses a vast array of strategies, programs and tactics. The Police Force and the Board have the responsibility to ensure that policies in place reflect the needs of the community.”*

### **1.2 Governance**

Governance is the exercising of direct authority over an organization or entity. It is the ability to control and direct the making of policy, as well as directing and influencing decisions made by the organization. It includes the capability to ensure that decisions made by the governing body are carried out in accordance with the governing body's direction (oversight); with recourse to corrective action should this not occur.

Governance is the processes and structure used to provide direction to an organization's general operations and activities.

### **1.3 Oversight**

Oversight involves ensuring that the legislated functions for the police force are carried out by the organization and the services provided are in accordance with the law and a Code of Professional Conduct.

### **1.4 Vision**

To provide effective governance that facilitates innovative and responsive policing to create a safe community through the forging of strategic partnerships between the community and its police.

### **1.5 Mission**

To provide independent civilian oversight and governance of the Police Force in order to ensure a safe community.

## 2) **Introduction to the role of the Board**

### 2.1 **Authority and accountability**

The Board is required, to carry out its duties and responsibilities in accordance with the *Police Act*.

The Board is delegated authority and responsibility from the Province, through the *Police Act*, including the New Brunswick Policing Standards. That responsibility obliges the Board to ensure the delivery of policing services that adequately meet the needs of citizens of New Brunswick and the communities being served.

The Board is responsible to the municipality for the purpose of providing policing services to the municipality.

The Board demonstrates accountability to the public, to the Province and to other stakeholders through periodic reports, meetings, receiving presentations from key stakeholders and other interested persons, and by operating in a transparent manner.

### 2.2 **Legislative parameters**

The Board is a legislative-based organization. Its role, responsibilities, and function are founded upon the following legislation:

- the *Police Act* of New Brunswick;
- the *New Brunswick Policing Standards*

Important pieces of legislation and agreements of concern to board members include the following:

- *Access to Information and Protection of Privacy Act*
- *Employment Standards Act*
- *Criminal Code of Canada*
- *Canadian Charter of Rights and Freedoms*
- Key Municipal By-laws
- *Public Service Act*
- *Public Service Superannuation Act*
- *Industrial Relations Act*
- Collective Bargaining Agreements
- Provincial Police Services Agreement and RCMP Municipal Policing Services Agreements
- *Royal Canadian Mounted Police Act*
- RCMP Operations and Administrative Manuals
- *Municipalities Act*

### 2.3 Key governance principles

- A governing body exists not to help the business, but to own the business on the behalf of the community.
- Individuals who make up the Board have no authority. A governing body has authority only when acting as a whole entity. The chair has the authority only when speaking on behalf of the Board as a whole.
- A governing body governs by policy (by-law or resolution). These policies articulate values or perspectives that underlie action.

### 2.4 Terms of reference

The Board shall adhere to the following terms of reference:

- a) Seek out and receive input regarding the community safety and security needs within the municipality / region.
- b) Set the goals, priorities and objectives of the Police Force. FOR RCMP ONLY: “Given the nature of the RCMP contractual arrangement, no priority, objective or goal can be intended to interfere with the internal administration of the Police Force).”
- c) Provide advice to the municipality / regional municipalities regarding the financial and resource needs of the Police Force.
- d) Monitor the implementation of the priorities, goals and objectives of the Police Force.
- e) Manage effectively and monitor the financial activities of the Police Force.
- f) Provide periodic reports as reasonably required to key stakeholders such as the Province, the councils, and the community.
- g) Conduct the governance of the Police Force according to the *Police Act*.
- h) Recruit and appoint the Chief of Police and any Deputy Chief of Police [subject to the ratification of municipal council] (Municipal and Regional forces only)
- i) Direct the Police Chief to monitor his or her performance.
- j) Establish guidelines with respect to the indemnification of members of the Police Force for legal costs.

## **2.5 Board style & commitment**

As a statutory governance body, the Board must be and must be seen to be:

- a) Operating in all ways mindful of its civic trusteeship obligation to the public and accountability for the governance of the police force;
- b) Independent of the police management and operations, and of political affiliations, influence and interest groups;
- c) Subject to the needs of confidentiality and security, open, transparent and accessible to both the public and police force; and
- d) Responsive to the community.

## **3) Providing direction**

### **3.1 Setting targets**

The Board will set objectives, priorities and goals for the Board and the Police Force which are not inconsistent with governing policies and the *New Brunswick Policing Standards*.

### **3.2 Partner municipalities**

In managing the finances of a Regional Police Force and the Regional Policing Authority, or a Board of Police Commissioners, the Board must develop a budget and seek approval from the partner municipalities. The budget is comprised of the estimated cost and revenues of the Police Force and the estimated cost of operating the Board.

The partner municipalities are encouraged to form a Liaison Committee comprised of one representative of the accounting/finance functions and the Manager/CAO functions.

The Finance Committee of a Board must comply with the partner municipalities' deadlines for budget development.

The actual discussion and interaction process with partner municipalities will vary at any given time.

### **3.3 Strategic planning**

The Board is responsible for working with the Chief of Police to develop a strategic plan for the Board and the police force. The strategy provides the direction and scope of the Board and the Police Force.

During the strategic planning process, the Board's roles are to:

- Provide direction and counsel to the Police Chief in the strategic planning process;
- Approve the strategic direction/priorities and the strategic plan for the Police Force / Board; and
- Monitor the Chief's success and the Force's success in implementing the approved priorities and direction of the strategic plan, in the public interest.

Once approved, the strategic plan provides a basis for evaluating the performance of the Chief, the Force and the Board.

### **3.4 Communication with stakeholders**

In order to provide effective oversight of policing, the Board must develop strategies for engaging and communicating with the public, other stakeholders, and the media to solicit input to, and to inform on, a range of governance activities. When communicating, the Board speaks with a unified voice. If a Board member wishes to publicly express disagreement with a decision of the Board, the member must make it clear that the opinion expressed is a personal opinion and not that of the Board. Unless otherwise specified, the Chair of the Board is the official spokesperson for the Board. Should the Chair be unavailable, the Vice-Chair or Acting Chair shall be the spokesperson for the Board.

There are four types of communication:

1. Communication which solicits input to the work of the Board;
2. Communication which provides regular and periodic reports to municipal council / partner councils, the Province, the public, or other stakeholders;
3. Emergency communication to relay information on an event or incident; and
4. Ongoing communication with the Chief of Police and members of the Police Force.

#### **(1) Communication which solicits input to the work of the Board**

To fulfill its role as the representative of the community, the Board should identify and seek input to policing strategies from diverse stakeholders and representatives of the community.

Where a Board has been established for more than one municipality, it is suggested that board meetings be held in the various communities within the region. This will allow members of those communities to attend Board meetings, will demonstrate that

the Board represents the partner communities, and permits members of the public to attend a Board meeting who may be reluctant, for various reasons to attend a police facility. Holding meetings outside the police premises also demonstrates the independence of the Board from the Regional Police Force for which it provides oversight.

Input from stakeholders and the public should be scheduled at the time of setting the objectives, priorities and goals for the Police Force.

It is important to provide opportunities for the community to give input on areas of interest or concern to them, via such mechanisms as public forums and designated meetings with the Board, and environmental scans (community outreach / town hall meetings).

The Board shall, at least annually, schedule a session or workshop so that the Council (s), the Board, and the Police Force have an opportunity to discuss and understand each other's current priorities and issues.

**(2) Communication which provides regular and periodic reports to partner municipal council / partner councils, the Province, the public or other stakeholders**

Board meetings should be open to the public. Only when the matters being discussed dictate that the open forum will not be in the public interest should a meeting be held in camera.

The public and media should have access to the minutes of the public portion of Board meetings through the registered office of the Board.

The Chair should attend all meetings of the municipal council / partner councils when the Chief of Police presents information regarding policing of the municipality / region or to keep them informed of the work of the Board.

The Chair of the Board shall be the official spokesperson for the Police Force budget presentation to council (s).

The Chief should attend all regularly scheduled meetings of the Board and, as otherwise requested by the Board. Police staff attendance at *in camera* Board meetings shall be coordinated with the Chief and be at the request of the Board.

The Chief of Police must take all reasonable steps to ensure that the Board representative is briefed prior to attending scheduled Police Force presentations to council or to a committee of council.

The Chief of Police shall take all reasonable steps to ensure that the Chair of the Board is made aware of major public announcements being made by the Police Force prior to the announcements.

The Board should ensure that the media is provided with reports of Board meetings and activities for publication and broadcast.

The Regional Policing Agreement or municipal policing model shall make provisions for the Chief to report as reasonably required on the matter of law enforcement in the community policed and on the implementation of objectives, priorities and goals.

### **(3) Emergency communication to relay information on an event or incident**

Following the occurrence of an incident or event which may be of media interest or about which the public should be informed, the Chief and the Chair, or civic authority will consult to determine the scope and content of media releases. At times, it may be desirable that the Chair and the Chief address the public or the media jointly or separately.

### **(4) Ongoing communication with the Chief of Police and members of the Police Force**

The Chief of Police is the conduit for information with the Police Force. The Chief of Police shall be consulted regarding any communication intended for the benefit of members of the Police Force.

At times it may be desirable or necessary for other members of the Police Force to appear before the Board. This will occur in the company of, or with the support of, the Chief of Police.

As a general principle, Board members acting in their capacity as members of the Board and in the performance of their official duties shall direct all requests for information under the control of the Police Force and advice related thereto, to the Chief of Police or as otherwise determined in consultation with the Chief.

## **3.5 Assessment and management of risk**

Risk refers to the events, conditions, and developments that may affect the police force's ability to reach its goals.

It is the responsibility of the Board to ensure that all significant risks facing the Police Force and the Force's ability to attain its objectives, priorities and goals are identified and effectively managed. This means that the Board has the responsibility to ensure police management identifies the principal risks of the Police Force and takes all reasonable steps to ensure the implementation of appropriate systems to monitor and manage these risks.

Risk should be identified through ongoing consultation with the Chief of Police, through communication with the Policing Services Branch of the Province of New Brunswick, with municipal council(s) and municipal officials, community input, discussion with other governance authorities through, for example, the Canadian Association of Police Boards, and with other key stakeholders. Also, periodic review of the public media will provide information on risks experienced in other locales that may affect the local situation.

As a part of each strategic planning cycle, the Board, in partnership with the Chief, will undertake a risk assessment of both internal and external risks to the police force.

The Chief will report to the Board, at the in camera session, on principal risks to the Police Force's operations, so that the Board may provide general direction and counsel to the Chief regarding these risks.

#### **4) Human resources**

##### **4.1 Creating a positive workplace environment**

The contents of this section outline both the responsibilities of the Board and the Chief of Police. These guidelines apply to the Board and the Police Force.

It is the responsibility of the Board to ensure that a positive workplace exists within Police Force facilities that exemplifies the organization's vision, mission and values, and which is compliant with relevant legislation, regulations and collective agreements. The workplace should allow members a formal method for resolving workplace concerns fairly and expeditiously, and will promote and offer:

- Personal and professional support;
- Equal and accessible treatment;
- Valuing the contribution of members;
- Safe workplace;
- High ethical and professional standards; and
- Diversity and non-discrimination.

The Board shall ensure the Chief of Police implements procedures / practices that contribute to a positive workplace, specifically in the areas of:

- Respectful workplace;
- Outreach and diversity;
- Salary and benefit administration;
- Performance management;
- Recognition of meritorious service, community service, long service and valor;
- Absence management and support;
- Discipline;



- Health and Safety; and
- Collective Agreement Administration.

Furthermore, the Board shall ensure the Chief of Police implements:

- Appropriate policy and procedures to redress workplace discrimination and harassment;
- Reasonable measures to educate members of the Police Force regarding a positive work environment;
- Reasonable measures to promote the fair and equitable treatment of all individuals in recruiting, hiring, training, evaluations, work assignments, transfers and promotions; and
- Equal opportunity for employment that is extended to all candidates and employees without regard to race, colour, place of origin, ancestry, gender, language, age marital status, economic status, sexual orientation, religious beliefs or disability.

Additionally, the Board shall ensure that the Chief of Police, during each business cycle implements a procedure to:

- Assess the effectiveness of the Police Force's respectful workplace program;
- Conduct a compliance audit for salary and benefits and a review of working conditions of any sworn officers, civilian members or any individual staff member, including him or herself, to ensure consistency with appropriate contract as negotiated and signed by the Board, if appropriate; and
- Assess the effectiveness of the performance review program.

On behalf of the Board, on an annual basis, the Chief of Police shall:

- Provide a summary of usage and outcomes of the respectful workplace program;
- Report the compliance rate and other outcomes of the performance review program;
- Report the number of complaints filed by members with the New Brunswick Human Rights Commission and the Official Languages Commission; and
- Report the results of any audit in the annual report on the audit plan.

## **4.2 Succession planning**

The Board recognizes that succession planning is critical for ongoing effective management of the delivery of policing services.

To this end, the Board will ensure that it has a succession plan in place for the Board and for the Chief of Police, and that the Chief has a succession plan in place for his or her senior personnel.

Part of the strategic planning process should include a long range succession plan that sets out a framework for preparing for changes in the work force. The Chief should prepare promotion policies and a succession plan for annual review and approval by the Board.

The Police Chief should also ensure that procedures are in place to ensure effective succession planning throughout the force.

## **4.3 Complaints against police**

A person who wishes to complain regarding the individual actions of a Police Force member or the general quality of service of the Police Force may file a complaint with the Chief of Police, the civic authority, the Board, Board members, the New Brunswick Police Commission, or the Public Complaints Commissioner of the RCMP, who will take appropriate action, or who may redirect the complaint if necessary.

Where a complaint concerning the RCMP is filed with the New Brunswick Police Commission, the Commission shall give the complainant notice in writing that the complaint is not within its jurisdiction and refer the complaint to the Commanding Officer of the RCMP or to the Commission for Public Complaints against the RCMP.

## **4.4 Complaints regarding actions of the board or members of the Board**

### **Initiation of complaints process**

All complaints of allegations against the Board or a Board member will be made in writing, signed and dated by the complainant. Complaints may be submitted to the Board at its registered office or to the New Brunswick Police Commission.

If a complaint is received that is not signed, the Chair and the Board must exercise due diligence in reaching an appropriate decision on whether or not to pursue an investigation.

Allegations concerning offences against an Act of the Parliament of Canada or the Legislature of New Brunswick will be dealt with in the formal criminal investigative process.

There are three categories of complaints that may result in a requirement for the Board to initiate an investigation:

**1) An allegation that the Board has failed to meet its obligations under the *Police Act*.**

- a) A copy of the written and signed complaint should be forwarded by the complainant to the Chair of the Board or to the New Brunswick Police Commission. Any communication forwarded to one should be copied to the other.
- b) If a complaint is received that is not signed, the Chair and the Board must exercise due diligence in reaching an appropriate decision on whether or not to pursue an investigation.
- c) At the first practicable opportunity, the Chair should inform the Board of the complaint.
- d) The Chair will cause the complaint to be investigated in such a way that sufficient information is gathered to allow an assessment of the validity of the complaint and, if deemed valid, an investigation of the complaint with operational, financial, statistical, management or other data and the development of a recommended course of action.
- e) The New Brunswick Police Commission will be notified of the outcome of the investigation and will be requested to conduct a review of the outcome to ensure that the investigation by, and the actions of, the Board are sufficient in the circumstances. The New Brunswick Police Commission will notify the Chair of the Board of any requirement for clarification or further information gathering.
- f) If the report identifies a need to change policies or practices of the Board, these will be introduced by the Board along with any necessary changes to the Board's Manual.
- g) A summary of the findings and outcome of the investigation will be forwarded to the complainant.
- h) A copy of the investigation report, summary, findings, and outcome of the investigation will be forwarded to the New Brunswick Police Commission.

**2) An allegation that a Board member has contravened the Code of Conduct of the Board.**

- a) A copy of the written and signed complaint should be forwarded by the complainant to the Chair of the Board. If the Chair of the Board is the subject of the complaint, the complaint will be forwarded to the Vice Chair.

- b) If a complaint is received that is not signed, the Chair and the Board must exercise due diligence in reaching an appropriate decision on whether or not to pursue an investigation.
- c) Any communication forwarded to the Board or to the New Brunswick Police Commission shall be copied to the other.
- d) If the Chair of the Board is the subject of the complaint, the Chair will step down and the Vice-Chair will assume the role of the Chair for the duration of the investigation of the complaint. In this circumstance and dependent on the nature of the complaint, the Vice-Chair may wish to consult the Board as to whether the Chair should be suspended from all activities of the Board pending the outcome of the investigation.
- e) At the first practicable opportunity, the Chair or Vice Chair should inform the Board of the complaint.
- f) The Chair or Vice Chair will cause the complaint to be investigated such that sufficient information is gathered to allow, an assessment of the validity of the complaint and, if deemed valid, an investigation of the complaint with the development of a recommended course of action.
- g) The New Brunswick Police Commission will be notified of the outcome of the initial investigation, and will be requested to conduct a review of the investigation of the complaint to ensure that the investigation by the Chair or Vice Chair, Board, is sufficient in the circumstances. The New Brunswick Police Commission will notify the Chair or Vice Chair of any requirement for clarification or further information gathering.
- h) If the investigation determines that the Board member has contravened the Code of Conduct of the Board, then appropriate corrective action(s) will be initiated by the Chair or Vice Chair of the Board.
  - i. Counsel and/or reprimand the member in writing;
  - ii. Request resignation;
  - iii. Recommend to the Minister of Public Safety or the Council that the Board member be dismissed under section 7(9) of the *Police Act*.
- i) If the report identifies a need to change policies or practices of the Board, then these will be introduced by the Board along with any necessary changes to the Board's manual.

- j) A summary of the findings and outcome of the investigation will be forwarded to the complainant.
- k) A copy of the summary of the findings and outcome of the investigation will be forwarded to the New Brunswick Police Commission.

**3) An allegation that a Board member has committed an offence against an Act of the Parliament of Canada or the Legislature of New Brunswick.**

- a) If information is received by any Board member alleging that a member of the Board has committed an offence against an Act of the Parliament of Canada or the Legislature of New Brunswick, the Chair will be immediately notified. If the Chair is the subject of the allegation, then the Vice Chair will be immediately notified.
- b) The Chair (or Vice Chair, if the Chair is the subject of the allegation) shall inform the Chief of Police who will deal with the complaint in the appropriate manner.
- c) The Chair or Vice Chair, in consultation with the Minister of Public Safety, will determine whether, in the best interest of the Board, and subject to maintaining the integrity of the investigation, the Board member who is the subject of the complaint should be suspended from his or her duties for the duration of the investigation.
- d) Upon notification by the police, and subject to maintaining the integrity of the investigation, if the Chair of the Board is the subject of an investigation, the Vice-Chair will then assume the role and function of the Chair for the duration of the investigation of the complaint.
- e) If the Chair or Vice Chair is advised by the Minister or the police agency of the jurisdiction conducting the investigation that the complaint does not constitute an offence against an Act of the Parliament of Canada or Legislature of New Brunswick then the Board will determine whether the alleged conduct of the Board member constitutes misconduct under the policies and practices (*Code of Conduct*) of the Board. If the actions of the Board member are considered to be such misconduct then the process noted in Section 2 will be followed.
- f) If the Board member is convicted of an offence against an Act of the Parliament of Canada or the Legislature of New Brunswick, the Chair or Vice Chair (if the Chair is the Board member convicted), will consult with the Minister and determine if the member should be removed from the Board, for cause. The Chair or Vice Chair will, as determined and appropriate, will request that the municipality or the Minister remove the member from the Board.

The Board will consider the public interest in determining whether the matter is made public during or at the conclusion of the process under 1, 2 or 3 above.

The requirement for a thorough investigation will be balanced with the need to respect the rights of the accused individual.

The Board policy, outlined above, with respect to a member allegedly contravening an Act of the Parliament of Canada or the Legislature of New Brunswick, recognizes that the Board cannot become involved in operational matters with respect to a criminal investigation, yet there is a need for the Board to be, and be seen to be, objective and transparent when confronted with an allegation of criminality on the part of a Board member. As well, there is a need to ensure that the Board's response does not 'politicize' the administration of justice or in any manner bring the administration of justice into disrepute.

The Board, in its oversight and governance capacity, must feel confident that the investigational process, undertaken by a police agency, upon request or direction by the Minister, aligns with Board policy and practice.

## **5) Administration of the Board**

### **5.1 Composition of the Board**

Composition of the Board is to be determined in accordance with the provisions contained in the *Police Act*. The member composition of the Board is important as the skills and competencies of the Board are crucial to the ability of the Board to effectively manage the role of governance.

Ideally, Board members should collectively possess experience in a broad range of subjects such as business, law, finance, communications, community involvement, education etc. Members should also have the personal attributes necessary to function as part of a board and be representative of the community they serve.

### **5.2 Terms of office**

Appointments to a board may be for a term not exceeding 4 years with possible renewals up to a maximum of 10 years. If a person appointed to a board ceases to maintain his ordinary residence within the municipality for which he has been appointed the board shall declare the position vacant and a new appointment will be made.

If a mayor or a councillor ceases to be a mayor or a councillor, the board shall declare the position to be vacant.

### 5.3 Oath of office

Upon appointment, all Board members will sign an oath of office and confidentiality agreement, in the form prescribed below.

I, \_\_\_\_\_, solemnly swear/affirm that I will, to the best of my judgement, skill, knowledge, and ability, discharge my duties as a member of the \_\_\_\_\_ Police Board faithfully, diligently, impartially and confidentially, and according to the New Brunswick *Police Act*, any other Act, and any agreement, regulation, rule or by-law, and I will not, except in the discharge of my duties, disclose or make known any matter that comes to my knowledge by reason of my appointment to the Police Board (so help me God).\*

*\*(Delete in cases of affirmation).*

The following individuals may administer the oath:

- a) the clerk; or
- b) a notary public or a commissioner of oaths; or
- c) a judge of the Provincial Court, The Court of Queen's Bench of New Brunswick or The Court of Appeal of New Brunswick.

Once administered, an oath will be signed and filed by the Executive Secretary of the Board and will be recorded in the Board minutes.

Board members will adhere to the principles of these declarations for the duration of their tenure as a member of the Board and beyond.

### 5.4 Police record checks

Prior to being appointed as a member of a Board, candidates will be required to present to the appointing authority a criminal record reliability clearance check that can be obtained by making a request to a local Police Force. This clearance check is a requirement for eligibility as a member of a Board.

The specific Board Chair or Mayor shall be consulted prior to any appointments. Those who have appointing authority under the *Police Act* shall be responsible to ensure a police record check has been conducted.

The general standardized approach adopted by Police Forces in the conducting of police record check requires the person involved to have the records check conducted directly. Record checks will not be conducted on behalf of organizations. Should there be an indication that a record may exist for the individual requesting the check, confirmation and specific information can only be obtained by the submission of fingerprints which the Police Force will process through the RCMP Fingerprint Center in Ottawa. If confirmation of a record is then received, the criminal record information will only be released to the person requesting the check. The potential Board nominee will then decide whether to disclose the information received should he/she wish to continue

to pursue the appointment process. If the nominee discloses any record information, the Chair/Mayor will then decide whether the record presented is sufficient cause to inform the appointee designate that they are not suitable for the appointment.

As a general guideline, a final consultation between the Chair/Mayor should occur with the Chief of Police before the Chair/Mayor recommends to the Board the acceptance of a Board nominee.

The types of offences that would warrant the determination of unsuitability for appointment to a Board are generally any offences the Board deems to be unacceptable, which may include: convictions for offences related to crimes of violence, sexual offences, public-trust offences, drug offences, or serious driving offences.

## **5.5 Code of conduct**

The proper conduct of policing and its oversight must exemplify impartiality and professionalism while being fully cognizant of the need to understand, apply, and support community safety needs.

Accordingly, it is the responsibility of members of the Board to abide by a code of conduct that underscores these ideals while maintaining a high degree of public trust in the stewardship of a community-oriented police force.

“Effective governance by the Board is achieved by Board members fulfilling their roles and responsibilities with the highest standards of conduct. Members will perform their duties in a manner that will instil public confidence in the abilities and integrity of the Board. Board members are committed to the following *Board Members’ Code of Conduct*.”

Board members will:

- 1) Sign, upon appointment to the Board and on an annual basis thereafter, a copy of the Code of Conduct acknowledging that they received and understood it. Board members will return the signed Code of Conduct to the Executive Secretary of the Board for safekeeping.
- 2) Attend all Board meetings, unless they have a reasonable excuse not to attend, and contribute expertise and experience to the best of their ability so that the quality of governance is enhanced.
- 3) Not interfere with the Police Force’s operational decisions and responsibilities or with the day-to-day operations of the police force, including the selection and promotion of officers.
- 4) Keep informed of the policies, general business and affairs of the police force and enhance their capabilities as Board members by participating in Board training



events and, where possible, other outside training opportunities such as any training that may be provided.

- 5) Keep confidential any information, documents and matters disclosed or discussed at a meeting of the Board, or part of a meeting of the Board, that was closed to the public, as required by the oath of office.
- 6) Adhere to all policies adopted by the Board.
- 7) Not claim to speak on behalf of the Board unless authorized by the chair of the Board to do so. The chair will be the spokesperson for the Board.
- 8) Make it clear that he or she is expressing a personal opinion when publicly disagreeing with a decision of the Board that was made during a public meeting.
- 9) Discharge their duties loyally, faithfully, impartially, and in accordance with the requirements, obligations, and responsibilities set out in the *Police Act*, and any other applicable Act, regulation, rule or by-law.
- 10) Uphold the letter and spirit of the Code of Conduct and discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the Board and the Police Force.
- 11) Discharge their duties in a manner that respects the dignity and rights of individuals and in accordance with the New Brunswick *Human Rights Act* and the *Canadian Charter of Rights and Freedoms*.
- 12) Not use their position inappropriately to advance their interests or the interests of any person or organization with whom or with which they are associated.
- 13) Avoid any conflict of interest which may bring the governance of policing or the impartiality of the Board into disrepute. Declare any potential or perceived conflict of interest, which will then be recorded in the minutes of the Board.
- 14) Immediately resign from the Board if applying for any type of employment with the police force governed by the Board, including employment on contract or fee for service.
- 15) Demonstrate commitment to the principles of good governance and accountability to the community.
- 16) After the cessation of membership with the Board, respect the Code of Conduct and abide by ethical standards of a Board member. The confidentiality of Board information must remain confidential in perpetuity.

- 17) Notify the Board as a whole if they learn of a possible breach of the Code of Conduct by another Board member.
- 18) If the Board is of the opinion that a complaint about a Board member's conduct should be investigated, it will:
  - i. Conduct an informal investigation into the member's conduct.
- 19) Following the completion of an investigation, if the Board determines that a Board member has breached the Code of Conduct, the Board must record that determination and outcome in its minutes. On determining that a Board member has breached the Code of Conduct, the Board may take one of the following actions:
  - i. Counsel and/or reprimand the member in writing;
  - ii. Request resignation; or
  - iii. Recommend to the Minister of Public Safety or the council that the Board member be dismissed under section 7(9) of the *Police Act*.
- 20) If their conduct or performance is the subject of investigation, temporarily withdraw from all Board activities and duties as a member of the Board until the completion of the investigation.

## 5.6 Conflict of interest

Members of the Board must avoid any conflict of interest that might impair the independence, integrity or impartiality of the Board. There must be no apprehension of bias, based on what a reasonable person might perceive.

Conflict of interest means a conflict that exists between Board members' personal and /or business interests and the members' responsibility as a member of the Board. A conflict of interest may occur when a Board member participates in discussions or in decision making that benefits him/her personally or someone close to him/her. And also occurs, whether or not the member accrues a financial gain from the matter.

- Upon appointment and during the term of office, members must declare any potential or perceived conflicts of interests; the Board will then determine whether the member will be excluded from discussion and voting on any matter. The perception of a conflict of interest is a conclusion that may be drawn by a reasonably well-informed person that the member's ability to exercise the responsibility of a member of a Board has been, or may be, affected by the member's private interests.
- In the performance of their duties, members of the Board will not give preferential treatment or request the Police Force to give preferential treatment to friends, relatives, business associates, or any other person or organization.

- Members of the Board shall not accept any fees, gifts, gratuities or other benefit that could reasonably be seen to influence any decision made by him/her in the performance of his/her functions as a member of a Board, or for his/her personal gain or for the personal gain of a family associate make use in any way of his/her position or of any privileged information to which he may have access or to which he is privy because of his position.
- Members of the Board will not hold outside employment, on paid or volunteer basis, that may, or may be perceived to, impair the member's ability to exercise their responsibilities as a member of a Board. This includes paid or volunteer employment within the Police Force.
- The Chair shall call for any declared conflict of interest with respect to meeting agenda items, at the commencement of the meeting. All declarations of conflict of interest are to be entered into the minutes of the meetings of a Board.
- Members having a concern that another member of the Board may have a conflict of interest must bring the concern to the attention of the Board as soon as practicable.
- Conflicts of interest that are brought to the attention of the Board must be resolved such that the public trust in the integrity, objectivity, and impartiality of the Board is sustained or enhanced.
- Board members who are determined to be in breach of the conflict of interest guidelines must abide by the policy of the Board and remove himself / herself from further discussion of the matter that created the breach. Failing to do so, may result in sanctions.
- The conflict of interest guidelines shall be reviewed annually for the information and guidance of Board members. Any new members of the Board shall be advised of the guidelines upon becoming a member of the Board.

## **5.7 Liability**

### **Regional policing authority (RPA)**

According to the *Police Act*, a regional policing authority (RPA) may enter into contracts and may sue and be sued, and the parties to the agreement under which the RPA is established are liable jointly and severally for the debts of the RPA arising out of any matter coming within the scope of the *Police Act*.

A member of a RPA will not be liable for acts performed in good faith in the performance of the member's duties.

A Regional Police Services Agreement may stipulate the limitations on liability for any malfeasance on the part of RCMP members.

The municipality may provide insurance which includes coverage of members of the RPA who are exercising their role in good faith.

### **Police Boards**

According to section 7(11) of the *Police Act*, a board may sue and may be sued. The municipality for which the board is established is liable for the debts of the board arising out of any matter coming within the scope of the *Police Act*.

Similarly, a joint board can also sue and be sued. The parties to the agreement under which the joint board is established are liable jointly and severally for the debts of the joint board arising out of any matter coming within the scope of the *Police Act*.

A joint board can also be held liable for torts committed by members of the police force in the performance of their responsibilities under the *Police Act*. A joint board may, in such cases and to such extent as it thinks fit, pay any damages or costs awarded against members of a police force in respect of a tort committed by them in the performance of their responsibilities, any costs incurred and not recovered by them in any such proceeding and any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.

The *Police Act* also provides statutory protection for individual board members from any personal liability for acts performed in good faith in the performance or intended performance of the members' duties.

### **5.8 Orientation / training for members of the Board**

It is imperative that all Board members receive orientation with regard to their roles and responsibilities as members on the Board of Police Commissioners. Arrangements will be made for swearing an Oath of Office, in the form prescribed, and by signing a confidentiality agreement.

As soon as is practicable after appointments, each new member will receive orientation and training prior to attendance at the member's first meeting.

Prior to the orientation and training session, each new member will receive the Board of Police Commissioner's Operational Manual, which will contain:

- The Guidelines established for the functioning of the Board of Police Commissioners,
- A copy of the current *Police Act*, and
- A copy of the Code of Professional Conduct.

### **Orientation and Training Session**

If deemed applicable, the following presentations will be made regarding the Board Operational Guidelines;

- An overview presentation of the *Police Act*, to include an overview of the Professional Code of Police Conduct;
- An overview of the *RCMP Act*;
- An overview of the Police Services Agreement;
- An overview of the Collective Bargaining Agreement;
- An overview of the *Right to Information and Protection of Privacy Act* ;
- An overview of the Strategic Priorities of the Police Force and Board;
- An overview of the Police Organization, staffing, budget and jurisdiction;
- Relevant municipal by-laws;
- Other topics.

Orientation will continue over several months, and it is recommended that new Board members participate in some of the following activities:

- Get acquainted sessions with the Chief and senior Force executive,
- Attend Board member orientation sessions provided by Policing Services, as appropriate, and
- Take part in a ride along with a member of the Police Force, as appropriate.

## **5.9 Contracting by the Board**

According to the *Police Act*, Boards have the power to enter into contracts for services.

- The New Brunswick *Public Purchasing Act* prescribes certain requirements regarding purchases (including contracts) by publicly funded entities.
- Under the *Public Purchasing Act*, the Board may 'sole source' contracts for goods and services under \$25,000.00. Prospective contracts over that amount must be subject to a public tender for competitive bids. However, in unique and specialized circumstances, such as professional services (for example, services provided by lawyers, physicians, accountants or architects) a 'sole source' contract is acceptable.
- In the absence of Board support staff with procurement experience, a municipality is responsible for the contracting process on behalf of the Board. In preparing for an intended purchase of goods or services the Board should consider the intent of the contract and services required, in general terms. The specific Terms of Reference for a Request for Proposals and the resulting contract will be developed by the Procurement Section of the municipality.
- The Board is responsible for monitoring the progress of Board contracts against the intended outcomes.

## 5.10 Acceptance or giving of gifts

- *Acceptance or giving of gifts – Police Board*

Board members shall not, directly or indirectly, solicit, accept or receive any fee, gift, or other benefits or favours from any party or organization that does business with the Board or a lobbyist with respect to matters within the Board's jurisdiction.

Board members will not give gifts, benefits or favours to any party or organization where it would appear, or might appear, to have the potential of improperly influencing others in their dealings with the Board.

- *Acceptance or giving of gifts, donations, loans or sponsorship – Police Force*

The Chief of Police will ensure that any donation, loan or sponsorship accepted by the Force is beneficial to the community as a whole and is handled in a transparent manner.

Accordingly, the Chief will ensure that:

- All donations, loans and sponsorships received by the Force will be reported to the Board as they occur.
- The donation, loan or sponsorship supports the objectives and priorities of the Board and provides a direct benefit to the community in the form of improved police service, without causing the Force's priorities to be affected;
- The acceptance of any donation, loan or sponsorship must not compromise or bring into question police impartiality or objectivity. In particular, except for rewards, offers of gifts, donations or sponsorships for the purpose of assisting with criminal investigations, are not to be accepted;
- The donation, loan or sponsorship is without conditions as to its use or preference to the donor;
- No donation, loan or sponsorship valued at more than \$20,000 is to be accepted without the express permission of the Board; and
- All donations, loans or sponsorships must be properly documented including at least the source of the gift, its nature and its size or significance.

## 5.11 Expense accounts

All expenses incurred by board members must support the mandate and functions of the Board.

All anticipated expenses that exceed a set amount must receive approval of the Chair or designate, prior to the expense being incurred.

All reasonable expenses, less than the set amount incurred by Board members for any reasonable traveling and other out of pocket expenses necessarily incurred in discharging duties as a Board member, and supported by receipts will be reimbursed.

The Chair or a designate, and a member of the Executive Committee will review and approve all such expense account payments.

### **5.12 Expenditure approval**

The Chair, or a designate, and a member of the Executive Committee will have signing authority on all contracts and payments of the Board.

All one-time payments in excess of a set amount require signed approval by the Chair, or a designate, and a member of the Executive Committee.

The Chair, or a designate and a member of the Executive Committee may approve all expenses previously approved by the Board for ongoing contracts such as rental, legal, accounting, including expenses of the set amount.

### **5.13 Honoraria and expenses**

All members of the Board will be reimbursed for expenses incurred for attending duly constituted meetings of the Board. Such meetings are defined as meetings as a whole or Committee meetings which, prior to their occurrence, have been approved and scheduled by the Board.

Expenses will be paid for attendance at other meetings relevant to the purpose of the Board where approved.

The Board may decide to adopt a Board policy whereby members will receive an honorarium in an approved amount per quarter regardless of number of meetings attended (there are 12 regular meetings/year) and the Board may decide to set an approved amount for the Chair, in excess of the Board member rate per quarter. Board should refer to the *Police Act* and ensure compliance.

This Board honoraria policy may not apply to an elected official, if there is a conflict with other applicable policies of the municipality(s).

### **5.14 Membership in associations**

The Board supports the participation of members in associations which share common interest with the Board and which advocate in support of community safety and security and innovative community-oriented responses to policing. Where, upon a request from a member, the Board determines that a corporate membership in such an association is appropriate; the Board may approve such a membership. The membership fees may be submitted for reimbursement by the Board.

Examples of organizations that may warrant support and membership include:

- Canadian Association of Police Board (CAPB);
- Canadian Association for Civilian Oversight of Law Enforcement (CACOLE);
- National Association for Civilian Oversight of Law Enforcement (NACOLE);
- Any other associations deemed appropriate by the Police Board.

### **5.15 Evaluation of the Board**

The Board is encouraged to establish a mechanism for assessing the Board's performance and effectiveness. An annual evaluation should be completed by the Board regarding its degree of success in providing governance of the Police Force. This self-assessment conducted collectively by board members, will review the successes and shortcomings of the Board.

Where the results of the assessment reveal a need for change or amelioration, a resolution approach should be reflected in the Board's strategic plan for the forthcoming year.

Board members should also, on an annual basis, conduct self-assessments of their personal performance throughout the year.

### **5.16 Meetings of the Board**

In order to ensure orderly progression of Board business, the Board should adopt guidelines governing meetings of the Board. Policies should cover areas such as:

- Procedural rules at meetings;
- Regular and *in camera* meetings;
- Special meetings;
- Agenda;
- Meeting schedule and location; and
- Meeting minutes.

The Board is encouraged to adhere to the *Roberts Rules of Order* as a best practice model.

Boards have a great deal of discretion when it comes to Board meetings. The only two requirements under the *Police Act* for Board meetings are as follows:



- Meetings of the Board shall be open to the public except where, in the opinion of the Board, it is not in the public interest.
- A majority of the members of the Board constitutes a quorum for municipal boards. In the case of joint boards and regional policing authorities, the agreement shall make provision for establishing a quorum for meetings.

### **5.17 Development of policies and procedures**

Boards should establish administrative policies and procedures necessary for the governance of the Force and the Board. This guidelines document was designed to be used as a tool to assist Boards develop policies and procedures.

All Board policies should be reviewed and updated (if required) annually as part of its strategic planning process, or as circumstances require.

The Board should establish a process to adopt new policies and/or amend existing policies. The adoption or amendments of policies are to be recorded in the minutes of a meeting of the Board. In addition, a copy of all new or revised policies is to be included in the Board's policy manual. This is particularly important because of the board's commitment to be open and transparent. The policy manual should be kept current as it is available for consultation by the public.

Also, according to the *Police Act*, board policies and procedures must be filed with the New Brunswick Police Commission.

### **5.18 Committees of the Board**

In order to effectively carry out its role as oversight authority and its legislative responsibility, the Board is encouraged to establish and maintain standing and *ad hoc* committees (as required). For example, the Board might consider establishing the following committees:

- Executive Committee
- Policy & Governance Committee
- Finance Committee
- Quality of Policing Committee
- Negotiating Committee

The function of board committees is to assist the Board with its tasks in the exercise of its authority and responsibilities. The Board may establish standing or *ad hoc* committees to inquire into and report on any matter within the jurisdiction of the board.

The Board will define the committee mandate and appoint the committee membership.

Each committee shall obtain direction from the Board for its activity or mandate and shall report back on its activities on a regular basis. The Board may also delegate tasks and projects to the committees.

On approval of the Board or civic authority, non-serving members of the Board may be appointed to a committee as *ad hoc* members where there is a need for special and temporary expertise. An *ad hoc* member of a committee may not serve as chair of the committee and the majority of members of a committee must be members of the Board. All other appointment procedures would apply.

No committee may bind nor represent the Board. In addition, Board committees may not speak or act for the Board except where formally given such authority.

### **5.19 Additional staff**

Additional staff may be hired to assist the Board in discharging its responsibilities and day-to-day operations. The hiring of additional staff must be approved by the Board, as a whole, taking into consideration the budget cycle and available finances.

Each position shall have a job description and be subject to an annual performance review. Board staff does not have the right to vote on Board decisions and is expected to keep all matters before the board confidential. An appropriate job security assessment will be conducted as deemed necessary.

### **5.20 Right to information**

The Board supports the principle of open yet appropriate access to all Board information. The Board also recognizes and respects the need for privacy when appropriate.

The Board is subject to the provisions of the relevant federal and provincial legislation.

Requests for information will be dealt with expeditiously.

In the case of a Regional Policing Authority, information directly related to the RCMP Regional Police Force is subject to various legislation and should be directed to the OIC with a documented record made of the redirection, including report back time, as appropriate.

The Board should establish and adhere to a document retention schedule.

### **5.21 Awards and Rewards**

From time to time, it may be desirable for the Board to present awards recognizing citizens, police officers, civilian staff or community agencies that have made a significant contribution to the safety and security of the municipality / region. An appropriate amount will be determined by the Board, and will be part of the Board's budget.

The Board, in consultation with the Chief, will determine the recipients of such awards. The Board may also authorize the Police Force to offer rewards in cases where the Chief of Police is of the opinion that a reward will assist or has assisted in the investigation of a crime and lead to a successful conviction.

Rewards are to be approved through the chain of command, considered by the Chief of Police, and then presented to the Board for final approval.

In consultation with the Chief of Police, the Board will consider the benefit of providing a financial reward in a particular case and will also determine the appropriate method to make the public aware of such a reward and the period for which the reward will remain active.

The Board, in consultation with the Chief of Police, will decide upon the conditions for the payment of a reward.

Rewards will not be paid to a member of the Board, or a family member of a Board member, nor to a member of the Police Force, or a family member of a Police Force member, nor to any person whose knowledge of the subject incident arose through their own criminal activity.

Financial rewards approved by the Board will be in addition to any financial reward systems being operated by community organizations such as 'Crime Stoppers'.