

Chapter 2

Reflections

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Reflections

Stewardship and accountability

2.1 As I reflect on the work my Office has done over the past eight years I am very pleased with the broad range of programs and services we have covered. We have looked at public safety issues such as pupil transportation, food safety and high risk drivers. There have been environmental audits on domestic well water quality, Crown lands management, private forest lands and environmental inspections. We examined areas where services are provided to vulnerable citizens such as at child day care facilities and nursing homes. We conducted audits on salmon aquaculture, the provincial archives, psychiatric hospitals and managing insurable risks in public works buildings. And the governance of Crown agencies was the focus of four separate audits.

2.2 From the work we have done I note four issues that arose over and over again. They are all related to the stewardship role government plays in managing the resources entrusted to it by its citizens and ensuring the delivery of services to those citizens in an economical, efficient and effective manner. I bring attention to them here because there are significant shortcomings and they represent tremendous opportunities for improvement.

2.3 The four areas are:

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

2.4 Under each heading I will discuss our findings and indicate where I believe government should make improvements. I will then conclude each section by offering suggestions to the Legislative Assembly of actions which will assist in keeping the government accountable.

2.5 My Office meets with the Public Accounts Committee on departmental audits and the Crown Corporations Committee on audits in Crown agencies. The committees use the results of our work

in holding departments, agencies and the government as a whole accountable. These committees and the Legislative Assembly have a responsibility to provide an oversight of government on behalf of the public. I will conclude this chapter by offering observations that could make the committees and the Legislative Assembly more effective in fulfilling this oversight role.

Setting objectives and reporting on results

2.6 The government has an annual report policy that has been in effect since 1991. This policy brings together a number of key issues related to accountability and performance reporting.

2.7 The objective of the policy is stated as follows:

The prime function of an annual report is to be the major accountability document by departments and agencies for the Legislative Assembly and the general public. It serves as the key public link between the objectives and plans of a government entity and the results obtained.

2.8 The policy emphasizes the need for annual reporting. It also recognizes the link between objectives, plans and final results. This creates, if followed, a fundamental framework for accountability, focused action and overall improvement. The importance of these three outcomes is explained below.

Information will be available to hold government accountable

2.9 The first outcome is to ensure that the Legislative Assembly and the public have adequate information to hold the government accountable. And in order to do this there must be an accountability cycle where the government, at the beginning of the year, explains what it intends to accomplish and then, at the end of the year, reports on how well it has done. If no objectives or performance targets are in place, any result could be seen as acceptable.

Administration staff will be focused on results

2.10 The second outcome is that it provides a focus to the administration, and this I believe is perhaps the most important benefit of all. If there are goals, objectives and performance targets in each department, and staff knows there will be an annual reporting on results, there would be a strong incentive to organize resources, review programs, and focus decision making in order to achieve positive results. While staff will always be required to deal with pressing issues as they arise, the existence of goals, objectives and performance targets are necessary to keep a program or department on course over the long term.

Shortcomings will be identified and remedial action taken

2.11 The third outcome from reporting against objectives and performance targets is that it will require an action plan when there are shortcomings. While we tend to measure success by seeing objectives or targets met, I believe it would be extremely positive for a government to acknowledge that things did not go as planned and for them to explain what remedial action is to take place. In this way taxpayers can be confident that the focus is still on the objectives despite the fact results did not initially meet expectations.

2.12 The policy also calls for annual reports to be written in clear and simple language. In order to emphasize the importance of timeliness, the policy calls for all reports to be finalized by 1 November following each 31 March fiscal year.

2.13 Over the past eight years my Office has done a lot of work in this area on two fronts, one to measure government's actual compliance with the policy and the other to encourage better compliance. The overall results have been disappointing.

Measuring government compliance with its reporting policy

2.14 In 1999 we reviewed the annual reports of fifteen government departments which had presented goals and performance indicators in Performance Measurement, Supplement to the Main Estimates for the year ended 31 March 1998. This Supplement to the Main Estimates was tabled at the same time as the Main Estimates so the Legislative Assembly and the public could see what each of the fifteen departments was trying to accomplish for the money being requested. For instance the Department of Environment had goals for air quality, water quality and waste management. And there were two performance measures for each goal. We viewed this Supplement to the Main Estimates as a valuable accountability document. The preface to the Supplement had this to say,

Performance Indicators demonstrate the mission and goals of departments, and relate their mandates to the strategic goals of government. These measures present realistic challenging targets for departments to strive toward and become accountable to achieve.

2.15 As a result of our work in 1999 we concluded that there was improvement in the level of compliance with the annual report policy and that the performance measurement system in New Brunswick continued to expand and improve each year. We also noted that "all departmental reports have stated goals and objectives in some

recognizable form” and “all reports reviewed contained a section that outlined key performance indicators for the year.”

2.16 Since 1999 we have undertaken many audits where we looked at compliance with the annual report policy. While these audits were not exclusively focused on performance reporting we were definitely interested in seeing if key components of the policy were being complied with. For instance, were there goals and objectives? Was there a reporting of actual results and a comparison to objectives and targets? In most of those audits there was non-compliance with the policy. There was no reference to objectives, which of course prevented a comparison of results to objectives. An example of this was our audit of Crown lands management in 2001, where we concluded that “establishing measurable goals will be the first step in a process for improving the annual report. The current annual report lacks sufficient information to show how the Minister did in fulfilling his four responsibilities to develop, utilize, protect and provide integrated management of the resources of the Crown lands of New Brunswick.”

2.17 Generally we have found that the Legislative Assembly and the public were not given the information required by the policy. And there was no evidence that departments were diligently working towards the achievement of objectives and performance targets.

2.18 The preface to the Supplement also had this to say:

Departments will report the progress made toward achievement of targets for each fiscal year in their annual reports. This ensures accountability to Government, the Legislature and ultimately the people of New Brunswick.

2.19 The Supplement to the Main Estimates was part of the budget process for four years and was discontinued after the 1999-2000 fiscal year.

Encouraging better government compliance with the reporting policy

2.20 In 2001 I undertook an initiative to review all departmental annual reports and to formally recognize the one that best met the requirements of the policy and that demonstrated a high level of fair and balanced reporting. I undertook the project in an attempt to increase the profile of these reports and encourage their use, both by the departments who have a reporting responsibility, and by the legislators who are holding them to account. I made a commitment to

undertake this project for a three year period. In 2004 I decided to extend the initiative for a fourth year.

2.21 While the reports were never of a high quality, we were able to make an award for the best annual report in each of the first three years. However, in the fourth year none of the reports we reviewed were of acceptable quality and we decided not to recognize a winner. We only received annual reports from 9 departments out of 18 by our deadline of 3 December and none were worthy of recognition. Only two had been submitted prior to 1 November, the deadline set out in the policy.

2.22 There is a great need for the government to provide better information to the Legislative Assembly and the public to explain what is being accomplished for the money spent. The Legislative Assembly needs better information to hold the government accountable. And the departmental administration needs to know their objectives and goals are important and will be reported on.

2.23 I noticed that on 26 May 2005 the Department of Education released to the media its first progress report on its Quality Learning Agenda. This report sets out the targets for seven different objectives, the progress made to date and a brief description of what will be done to ensure further progress. This is an excellent document, but only time will tell if it becomes part of the Department's annual accountability report to the Legislative Assembly.

***Encouraging better
government reporting on
financial results***

2.24 Over the past eight years I have also commented on government's reporting of its financial results. Timeliness continues to be a problem and in my 2004 annual Report I noted that seven times in the last eleven years the financial results were published in November or December. I called for substantial improvement in this area because legislators and citizens should not have to wait more than seven months after the year end to learn how their money was spent and whether there is a surplus or a deficit for the year.

2.25 Progress is being made to better explain the annual financial results. Last year there was a commentary, using charts, to explain the Province's net debt position and for the past number of years there is been a narrative explaining variances between budget and actual. However much more can be done and I encourage government to look at best practices in other Canadian jurisdictions

and to follow the guidance on financial discussion and analysis released by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants.

The role of the Legislative Assembly

2.26 In holding government accountable the Legislative Assembly, through the Public Accounts and Crown Corporations Committees, should be using their meetings with departments and Crown agencies to enquire about results in relation to objectives and targets. The following questions should be asked:

- What are the objectives and performance targets?
- What process is in place to ensure objectives and performance targets are challenging?
- If there are none, why not and when will they be determined?
- How do actual results compare with what was planned?
- Where there have been shortcomings, what actions are planned?

Complying with legislation

2.27 Perhaps the most significant undertaking of a government, and in turn the Legislative Assembly, is introducing and/or amending legislation. We often hear the success of a sitting of the Legislative Assembly being measured in terms of how many pieces of legislation were passed. But is the legislation being followed? Is it meeting its objectives? Is it still relevant?

2.28 A government, in its stewardship role, has a responsibility of ensuring that during its watch legislation is still relevant, is meeting its objectives and is still being followed. These are areas where I have noted significant shortcomings.

2.29 Many of our audits over the past eight years were in effect audits to determine if programs were complying with legislation. So when we identified shortcomings in our audits of food safety (1999), domestic well water quality (2000), environmental inspections (2002), the Office of the Fire Marshal (2002), child day care facilities (2003) and nursing home services (2004), they were for the most part failures to comply with legislation or regulations. And during the course of other audits it was common to find examples of legislation not being followed.

2.30 In 2000 my Office undertook an audit in the Department of Agriculture and Rural Development focusing entirely on legislation. We were interested in determining if appropriate systems and practices were in place to ensure compliance with legislation and to

measure and report on the effectiveness of the legislation. We were also trying to ensure that resources committed to the administration of legislation are managed with due regard for economy and efficiency.

2.31 We noted as a result of this work that there was no reporting to the Legislative Assembly on the effectiveness of the legislation we reviewed. Nor did the Legislative Assembly receive any feedback on how well the Department was administering the legislation it had been assigned. We recommended that the Legislative Assembly be given written reports on a regular basis on the effectiveness of the legislation in meeting its intended purpose. And that the Department use its annual report to inform the Legislative Assembly how well it is doing in administering the legislation it has been assigned. At that time I said this type of reporting on a government-wide basis would result in legislation receiving the on-going attention it deserves and should result in improved compliance and effectiveness.

2.32 Compliance with legislation is a fundamental tenet of governing. Ensuring that legislation is still effective in meeting its purpose is a fundamental responsibility of government. To properly fulfill its oversight responsibility, government should place a high priority on compliance with legislation and assign the necessary resources to achieve this, or else amend the legislation to remove responsibilities that it can no longer fulfill.

The role of the Legislative Assembly

2.33 The Public Accounts Committee holds departments accountable and the Crown Corporations Committee holds Crown agencies accountable. These committees should be asking questions such as:

- What legislation are you responsible for?
- Do you have systems in place to ensure there is compliance?
- Is there compliance?
- Do you have sufficient funds to monitor compliance?
- Is the legislation still relevant?

Evaluating programs

2.34 According to the 2005-2006 Main Estimates, the expenditure budget for the Province is in the range of \$6.1 billion, much of which is disbursed through program spending. The prescription drug program, beverage containers program, regional development, Crown lands management, and hundreds of other diverse programs vie for the limited public resources available. Legislators, senior

government officials, program managers and staff are called upon regularly to make decisions about these programs.

2.35 The programs delivered by provincial departments and agencies do not remain static. Government policies and priorities change. Pilot programs are undertaken. New programs are created. Old programs are restructured or discontinued. Funding levels for individual programs are changed.

2.36 Citizens rightly expect that the programs funded by their tax contributions are producing publicly desirable outcomes (e.g. improving the health, lifestyle, and economic wellbeing of New Brunswick citizens). Further, government has a responsibility to be a good steward of the resources entrusted to it. It is vitally important that funded programs are relevant, successful in achieving their objectives and cost effective. Decision makers must make wise choices to ensure that funded programs provide value for money. A failure to do this may mean that other, more publicly valuable, programming opportunities may never be pursued.

2.37 The importance of program evaluation has been recognized in government's annual report policy, which requires that certain evaluative information be included in departmental annual reports:

.....departments and agencies should give a clear account of goals, objectives and performance indicators. The report should show the extent to which a program continues to be relevant, how well the organization performed in achieving its plans and how well a program was accepted by its client groups.

2.38 During the past eight years we looked for compliance with this policy in many audits. In the vast majority of cases the annual reports did not do an adequate job of addressing the areas of program relevance, achievement of objectives and client acceptance. Here are two examples.

2.39 In 2003 we undertook an audit of tax expenditure programs. Tax expenditures can be viewed as providing financial assistance to certain groups of taxpayers or as providing economic incentives that encourage specific taxpayer behavior. Examples would be tax exemptions on gasoline and motive fuel for farmers and fishermen and corporate income tax credits for corporations who produce films

in our Province. The tax expenditure programs we examined did not have measurable objectives that would indicate what the program was expected to achieve, there was no formal process in place to guide monitoring and evaluation, and there was no public reporting on the effectiveness of the programs.

2.40 In 2004 we reported on an audit we performed at the Regional Development Corporation. Our objective was “to determine if the Regional Development Corporation has satisfactory procedures in place to measure and report on the effectiveness of the provincially funded programs and projects which it administers.” Our conclusion was that it did not. A fundamental reason for this was because measurable objectives were not developed at the outset. For example, the \$23 million spent out of the Acadian Peninsula Economic Development Fund was evaluated by a consultant hired by the Corporation. In his report the consultant said, “unfortunately for the purposes of this evaluation, the initiative itself did not provide any evaluation framework or identify success indicators for the various objectives.”

2.41 In 2004 we also undertook an audit targeted specifically at program evaluation in government. In completing our work we sent a survey to eighteen government departments to determine their approach to program evaluation. Some of the observations from this work were that resource limitations appear to be restricting the ability of departments to improve their program evaluation processes, and there appears to be an imbalance between program evaluation capabilities between departments. We also noted that effectiveness information (i.e. actual versus targeted results and the results of formal program evaluations) is not as readily available to decision makers as more traditional forms of program-related information such as numerical reports and financial reports.

2.42 The point is that taxpayers’ money should not be spent without a clear indication of what is to be accomplished, and it is not appropriate that programs should continue without regular critical examination. Does it make sense that government should be able to raise additional tax revenues from taxpayers if it cannot demonstrate that the money currently being received is being used on programs that are relevant, fulfilling their objectives and are still accepted by its client groups? Good stewardship would require that this be done. Taxpayers must be assured they are receiving value for money.

2.43 In light of the valuable decision-making information that program evaluation can provide, and the potential for improvements indicated by the responses to our 2004 survey, our Office plans to do more work in this area. The next step will be to look at how specific programs administered by the Department of Health and Wellness are evaluated.

The role of the Legislative Assembly

2.44 In keeping the government of the day accountable, members of the Legislative Assembly should be receiving relevant information in annual reports on the various programs being delivered by government. This information should be presented in a manner that enables a conclusion to be reached on whether or not the program should be continuing in its present format. If the information is not available, then appropriate questions should be asked. Questions such as:

- How often are programs evaluated?
- What evidence do you have that programs are still relevant?
- What are the results of the programs?
- How much is it costing to achieve these results?
- Are there alternative, more efficient or perhaps less expensive ways to deliver the program?

Providing appropriate Crown agency oversight

2.45 The extent to which government services are delivered in New Brunswick through Crown agencies is significant. For instance, eight regional health authorities are responsible for the delivery of a large part of the Province's health care. And Crown agencies have been created to look after the distribution and sale of liquor products, the provision of electricity needs, and the delivery of regional development programs. There are approximately thirty-five organizations listed in the government's financial statements that have been given responsibility to deliver government services and who in turn are accountable to the Legislative Assembly. At 31 March 2004 these organizations held over \$5.3 billion of government assets. Related liabilities were over \$5.0 billion. In addition the government uses the New Brunswick Investment Management Corporation to manage over \$5 billion in pension fund assets.

2.46 It is extremely important that these agencies understand what is expected of them and that government is playing an appropriate oversight role to ensure that they are meeting expectations. My

Office has been keenly interested in this area, and between 1996 and 2000 performed the following governance reviews:

A general review of various Province of New Brunswick Crown agencies (1996)

The Atlantic Lottery Corporation Inc. (1997)

The eight regional hospital corporations (1998)

The New Brunswick Liquor Corporation (1999)

The Department of Finance - Pension Funds (2000)

2.47 More recently, in 2003, we undertook a further review of Crown agency governance, recognizing the financial significance of these agencies and the many recent changes in best practices associated with good governance. Our objective was to summarize the results of our governance reviews over the past five years, review practices in other jurisdictions, and make major overall recommendations on steps the Province can take to improve Crown agency governance. Additionally, we interviewed representatives of selected New Brunswick Crown agencies and the New Brunswick Executive Council Office. Finally, we reviewed various Crown agency documents and did some limited testing of recent appointments to New Brunswick Crown agency boards. The results of our work revealed many significant shortcomings.

2.48 The government has traditionally not done particularly well in communicating its understanding of the Crown agency mandate and performance expectations. Many representatives of Crown agencies we talked to indicated that communication with central government for purpose of determining government priorities has long been a problem area. In one case, a Crown agency representative indicated that they try to “read the tea leaves” to determine what government expects of them both in terms of mandate and performance.

2.49 In our 2003 governance work, we noted that while some Crown agency business plans were reviewed by the Board of Management, many were not. Crown agency strategic plans were not reviewed by Board of Management or anyone else in central government. In addition to these two major observations we made nineteen recommendations ranging from the process of appointing board members to improvements in annual accountability reporting.

Action on these recommendations will without question improve our corporate governance culture but more importantly will enhance accountability and in the long run improve corporate performance.

The role of the Legislative Assembly

2.50 The Legislative Assembly, through its Crown Corporations Committee, must be satisfied that there is appropriate oversight of the various Crown agencies. While Crown agencies must be held accountable for their actions, the government has a responsibility of making it clear what is expected of them. If information on their business plans, objectives and performance targets is not available in their annual reports, then Members of the Legislative Assembly must be prepared to receive answers to questions such as:

- Do you know what government's expectations are?
- Are these expectations challenging for the business you are in?
- How have you done in meeting government's expectations?
- What are your plans for the areas where you need to improve?

Suggestions to improve the role of the Public Accounts and Crown Corporations Committees

2.51 My Office has worked closely with the Public Accounts and Crown Corporations Committees over the past number of years. Since the fall of 2003, a staff member has attended most meetings in order for our Office to be kept informed of issues raised and decisions made. As a result of our association with these committees we have made a number of suggestions for improvement. I will highlight three of them here.

Document the mandate or terms of reference

2.52 There is limited guidance as to what the committees are to do. For instance Standing Rule 93 of the Legislative Assembly has this to say about the Public Accounts Committee: "All reports to the House of the Provincial Auditor, and all Public Accounts stand permanently referred to the Public Accounts Committee." This is the only official reference to the Public Accounts Committee. Over the years practice and tradition have dictated the role to be played by these committees.

2.53 There is a need for a clear mandate or terms of reference to be set in place by the Legislative Assembly that adequately reflects the expectations of these committees in holding government accountable on behalf of the public.

2.54 We have observed that there were a number of themes that were often the topic of questions or concerns by MLAs at both the Public Accounts Committee and the Crown Corporations Committee.

These themes could be included in a documented mandate and/or terms of reference of both committees. They include:

- the level of compliance with the accountability provisions of the annual report policy;
- the collection of, and proper accounting for, all taxes and other revenue due to the departments and agencies;
- the maintenance of expenditures within the limits and for the purposes authorized by the Legislature;
- the adequacy of safeguards to protect assets from loss, waste and misappropriations;
- the due regard for economy in the acquisition of goods and services; and
- the effectiveness of programs in achieving their stated objectives.

2.55 Documenting these themes would help strengthen the framework supporting the committees' deliberations. It would also help departments and agencies to appreciate the scope of the questions that could be asked and the range of matters under discussion.

Improve the committee reporting process

2.56 Currently the standing rules require that each of the committees prepare a written report. There is, however, no requirement as to content. We examined the last report of each committee and found that they were simply an activity report stating which departments or agencies appeared. There were no recommendations to the Legislative Assembly or follow-up from any previous reports.

2.57 The relevance and influence of the committees could be enhanced by making recommendations to the Legislative Assembly in the committee reports. We see a couple of sources for these recommendations. One could be as a result of observations made during the committee meetings and another could be the adoption of recommendations made in the Report of the Auditor General.

2.58 In our opinion, the reports issued by the committees would have higher practical value if the full Legislative Assembly addressed and debated the issues arising from the committee meetings. The Legislative Assembly could direct the government to implement the recommendations it receives from its committees. Effective follow-up procedures would be necessary to determine if action has been taken to implement the recommendations.

Support the work of the committees

2.59 Committees need expert assistance and staff support to conduct their affairs. These services are important to strengthen the capacity for effective oversight of public money.

2.60 There is an incredible amount of information and knowledge required of the individual members of the committees to hold an agency or department accountable. This became readily apparent as we observed the proceedings of both committees during the past year.

2.61 We noted that despite the volume of information, and the many duties the committees perform, there is no permanent research staff. We noted that other jurisdictions have researchers who assist committees in preparing for their work and in writing committee reports. Ontario is a good example of this practice. In our opinion, the effectiveness of these committees could be improved by having non-partisan research staff engaged to assist the committees in their work.

Support from the Commission on Legislative Democracy

2.62 I was very pleased to see the Commission on Legislative Democracy make a number of recommendations on enhancing the role of MLAs and the Legislature. In particular they recommended that the role of legislative committees in policy-making be enhanced by providing the committees with designated staff and resources. The Commission also called for an independent Legislative Library Research Office to be created and funded to serve all MLAs, and to support the role of strengthened legislative committees. And finally the Commission requested that specific time be set aside every two weeks to debate reports of committees of the Legislative Assembly.

2.63 I am hopeful that action will be taken on our suggestions as well as those made by the Commission on Legislative Democracy.